

PETROLEUM AND LIQUID FUELS SECTOR CODES

DRAFT RETAIL OPERATER AND SITE
OPERATER SECTOR SCORECARD

OUTLINE

1. BACKGROUND
2. REASONS FOR TRANSFORMATION IN PETROLEUM AND LIQUID FUELS SECTOR
3. RATIONAL AND OBJECTIVES OF ALIGNMENT
4. SCOPE OF APPLICATION
5. LEGISLATION
6. PETROLEUM AND LIQUID FUELS CHARTER COUNCIL
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8. COMPLIANCE LEVELS
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10. WHATS NEXT ?
11. QUESTIONS

1. BACKGROUND

OPPORTUNITY BARRIER

Ownership

Management Control



BUSINESS BARRIER

Preferential Procurement

Enterprise Development



SKILLS BARRIER

Skills Development

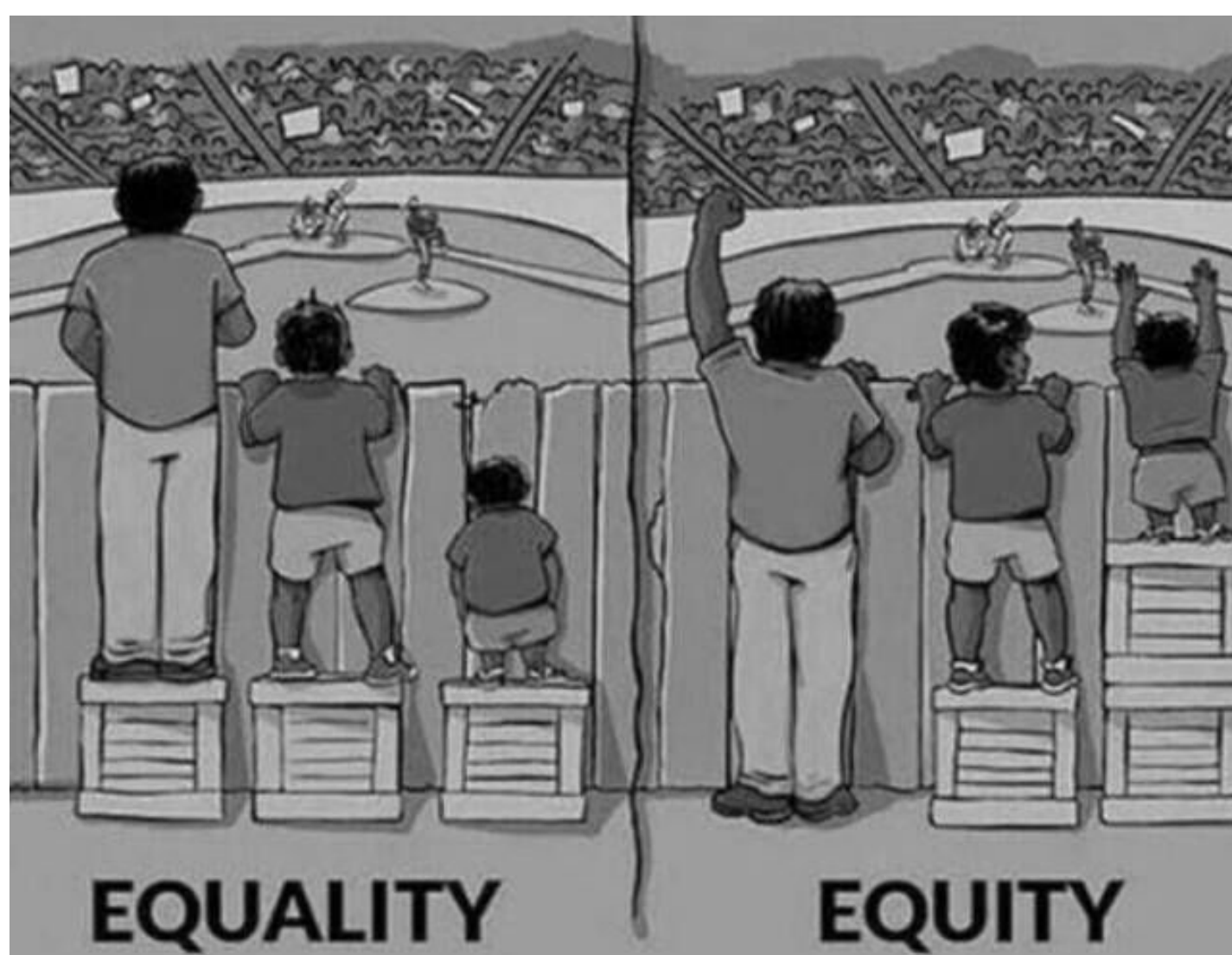


POVERTY BARRIER

Socio Economic Development

Employment Equity





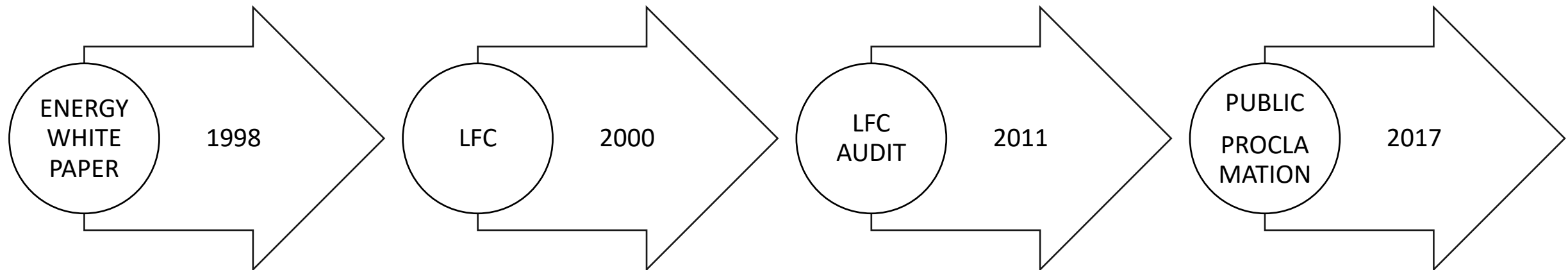
1. Equality: is giving people the same thing/s.
2. Equity: is fairness in every situation.

AMENDED SCORECARD

BEE ELEMENTS	OLD WEIGHTINGS	NEW WEIGHTINGS
OWNERSHIP	20 POINTS	25 POINTS
MANAGEMENT CONTROL	10 POINTS	15 POINTS
	15 POINTS	
SKILLS DEVELOPMENT	15 POINTS	20 POINTS
ENTERPRISE AND SUPPLIER DEVELOPMENT	20 POINTS	40 POINTS
	15 POINTS	
SOCIO ECONOMIC DEVELOPMENT	5 POINTS	5 POINTS

2. REASONS FOR TRANSFORMATION IN PETROLEUM AND LIQUID FUELS SECTOR

PETROLEUM AND LIQUID FUELS CHARTER ALIGNMENT PROCESS



1. Energy Policy White Paper

Transformation Objective:

To achieve 25% of sustainable presence ownership or control of all facets of the industry of the various entities that hold the operating assets of the South African oil industry.

2. Petroleum and Liquid Fuels Charter(LFC)-frame work for HDSA advancement

- Adopted Black Economic Empowerment Commissions definition of empowerment as *“an integrated strategy aimed at substantially increasing Black Participation at ALL levels of the population”*
- Mindful of: imperatives of redressing historical, social and Economic inequalities as stated in Section 9 of the constitution of republic of South Africa
- **ALWAYS ACKNOWLEDGED PECULIARITIES** of the sector and stipulated the following critical strategic focus area over and above BBBEE requirements
 - Supportive culture
 - Private and public sector procurement
 - Access and ownership of joint facilities
 - Refining capacity
 - Retailing / wholesaling- creation of opportunities to entry
 - Financing
 - Terms of Credit to HDSA
 - Purposeful Consultation, Monitoring , Evaluation and Reporting
 - Monitoring progress in the implementation of plans;
 - Develop new strategies as needs are identified;
 - Have ongoing government and industry interaction in respect of the LFC objectives;
 - Develop strategies for interventions where hurdles are encountered;
 - Exchange challenges, experiences, and creative solutions;
 - Arrive at joint decisions; and
 - Review Charter if required.

3. RATIONAL AND OBJECTIVES OF ALIGNMENT

RATIONALE FOR ALIGNMENT

- The LFC has no weight for all the 13 strategic focus areas. It is not clear which requirements carry more weight and priority;
- The thresholds in the current **dti** Generic Codes have unintended adverse consequences in the classification of entities (EME's and QSE's) within the sector as they disincentives enterprise and supplier development in the sector
- There are no clear compliance targets for all elements except Ownership and Management Control;
- There is no minimum target (under which the element will score zero points), and no bonus incentives;
- Categories/ indicators (no measurable indicators for some elements, e.g. on Employment Equity);
- The LFC is biased towards ownership and enterprise development and also narrow based;
- The LFC does not include Socio-Economic Development and has supportive culture not in the codes;
- LFC has no QSE scorecard;
- Enterprise and Supplier development is also among key elements in the revised codes. Supplier development will therefore become a key strategic focus area for alignment;
- LFC does not have B-BBEE recognition level;
- The definition of beneficiaries are not the same (HDSA vs Black people);
- BBBEE excludes imports, however where proof that there is no local producer, you must have supplier development programme as a compensation for the exclusion.
- In view LFC, crude oil procurement is a priority and will remain a priority if we are to create black industrialist in the sector.
- Sector specific codes will thus provide for weights, indicators and minimum compliance targets, bonus points/ incentives.

OBJECTIVES OF OF ALIGNMENT

- To acknowledge and recognize the specific characteristics within the petroleum and liquid fuels industry which were brought about by apartheid policies and resulted in the industry being a highly racialized sector
- Incorporate the unique features of the LFC without deviating from the broad principles of the generic codes of good practice, thereby addressing the sector specific peculiarities in the petroleum and liquid fuels industry.
- To strengthen the **monitoring, evaluation, enforcement and reporting of compliance targets for B-BBEE** against which all entities conducting business in the petroleum sector can be regulated.

4. SCOPE OF APPLICATION

SCOPE OF APPLICATION

The Petroleum and Liquid Fuels B-BBEE Codes apply to all privately owned entities in the petroleum and liquid fuels sector and activities licensed under the Petroleum Pipelines Act, Petroleum Products Act, National Ports Act and Gas Act and related activities. A Specialized Petroleum and Liquid Fuels Code is applicable to all Organs of State, Public Entities, organised labour and communities and public institutions that form part of the Petroleum and Liquid Fuels sector.

The Petroleum and Liquid Fuels B-BBEE Codes and scorecards apply to the following sub-sectors below:

1. Liquid Fuels pipelines, single buy mooring (SBMs), depots and storage tanks
2. Oil refining and synthetic fuel manufacturing plants, including lubricants
3. Oil and Gas trading including imports and exports
4. Wholesale and Retail Assets/Infrastructure

5. LEGISLATION

THE BEE ACT

KEY AMENDMENTS TO B-BBEE ACT

1. Introduction of a **trumping clause**;
2. **Establishment** of the B-BBEE Commission;
3. **Specifying requirements re: monitoring, evaluation and reporting**;
4. **Introducing offences penalties & prohibitions**;
5. **Introducing the concept of “B-BBEE verification Regulator and professionals”**; and
6. Clarifying & extending the **dti Minister’s power to make regulations**.
7. **Section 10: Status of the Codes of Good Practice: *Every organ of state and public entity MUST apply any relevant code of good practice issued in terms of this Act in-***
 - **Determining qualification criteria for the issuing of licences, concessions or other authorisations** in respect of economic activity in terms of any law;
 - **Developing and implementing a preferential procurement policy**;
 - **Determining qualification criteria for the sale of state-owned enterprises**;
 - **Developing criteria for entering into partnerships with the private sector**; and
 - **Determining criteria for the awarding of incentives, grants**; and
 - **Investment schemes** in support of BBEE.

Section 9 (10) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), as amended by Act No. 46 of 2013

10 (1) Every organ of state and public entity must apply any relevant code of good practice issued in terms of this Act in-

- (a) determining qualification criteria for the issuing of licenses, concessions or other authorisations in respect of economic activity in terms of any law;
- (b) developing and implementing a preferential procurement policy;
- (c) determining qualification criteria for the sale of state-owned enterprises;
- (d) developing criteria for entering into partnerships with the private sector; and
- (e) determining criteria for the awarding of incentives, grants and investment schemes in support of broad based black economic empowerment.

Section 13G (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), as amended by Act No. 46 of 2013

(1) All spheres of government, public entities and organs of state must report on their compliance with the broad-based black economic empowerment in their audited annual financial statements and annual reports required under the Public Finance Management Act, 1999 (Act No. 1 of 1999)

DEFENITION OF BLACK

- 1. African**
- 2. Indian**
- 3. Coloured**

South African by Birth, Decent or Naturalization Prior to 27 April 1994

6. PETROLEUM AND LIQUID FUELS CHARTER COUNCIL

WHO IS THE CHARTER COUNCIL?

The Sector codes we drafted in line with The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), as amended by Act No. 46 of 2013 (The Act).

Further to the Act, the Sector codes were drafted within the parameters of Section 3 of Statement 003: Amended Guidelines for Developing and Gazetting Transformation Charters and Transformation Plans, which weighed in on the procedure around the development of the sub-sector codes.

We ensured that the following principles applied throughout the development of our sub-sector codes:

1. There was a common commercial and other characteristics within the entities operating in the sector which would make it feasible to formulate a transformation charter subject to the proposed Sector Code;
2. That the proposed Sector Code must address all Elements in the Generic Scorecard;
3. That the proposed Sector Codes use the same definitions, principles, calculation methodologies to measure compliance and beneficiaries as those used in the Codes.
4. That although the proposed Sector Codes may deviate from targets and weighting used in the Codes only where deviations are justifiable based on sound economic principles, sectorial characteristics or empirical research;
5. That the sector code developed in terms of this statement, set targets which were over and above the minimum targets set out in the Generic Codes of Good Practice;
6. That although the proposed Sector Codes may deviate from thresholds set out in the Codes only where deviations are justifiable based on sound economic principles, sectorial characteristics or empirical research;
7. That the proposed Sector Code may introduce a new additional Element for the measurement where such addition is justifiable based on sound economic principle, sectorial characteristics or empirical research;
8. That the proposed Sector Code must clearly define its scope of application;
9. That there was support by our Charter Council, the Minister of Transport and the Minister of Trade and Industry responsible for the gazette of the Sector Code. We made sure there was a clear demonstration that the Minister and the Department of Transport were part of the drafting of the Sector Code as we ensured that a letter of support was sent to the Minister of Trade and Industry; and
10. There will be NO transitional period provided for the implementation of the Sector Codes.

STAKEHOLDER CONSULTATION

Section 12 of the Act

Refers to the gazetting of Transformation Charters. These are also referred to as Sector Charters, developed by major stakeholders in the relevant industries, and seek to achieve broad-based transformation.

PUBLIC COMMENTARY

Section 9(5) of the Act

Refer to the fact that before the Minister (of **the dti**) can issue, replace or amend a code of good practice in terms of section 9(1) –

- (a) Publish the draft code of good practice or amendment in the Gazette for public comment, and
- (b) Grant interested persons a period of at least 60 days to comment on the draft code of good practice or amendment, as the case may be.

CHARTER COUNCIL

Section 9(1) of the Act

Refers to the fact that in order to Promote the purpose of the Act, the Minister (of **the dti**) may by notice in the Gazette issue cods of good practice on Black Economic Empowerment



- Following the Public Proclamation (gazette 41110) on 13 September 2017, the process to align the Petroleum and Liquid Fuels Charter with the with The Broad-Based Black Economic Empowerment Act (Act No. 53 of 2003): Issue of Codes of Good Practice (Gazette no. 36928), became more paramount.
- At that time persons who were members of the Petroleum and Liquid Fuels Sector Interim Steering Committee were offices bearers that were duly authorised to represent a constituency of the Key Stakeholders, as stated in para 7 of the Public Proclamation as indicated below:

1. Persons who are members of:

- 1. INDUSTRY ASSOCIATIONS/BODIES**

1. South African Petroleum Industry Association (SAPIA)
 2. South African Petroleum Association Retailers (SAPRA)
 3. Fuel Retailers Association (FRA)
 4. Liquid Fuel Wholesalers Association (LFWA)
 5. Liquefied Petroleum Gas Safety Association of South Africa (LPGSASA)

- 2. GOVERNMENT DEPARTMENTS WITH JURISDICTION OVER THE SECTOR**

1. Department of Energy (DoE)

1. LABOUR BODIES AND TRADE UNIONS

1. Chemical, Energy, Paper, Printing, Wood and Allied Workers Union (CEPPWAWU)
2. National Union of Metalworkers of South Africa (NUMSA)

2. INDUSTRY REGULATORS

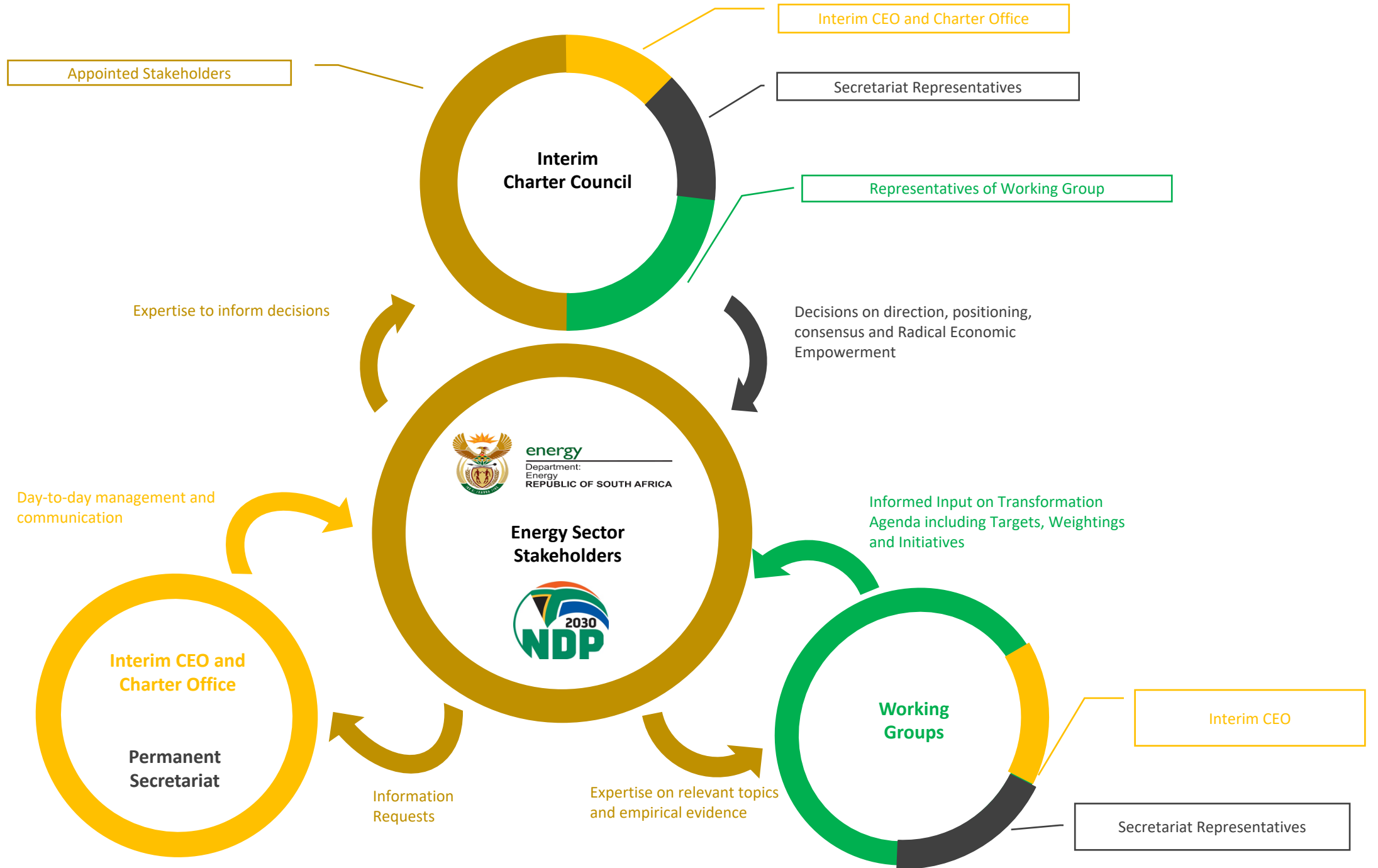
1. National Energy Regulator of South Africa (NERSA)
2. Ports Regulator of South Africa

3. CIVIL SOCIETY ORGANISATIONS

1. Women in Oil and Energy South Africa (WOESA)

4. Duly authorised and elected representatives on 4 May 2017 of a commission as stated below:

1. Established Blacks (unaffiliated);
2. Emerging Blacks (unaffiliated);
3. New Entrants Blacks (unaffiliated);
4. Black Youth (unaffiliated);
5. Black Woman (unaffiliated);
6. Black Disability (unaffiliated); and
7. Other Black Designated Groups (unaffiliated).



CURRENT SECTOR CHARTER	
SECTOR	STATUS
PROPERTY	GAZETTED
TOURISM	GAZETTED
CONSTRUCTION	GAZETTED
FINANCIAL SECTOR CHARTER	GAZETTED
MARKETING, ADVERTISING AND COMMUNICATION	GAZETTED
FORESTRY	GAZETTED
ICT	GAZETTED
AGRICULTURE	GAZETTED
CHARTED ACCOUNTANTS	IN PROGRESSES
DEFENCE	IN PROGRESSES
MINING	IN PROGRESSES
TRANSPORT	IN PROGRESSES
PETROLEUM AND LIQUID FUELS	IN PROGRESSES

PETROLEUM AND LIQUID FUELS SECTOR CODE

- RETAIL AND SITE
- WHOLESALE
- MANUFACTURING
- BIOFUELS
- INFRASTRUCTURE
- GAS (LPG and NG)
- PUBLIC SECTOR

7. THRESHOLDS

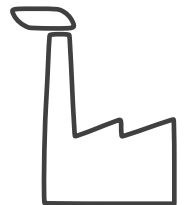
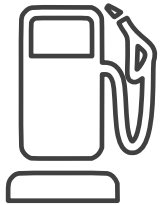
ENTITY SIZE CLASSIFICATIONS (TURNOVER)

ANNUAL

EXEMPT MICRO ENTERPRISE \leq R10 MILLION

QUALIFYING SMALL ENTERPRISE
R10 MILLION **but** \leq R50 MILLION

GENERIC ENTERPRISE $>$ R50 MILLION



The thresholds in the current **dti** Generic Codes have unintended adverse consequences in the classification of entities (EME's and QSE's) within the sector.

**PROPOSED PLFCC RETAIL AND SITE OPERATOR
ENTITY SIZE CLASSIFICATIONS (GROSS PROFIT)**

ANNUAL

EXEMPT MICRO ENTERPRISE \leq R5 MILLION

QUALIFYING SMALL ENTERPRISE
R5 MILLION **but** \leq R50 MILLION

GENERIC ENTERPRISE $>$ R50 MILLION

8. COMPLIANCE LEVELS



The Dti B-BEE RECOGNITION LEVELS		
BEE STATUS	QUALIFICATION	BEE PROCUREMENT RECOGNITION LEVEL
Level One Contributor	≥100 points on the Generic Scorecard	135%
Level Two Contributor	≥95 but <100 points on the Generic Scorecard	125%
Level Three Contributor	≥90 but <95 on the Generic Scorecard	110%
Level Four Contributor	≥80 but <90 on the Generic Scorecard	100%
Level Five Contributor	≥75 but <80 on the Generic Scorecard	80%
Level Six Contributor	≥70 but <75 the Generic Scorecard	60%
Level Seven Contributor	≥55 but <70 on the Generic Scorecard	50%
Level Eight Contributor	≥40 but <55 on the Generic Scorecard	10%
Non Compliant Contributor	<40 on the Generic Scorecard	0%

9. RETAIL AND SITE OPERATOR QSE SCORECARD

DRAFT WORKING DOCUMENT

DISCLAIMER AND CONFIDENTIALITY

ALL INFORMATION IN THIS DOCUMENT IS PROVIDED FOR GENERAL INFORMATION AND DISCUSSION PURPOSES ONLY.

THIS DOCUMENT DOES NOT CONSTITUTE A FINAL PETROLEUM AND LIQUID FUELS SECTOR CODE
THIS DOCUMENT DOES AND SHOULD NOT BIND THE DEPARTMENT OF ENERGY, ITS EMPLOYEES AND THEIR STAKEHOLDERS IN ANYWAY.

NOTE:

- **HIGHLIGHTED IN RED** – SAME AS **thedi** CODES JUST INCREASED TARGET
- **HIGHLIGHTED IN BLUE** – BRAND NEW ELEMENT INTRODUCED

DRAFT WORKING DOCUMENT

ELEMENT	PRIORITY	
	RETAIL	SITE
OWNERSHIP	★	★
ACCESS TO INFRASTRUCTURE		★
MANAGEMENT CONTROL		
SKILLS DEVELOPMENT	★	
ENTERPRISE AND SUPPLIER DEVELOPMENT	★	★
SOCIO ECONOMIC DEVELOPMENT		

DRAFT WORKING DOCUMENT

MANAGEMENT CONTROL SCORECARD

Measurement Category and Criteria	RETAIL CODES		SITE	
	Weightings	Targets	Weightings	Targets
2.1. Board Participation				
2.1.1. Exercisable voting rights of Black board members as a percentage of all board members	2	50%	3	50%
2.1.2. Exercisable voting rights of Black women as a percentage of all board members	1	25%	2	25%
2.2. Executive Management				
2.2.1. Black Executive Management as a percentage of all executives management	4	50%	3	50%
2.2.2. Black Female Executive Management as a percentage of all executives management	2	25%	2	25%
2.3. Senior, Middle and Junior Management				
2.3.1. Black representation at Senior, Middle and Junior Management as a percentage of all Senior, Middle and Junior Management	4	70%	N/A	N/A
2.3.2. Black female representation at Senior, Middle and Junior Management as a percentage of all Senior, Middle and Junior Management	2	35%	N/A	N/A
2.4. Semi Skilled and Unskilled positions				
2.4.1. Black Women in Semi Skilled and Unskilled positions as a percentage of all Semi Skilled and Unskilled employees	4	46%	N/A	N/A
2.5. Black Youth Employees				
2.5.1. Black youth in technical/professional positions as a percentage of technical/professional employees	6	40%	N/A	N/A
TOTAL	25		10	

NATIONAL EAP BY POPULATION GROUP AND GENDER

POPULATION GROUP	MALE	FEMALE	TOTAL
African	42.8%	35.1%	78.0%
Coloured	5.3%	4.5%	9.8%
Indian	1.8%	1.0%	2.8%
White	5.3%	4.2%	9.5%

Source: Statistics South Africa, (QLFS 3rd Quarter, 2016)

SKILLS DEVELOPMENT SCORECARD

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	RETAIL CODES	
Measurement Category and Criteria	Weightings	Targets
1.1 Skills Development Expenditure on any programme specified in the Learning Programmes Matrix for Black people as a percentage of the Levable Amount.		
1.1.1 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black people as a percentage of the Levable Amount	10	3%
1.1.2 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black females as a percentage of the Levable Amount	5	1.5%
1.1.3 Skills Development Expenditure on Learning Programmes specified in the Learning Programmes Matrix for Black people with disabilities as a percentage of the Levable Amount	3	0.15%

Measurement Category and Criteria	RETAIL CODES	
	Weightings	Targets
1.2. Capacity Building Interventions		
1.2.1 Junior Management and Semi-Skilled and Unskilled		
1.2.1.1 Number of Black People in Junior Management and Semi-Skilled and Unskilled Positions Participating in Advancement Programmes as a percentage of all Junior Management and Semi-Skilled and Unskilled Employees	8	20%
1.2.1.2 Number of Black Females in in Junior Management and Semi-Skilled and Unskilled Positions Participating in Advancement Programmes as a percentage of all in Junior Management and Semi-Skilled and Unskilled Employees	4	10%
1.3. Bonus Points		
1.3.1 Number of black people absorbed by the measured and Industry entity at the end of the Learnerships programme or Number of black employees promoted by the measured entity at the end of their participation in Advancement Programmes	5	100%
TOTAL	30+5	

ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

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	RETAIL AND SITE CODES	
Measurement Category and Criteria	Weightings	Targets
2.1. Preferential Procurement		
2.1.1 B-BBEE Procurement Spend from Empowering Suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measurable Procurement Spend	3	70%
2.1.2 B-BBEE Procurement Spend from all Empowering Suppliers that are Level 2 and Above Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Level as a percentage of Total Measurable Procurement Spend	2	15%
2.1.3 B-BBEE Procurement Spend from Level 2 and Above Exempt Micro Enterprises based on the applicable B-BBEE Procurement Recognition Level as a percentage of Total Measurable Procurement Spend	3	15%
2.1.4. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of the Total Measured Procurement Spend	5	40%
2.1.5. B-BBEE Procurement Spend from Empowering Suppliers that are at least 30.01% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of the Total Measured Procurement Spend	2	12%
2.1.6. Bonus Points		
2.1.6.1. B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black Owned	2	3%

	RETAIL AND SITE CODES	
Measurement Category and Criteria	Targets	Weightings
2.2. Local Economic Development		
2.2.1. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black women owned based on the applicable B-BBEE Procurement Recognition Levels within a 100km radius from site as a percentage of the Total Measured Procurement Spend	2	5%
2.2.2. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned by people from rural areas based on the applicable B-BBEE Procurement Recognition Levels within a 100km radius from site as a percentage of the Total Measured Procurement Spend	2	5%
2.2.3 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black youth owned based on the applicable B-BBEE Procurement Recognition Levels within a 100km radius from site as a percentage of the Total Measured Procurement Spend	2	5%
2.2.4 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned by people with disability based on the applicable B-BBEE Procurement Recognition Levels within a 100km radius from site as a percentage of the Total Measured Procurement Spend	2	5%
2.2.5 B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black Military Veteran owned based on the applicable B-BBEE Procurement Recognition Levels within a 100km radius from site as a percentage of the Total Measured Procurement Spend	2	5%

	RETAIL AND SITE CODES	
Measurement Category and Criteria	Targets	Weightings
2.3. Supplier Development		
2.3.1 Annual value of all Supplier Development Contributions made by the measured entity as a percentage of the target	10	2% of NPAT
2.3.2 Annual value of all Supplier Development Contributions made by the measured entity to Supplier beneficiaries within a 100km radius Supplier beneficiaries as a percentage of the target	5	1% of NPAT
2.4. Enterprise Development		
2.4.1 Annual value of Enterprise Development Contributions and/or Sector Specific Programmes made by the Measured Entity as a percentage of the target	5	1% of NPAT
2.4.2 Annual value of Enterprise Development Contributions and/or Sector Specific Programmes made by the Measured Entity as a percentage of the target made to beneficiary enterprises with a 100km radius	5	1% of NPAT
2.5. Bonus Points		
2.5.1 Bonus point for the graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1	
2.5.2 Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured entity	1	
TOTAL	50+4	

SOCIO ECONOMIC DEVELOPMENT SCORECARD

DRAFT WORKING DOCUMENT

	RETAIL AND SITE CODES	
Measurement Category and Criteria	Weightings	Targets
1.1. Annual value of Socio Economic Development Contributions made by the Measured Entity as a percentage of the target	10	1% of NPAT
TOTAL	10	

OWNERSHIP SCORECARD

DRAFT WORKING DOCUMENT

	RETAIL AND SITE CODES	
Measurement Category and Criteria	Weightings	Targets
1.1. Voting Rights		
1.1.1. Exercisable voting rights in the hands of Black people	8	30%
1.1.2. Exercisable voting rights in the hands of Black Women	4	16%
1.2. Economic Interest		
1.2.1. Economic interest in the hands of Black people	8	30%
1.2.2. Economic interest in the hands of Black Women	4	16%
1.2.3. Black New Entrants or Black Designated Groups	4	3%
1.2.4. Black participation in Employee Ownership Schemes Ownership Programmes (ESOP)	4	2%
1.3. Realization Points		
1.3.1. Net Value/Net Economic Interest	8	Refer to Annex 100 (E)
TOTAL	40	

OWNERSHIP - PRIORITY ELEMENT

- 40% SUBMINIMUM ON **NEV** – At least 12% Economic Interest for Black People otherwise Measured Entity is discounted one level.
- 50% SUBMINIMUM ON **Economic interest in the hands of Black Woman** - At least 8% Economic Interest
- SUBMINIMUM ON AT LEAST 2 OF THE 5 (OF WHICH ONE MUST BE ESOP) otherwise Measured Entity is discounted one level.
 - 40% SUBMINIMUM ON **Economic interest in the hands of Black Youth** - At least 0.8% Economic Interest
 - 40% SUBMINIMUM ON **Economic interest in the hands of Black People with Disability** – At least 0.8% Economic Interest
 - 40% SUBMINIMUM ON **Economic interest in the hands of Black Military Veterans and/or Co-operatives** - At least 0.8% Economic Interest
 - 40% SUBMINIMUM ON **Economic interest in the hands of Black participation in Rural Broad Based Ownerships Schemes** - At least 0.8% Economic Interest
 - 40% SUBMINIMUM ON **Economic interest in the hands of Black participation in Employee Schemes Ownership Programmes (ESOP)** - At least 2% Economic Interest

OWNERSHIP AMENDMENTS

- The ownership scorecard for practical reasons permits the measured entity to, in promoting ownership and management of new or existing enterprises by black people, recognise various types of equity principles that entities can apply in order to comply with the ownership scorecard. One other principle is the modified-flow through principle.
- In terms of Code Series 100, an entity may apply the modified-flow through principle to determine black ownership, where in the chain of ownership structure black people have a flow-through level of participation of at least 51%, then only once in that entire ownership structure of the entity such black participation may be treated as though it were 100%.
- The Codes have defined a 51% black owned entity as an entity where a) black people hold at least 51% of the exercisable voting rights as determined under Code Series 100; b) black people hold at least 51% of the economic interest as determined under Code Series 100; and c) has earned all the points for Net Value under Code Series 100.
- **THE MODIFIED FLOW THROUGH HAS BEEN REMOVED FROM THIS SECTOR CODE**

JUSTIFICATIONS AND EMPIRICAL EVIDENCE

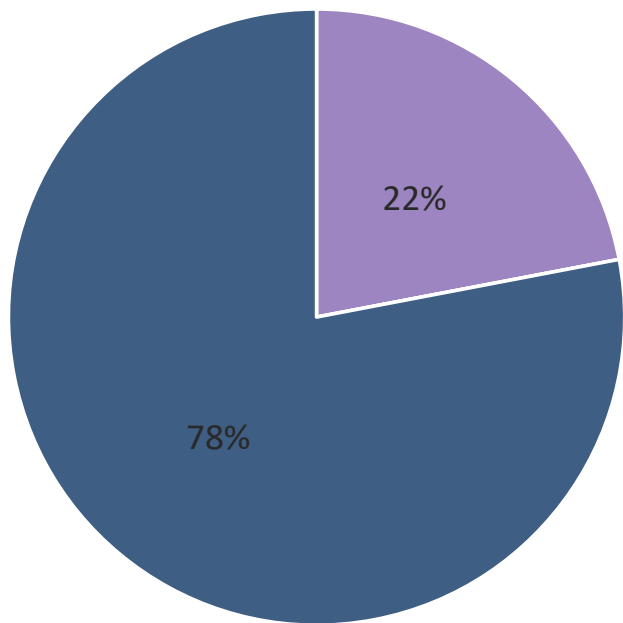
LFC AUDIT 2011

Retailing (Exc. Shell & Sasol Oil)

LFC KEY PERCENTAGES AND COMPLIANCE STATUS

% HDSA RETAILERS	% HDSA VOLUMES	AFRICAN TOTAL OWNED	COLOURED TOTAL OWNED	INDIAN TOTAL OWNED	ANALYSIS OF BEE OWNERSHIP %	EQUITABLE RETAIL OPPORTUNITIES TO HDSA'S	AVERAGE COMPLIANCE STATUS OF THE INDUSTRY
40%	41.25%	13%	5%	23%	30%	32%	31%

Transient Race Volumes

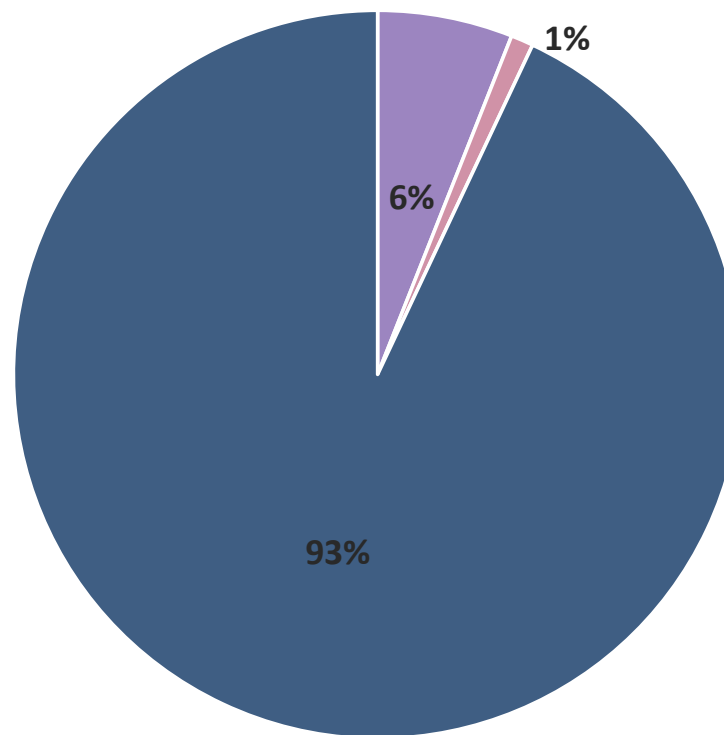


■ African ■ Indian ■ Coloured ■ White



DEALER OWNED

Transient Race Volumes



■ African ■ Indian ■ Coloured ■ White

COMPANY OWNED



DEALER OWNED DEALER OPERATED SITES

TRANSIENT % - SITE				TRANSIENT % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
50	17	0	33	78	0	0	22
URBAN % - SITE				URBAN % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
66	10	4	20.5	66	10	4	20.5
RURAL % - SITE				RURAL % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
68	10	9	13	64	8	12	16

COMPANY OWNED DEALER OPERATED SITES

TRANSIENT % - SITE				TRANSIENT % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
80	17.5	0	2.5	93	6	0	1
URBAN % - SITE				URBAN % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
54	17	3	26	47	19	5	29
RURAL % - SITE				RURAL % - VOLUME			
WHITE	AFRICAN	COLORED	INDIAN	WHITE	AFRICAN	COLORED	INDIAN
55	22	5	19	59	17	2	22

RETAIL SECTOR ANALYSIS - 2010

STATUS QUO

- **Indians do better** in volumes than other black groups
- The Ownership of and **volumes pumped by Whites outnumber** those of the HDSA's collectively.
- White dealers pump 3 x more than Indians who are 2nd in dominance.
- There is still a challenge of ensuring equitable site allocation to HDSA's for various reasons, including **limited site availability**.
- **Oil Company challenges**
- Some **old evergreen agreements** with white retailers, property owners and developers.
- Especially with respect to the more lucrative opportunities e.g. transient sites.

HDSA RETAILER CHALLENGES / NEEDS

- Lack of Capacity to **negotiate and manage contracts**
 - e.g. the structure of **royalties and rental payments**
 - And the treatment of **unreliable product suppliers**.
- **Regulatory process anomalies and turn-around times.**
- **Goodwill** is not regulated, therefore the seller is at liberty to charge any price.
- **Entrepreneurship and business skills** are not provided in the initial training
- The **modus operandi for stock items** is not friendly towards **local small businesses**

ACCESS TO INFRASTRUCTURE SCORECARD

DRAFT WORKING DOCUMENT

	SITE CODES	
Measurement Category and Criteria	Weightings	Targets
<p>Disposal of assets to Black owned and controlled Retail Operators with a least 51% Black ownership (Level 1 – 3) of total infrastructure disposal</p>	7.5	TBA
<p>Disposal of assets to Black owned and controlled Retail Operators with a least 51% Black ownership (Level 1 – 3) of total land disposal</p>	7.5	35%
TOTAL	15	

JUSTIFICATIONS AND EMPIRICAL EVIDENCE

LFC AUDIT 2011

Based on the Petroleum and Liquid Fuels Charter Final Audit Report 5th August 2011", available on <http://www.energy.gov.za/files/media/Public/PetroleumAndLiquidFuelsCharterAuditReport.pdf>

The **inadequate transformation** across the sector, particularly the Petroleum Retail part of the value chain as indicated by the structural impediments to **transformation including land ownership; and lease tenure linked to site licence** regulation. This should take into account a system of allocation of sites; volumes pumped; strategic location of sites; and equitable ownership in Company Owned Retailer Owned (CORO) sites **in line with section 2E of the Petroleum Products Amendment Act of 2003.**

10. WHATS NEXT ?

THIS IS WHY WE ARE HERE?

- Get your views and your inputs
- Become innovative around the transformation agenda bespoke to your sector
- Get empirical evidence
- Pilot a CORO and RORO sites verification
- Get You sign off on FRA's final submission

THANK YOU

QUESTIONS?