

Policy and regulatory constraints to emerging entrepreneurs in South African agriculture¹

by

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1. Purpose and scope

Access to commercial farming for emerging entrepreneurs in South Africa is constrained by policies and regulations in the following areas:

- Access to land
- Marketing, covering current market practices and laws, as well as agricultural export policies in conformance with legislation and international agreements;
- The environment, including policies governing or affecting soil quality and conservation, and water resource quality and quantity;
- Labour legislation, including minimum wage and other requirements of the Basic Conditions of Employment Act;
- Access to capital for land purchase or long-term lease, input supplies, and equipment.

Many commercial farmers have been able to exploit new opportunities in the newly deregulated domestic market, and in international markets. Some emerging farmers have also been remarkably innovative in finding new opportunities, but have been less successful at exploiting them in a sustainable manner. Hence emerging farmers often argue, with some credibility, that they ‘deserve’ the same support given to white farmers over many decades of interventionist agricultural policies.

To this end, the purpose of this paper is to try and gain some understanding of the problems faced by these emerging farmers. This has been accomplished by face-to face interviews with selected farmers and representative farmer organisations throughout the country. As is always the case with this type of research, the results are not representative of the problems facing emerging farmers. Nevertheless, this type of research is best at gaining a more in-depth insight into the problems facing those who were interviewed. As such, it provides the basis for recommendations that should serve to facilitate market access for emerging farmers.

Between December 2002 and February 2003 28 interviews were conducted with farmers in the Eastern Cape (livestock, citrus and aloe), KwaZulu-Natal (maize, cotton) and Limpopo provinces (livestock, subtropical fruit) and with agribusinesses (rural finance providers, a fruit canning concern) and several farmer associations. Respondents were asked a series of unstructured questions that focused on issues that influenced access to land, labour and finance, that acted as barriers to production, and access to output markets.

2. ACCESS TO RESOURCES

2.1 LAND

South Africa is implementing agricultural land reform, consisting of programmes for restitution, redistribution and tenure reform. The redistribution programme is implemented through the Land Reform for Agricultural Development (LRAD) sub-programme. Successful applicants receive a grant that ranges from R20000 per individual to R100000, depending on the size of the own

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contribution, which ranges from R5000 to R400000. Tenure reform has included legislation on labour tenants, on protecting farm dwellers from unlawful evictions and on setting up Community Property Associations, but has not yet changed access to land in areas under traditional authorities. Restitution is guaranteed for those who lost land title due to segregationist and apartheid laws from the time of the promulgation of the Land Act of 1913. None of the respondents in this study commented on issues regarding restitution or the Labour Tenants or Extension of Security of Tenure (ESTA) Acts, hence the focus here is on their comments on the redistribution programme.

The state does not seem to be a very efficient landlord

Some of the farmer respondents lease their land from the state. The following stories were told during the interviews:

- In one case, a cattle farmer in Limpopo province had leased a farm from the state since 1984. The lease agreement lapsed in 2000 and has not been renewed by the provincial government, thus the farmer has not paid rental for two years. Part of the delay in transferring the land is an outstanding land claim whose validity has to be verified.
- A second farmer from the same area who leases land from the Department of Land Affairs has also not had the land transferred due to land claims. Three different parties have claimed this land and there is much uncertainty about the future of these claims. In this case, the farmer benefits from the low rental charged by the state.

A representative from the National Emerging Red Meat Producers Organisation (NERPO) confirmed that leasing land from the state presented problems for emerging farmers. Many farmers had been leasing for as much as 15 years, and had requested first preference to buy the land. However, the process was extremely slow, due mainly to rivalry between the Department of Land Affairs and Provincial Departments of Agriculture, with everyone wanting to play a role in determining who would acquire title to the properties. The effect is that these farmers develop the properties, furthermore 'squatters' occupy some of the farms and, because the farmers do not have legal title, hence they cannot have them evicted. In a number of cases farmers don't even have a lease agreement as they were simply put on the farms as caretakers without formal agreements under the old homeland governments.

Members of the Northern Livestock Association in Limpopo also argued that LRAD was not their most important problem, rather the issue of State land, leases and land claims needed to be resolved. Fortunately, a representative from the provincial Department of Agriculture informed the members that they were in the process of preparing new interim lease agreements and that farmers should prepare to start paying farm rentals once more. A number of farmers had requested that leases be renewed regularly to provide some security of tenure. Earlier in the meeting a member raised the point that squatters were vandalising boundary fences and doing as they pleased on leased farms, as they were aware of the tenuous land ownership/lease situation.

Uncertainty about tenure affects investment decisions

Respondents identified a range of factors that create uncertainty. In the case of the first farmer who leased land from the state mentioned above, the lease agreement specifies that he can only run cattle. When he acquires title, he plans to plant 50 hectares of lucerne, 100 hectares of tomatoes and a further 100 hectares of pasturage, as he has sufficient water. As mentioned, however, there was an outstanding land claim on the farm, and the restriction on the lease agreement meant that the investment would not take place. The second farmer who leases land from the state and who faces a land claim noted that there are camps on the farm, but these are not adequately planned. He argued that if he were to acquire ownership he would reticulate the water better so that he could use the farm to plant stock feed. In his case, the lease, which he has held since 1981, used to be renewed every five years, but is now renewed annually, which also affects investment decisions.

LRAD and governments' (in)ability to deliver

One respondent noted that the biggest problem faced by black farmers was land availability. In his view the LRAD programme was not really addressing the problem quickly enough or on a large enough scale, primarily because not enough land is coming onto the market and when it does, it is normally priced beyond the reach of the farmers. The AGRILINK II officer in KwaZulu-Natal shared this opinion. She noted that not enough land was coming on to the market in KwaZulu-Natal, especially sugar cane land along the north coast for which there was a high demand. When land in this area was put on the market, it was normally marginal land close to urban settlements and/or communal areas, and when prime land became available it was usually very expensive. The discrepancy between the market value of the land (asking price) and the productive value of the land is so great that Land Bank did not view such projects as viable.

A maize farmer in KwaZulu-Natal who already has his own farm believed that this was too small to support himself and his family. A year ago, one of the members of the farmers association told him about a farm in the area that was for sale. This farm was selling for R750000 and was 605 ha in extent, has a large river running through it, electricity and arable land. A body was formed to try and access a land reform grant and negotiations were entered into with the seller. However, when it became clear to the seller that he would have to wait 9 months to receive his money, he sold at a lower price to a cash buyer. Six months later they experienced a similar situation. The respondent remarked that land reform beneficiaries couldn't buy any of the "good" farms, as sellers will not wait for their money.

A Community Property Association (CPA) in the Eastern Cape told that their farm was financed through a land reform grant. At the time of buying the group consisted of 20 members, but some members had lost interest or had found alternative employment. While they had exited the scheme they had to leave their contribution in the project. The group was constrained when it came to selecting a farm that they could afford, as they did not want to take on additional members. The result was that they ended up buying a poor farm, which was unlikely to ever generate sufficient income to provide for the needs of the farmers.

The land system is overly bureaucratic and legalistic

A cattle farmer from the Eastern Cape, who has an agricultural diploma, bought a farm in 1993, which he paid for in full. However he is yet to receive the title deeds to the land, and his purchase price is still kept in trust with the successor to the Ciskei Agricultural Bank, where it is still lying and not earning interest. When the new government came into power in 1994 there was a moratorium on the transfer of land and a number of investigations to determine who owns what in the former homelands. This farmer has been trying for the past 8 years to get some finality on the matter. The Department of Land Affairs cites two reasons for not giving him the Deeds. First, a company registered in London was given a servitude to tap the milkwood trees in most of the southern Peddie area. This company no longer exists; however, a Supreme Court application has to be made to set aside a servitude. Second, no detailed Surveyor General documents exist to identify the exact boundaries of the farm, and the farm needs to be resurveyed because it is made up of remainder portions from a number of farms.

A farmer who is a beneficiary of the land reform programme provides another example. In order to access sufficient start up capital to purchase the farm; he co-opted three other members at the start. One of these subsequently died, and the other two withdrew, and the farmer interviewed is in the process of buying them out. In commenting on group size, the respondent pointed out that the farm generates sufficient revenue to adequately support one household and not four as was originally proposed. However, our respondent has not yet received the title deed to his land. The document is in King Williams Town with the lawyers. To the best of his knowledge, the respondent believes that

this has to do with fact that one of the original members of the group died.

Another farmer who has had problems with legal matters owns a small aloe farm in the Hertzog region, which he bought in 1993. While he has paid for the land in full, the property has not been transferred to his name, as the lawyers require the signature of his wife to affect the transfer (he was originally married in community of property, but his wife deserted him and her whereabouts are unknown). He now has to divorce her in her absence, at which point title to the farm will be transferred to him.

Another example is provided by a maize farmer in KwaZulu-Natal who purchased his farm for cash in 1994, but only received title in 1999 due to the fact that the farm had belonged to the seller's grandmother and had to be transferred to the seller's name and then on to him.

Two spokespersons for Community Property Associations told the interviewer that they knew that the CPA was 'registered in Pretoria'. The interviewer noted that there was some confusion as to what were the legal requirements of this registration process. The respondent pointed out that they were trying to maintain records for the farm and keep minutes of all the meetings, but that nobody from the government had visited the farm, not even to provide extension support.

Land can generally not be used as collateral

This restricts farmers' access to capital. The respondent from the Eastern Cape Rural Finance Corporation (Uvimba) believed that this was one of the most pressing issues in the Eastern Cape. Under the previous governments of the Ciskei and Transkei land was leased to farmers with 10-year renewable leases. Since 1994 nobody has really looked at these lease agreements, even if some have expired (i.e. not been renewed), and title has not been transferred. From a financing perspective this affects the risk profile of the client as there is no security of tenure and the farmer has no collateral.

A respondent who is involved in the citrus industry pointed out that the area is high quality agricultural land, and that emerging farmers from this area should be able to deliver the highest quality citrus, as water has never been a limiting factor. Since the late 1980s, however, the volumes coming from the area have been declining primarily due to the age profile of the trees and the fact that no replanting has take place. Ulimocor, which owned and operated the farms, was liquidated by the provincial government in 1996, at which point the local citrus co-op had to support the farmers. In 1997 there were 22 farms, but currently only 12 are operational. The farms have been abandoned as farmers could not raise the necessary production capital to continue farming, and in the absence of title deeds they can no longer borrow.

A second citrus farmer noted that, while she has title to her house and the surrounding 6ha of land, she does not have title to the citrus orchards (22ha of a 53ha portion of land) that belong to her family Trust, which she manages with her son. Part of the problem of title has to do with the outstanding debt the Trust has with Uvimba. She has negotiated with DLA, the provincial Department of Agriculture and Land Affairs and Uvimba through the group (Alice Kat Citrus Development Trust) but now feels she needs to take on the battle personally as she wants to begin with a replanting programme of 5ha, but will only do so if she knows her investment is secure.

Our respondent cotton farmer has farmed on communal land since 1987. He currently has 11 ha under cotton and plans to extend this by an additional 7 ha in the coming season. He does not find the communal tenure system to be restrictive, as he claims that if he needs additional land he can approach the local authority and take the matter up with them. He believes his tenure is secure in practice, as land is normally allocated to an individual for life and the use right of this land is normally transferred to one's heirs. However, he agreed that the real problem with communal tenure is that it cannot be used as collateral. This forces farmers to select crops where contracting agreements can be entered into.

2.2 LABOUR

The South African government initiated a sectoral determination for agriculture under the Basic Conditions of Employment Act (BCEA) in 2001. The most important provisions of these regulations are the minimum wage (R800 in areas contiguous to the main population centres, and R650 in the rest of the country, with an allowable deduction of no more than 10% each for in-kind payments of housing and food), written employment contracts, and regulations ordering hours of work, overtime pay, casual and seasonal workers and youth employment.

One thing is clear from the interviews, namely that hardly any of the emerging farmers had formal contracts with their workers, or paid wages that were anywhere near to the minimum wage. For example, during the meeting of the Northern Livestock Association the interviewer asked farmers to indicate which of them planned to adhere to the new law. This suggestion was met with peals of laughter, with farmers stating categorically that they could not afford to pay minimum wages. This provoked a lengthy discussion as to how South African farmers were not subsidised while their international counterparts were, and that if government wanted them to pay these high wages they must subsidise them.

Industry representatives corroborate these anecdotes. The NERPO spokesperson noted that most emerging black farmers couldn't afford the minimum wage, partly due to the size of their farming operations. In most cases the provision for accommodation and food was too small, and this would have a negative effect on food security amongst farm workers. He also noted that most emerging red meat producers do not adhere to the BCEA. They don't have contracts with their workers and working arrangements were informal. Likewise, the Kwanalu spokesperson believed that none of the emerging farmers in the province could afford to pay the minimum wage, and that these farmers were not adhering to the BCEA.

2.3 CAPITAL

Farmers and bankers to farmers in all parts of the world face one of the most perplexing economic problems. Farming has high capital needs and low returns, produces lumpy and intermittent incomes, and there is a long gestation period between costs and income. For farmers, this often means dependence on loan finance. For bankers, it means high risks and a need for expensive risk-management techniques such as collateral, risk pooling, etc. These lead to high transactions costs.

In South Africa the Land Bank has been charged with responsibility for lending to agriculture and, since 1994, with a special responsibility for emerging farmers. There are also parastatal companies such as Uvimba in the Eastern Cape that conduct the same business. However, there is no evidence that these institutions are able to conduct business profitably, or that farmers' access to finance has improved. It is also not clear to what extent the obstacles facing emerging farmers are institutional (inherent to the nature of the business), or the result of regulatory or policy decisions. In this regard, a number of important observations were made during the interviews.

Land Bank procedures are slow, bureaucratic, and expensive to the borrower.

A cattle farmer in Limpopo recounted how he had applied for a loan from the Land Bank to buy cattle. It took over a year before he was awarded the loan. He had had to provide security for the loan, including his goods lorries, tractors and the deed over a house in town. Another cattle farmer who had paid cash for all his farms noted that the Land Bank is not a visible institution, that there is a lot of red tape, and that it operates as a commercial bank in requiring sureties and collateral.

A farmers' association owns a mill, which they purchased with the help of a grant of some R330000

from the NDA, found that the mill was a second-hand machine and that they needed all their working capital for repairs. As a result, they were unable to pay farmers on delivery of their maize and consequently struggled to get sufficient volume through the mill to make it cost effective. When they approached the Land Bank, they were told that they could only help individual farmers, and then only provided they had collateral. One result is that they cannot afford equipment to grade maize. To circumvent this problem the farmers pretend they are going to sell to the local 'white' co-operative and then take the grading certificate to their own co-operative.

The Land Bank acts like a commercial bank, with no developmental objectives

A cattle farmer in Limpopo argued that the role the Land Bank should play is not that of a commercial bank, as it should look at developmental objectives first. When granting loans, for example, it should look at the experience and interest of the borrower, and not their collateral, and it should be more ready to accept a five-year lease as collateral.

The Land Bank is hampered by its development objective

According to the Land Bank, it can provide loan finance to farmers with no collateral up to R25000 provided they offer evidence of repayment ability and a favourable debt ratio. Some form of title deed or collateral is necessary when this amount is exceeded, especially if the money is required to finance infrastructure. Despite an exceptionally high default rate for communal farmers of over 60% in Limpopo, the Bank has to service these clients as part of its mandate. The Bank is also seeing an increased number of farmers approaching them to help finance the purchase of state land. While this group is "technically bankable" as they have some collateral, there are a number of other problems, principally related to a lack of management experience and marketing risk. When the old Marketing Act was in place it was easier to provide finance because, firstly, there was product market stability and secondly, it was easier to organise a cession against a farmer's crop, as there were clear marketing channels that could serve as additional collateral.

The Land Bank is trying to accommodate its needs to those of emerging farmers

A branch manager of the Land Bank discussed why emerging farmers default on their loans. In his view, the primary reason was their inability to manage the effects of i) natural disasters, ii) crop failure and iii) marketing risks. As a bank they are in the process of setting up an account management function to help guide farmers at the point of default. Currently when someone misses a payment they send out a letter, then phone and then visit to ascertain the causes, and, if they are genuine, they restructure the repayment schedule. They cannot really monitor the client until he defaults again at which point there is nothing they can do except call in their security.

Even an established institution such as Ithala has difficulty in serving emerging farmers

When Ithala started (1979), their efforts were directed at small farmers in the communal areas. This has changed and they now concentrate on financing entrepreneurs. They have an exemption from registration as a bank, yet they comply with the requirements to expedite eventual registration. The result is that their profitable minimum loan size is around R200000. They are also aware that their withdrawal from the small loans market was only partially filled by the Land Bank, and believe that there is a need for other sources of development finance. Nevertheless, previously 30% of their accounts would be in arrears with a 4% write off, and this has declined to 12,5% arrears with a less than 3% write-off. However, the fact that this was higher than the norm for commercial banks (6-7% for arrears and less the 1% write-off according to the spokesperson for Ithala) was evidence of their acceptance of a higher client risk profile, i.e. of a developmental focus.

Some lenders are experimenting with alternative procedures, and benefit from repeat business

An Eastern Cape farmer borrowed money from Uvimba without a title deed. They also provided him with funds to build up his herd. Another farmer recounted that CAB originally financed him, while Uvimba is still providing him with a production loan (he has a revolving credit facility). He

pointed out that the bank has been sympathetic and has taken other assets for collateral. A third farmer in the Eastern Cape told how he took a mortgage loan from Uvimba of about R160000 to buy a farm. The terms of the loan were 20 years, but he paid it off in 3 years. Uvimba have intimated that should he require additional loan finance, he could approach them. The Uvimba spokesperson confirmed that, given their development mandate, they have been quite innovative with respect to the types of assets that can be used as collateral. For example they will also accept movable property and 3rd party guarantees.

All banks struggle to determine the optimal interest rate to charge small and emerging farmers.

A spokesperson for the Land Bank did not believe that interest rates should be subsidised, because this meant that capital was not adequately rationed. The interest rate structure of the Land Bank varied, ranging from prime +2 for bronze clients to prime –1 for gold clients (those with sufficient collateral). Some farmers were under the impression that the Bank offers subsidised interest rates, but this was a misconception because they administer different programmes as agents of the national and provincial governments. This affected the Bank's standing in the market.

The spokesperson for Standard Bank stated that they were able to offer their best customers a rate of prime –2%, which meant cutting their margins to close to zero. They believed that the Land Bank was able to offer higher risk clients this rate, as they don't pay tax or dividends. As a result the Land Bank had all the best emerging farmer clients. The spokesperson did mention that they could access subsidised funds (at the Bank Acceptance rate minus 300 base points) from Khula, which they could on-lend at below the prime rate, although they still carried the full credit risk. Ithala interest rates, on the other hand, are in the region of 1,5 % above prime for fixed property and 2% above prime for working capital. They do not offer subsidised interest unless they receive concessionary funding from the Land Reform Credit Facility and/or LRAD. Given their historic background, Ithala is more flexible and will allow gearing to a maximum of 70%.

Other banks are crowded out because of the favoured creditor position of the Land Bank

The spokesperson for Uvimba explained that because the Land Bank has the first right as creditor other banks are reluctant to finance farmers who are already financed by the Land Bank. For this reason, they prefer to settle with the Land Bank and assume all a clients' loans. This view was supported by the spokesperson from Standard Bank, who argued that taking over all the loans gave the institution more security.

There are a number of regulatory constraints to providing finance to emerging farmers.

The **Usury Act** prescribes the maximum amount of interest a bank can charge. Often this is less than the real cost of lending because of the high risk of default, limited collateral and high service costs. Yet no respondents in these interviews regarded this as a constraint, and formal sector lenders recognise that if they exceeded these rates most of the high-risk clients would not be able to repay loans. Another example is the **Public Finance Management Act**, which requires that the a bank recovers what it has disbursed, thus if it does not follow a conservative lending policy it can be interpreted as negligence and thus it could lose its licence. Finally, the **Bank Act** does not allow unregistered entities to accept deposits, with the result that lenders such as Uvimba are almost entirely dependent on the state as a source of funds.

It is unfair that the previous government subsidised interest rates

Emerging farmers believe that they should be given the same benefits as white farmers, who received interest rate subsidies through the Land Bank and the Credit Board. The generally expressed opinion was that one group got ahead because they were subsidised and they feel it is now their turn for the same privileges.

Transaction costs are increased by environmental and other legislation

Other additions to the cost of loan administration arise because loan agreements state that borrowers must follow the requirements of conservation legislation. The Provincial Department of Agriculture is meant to ensure that they are doing so, however they do not have sufficient capacity. Further, before the Bank extends a loan a field officer will visit the client to assess whether the planned activities are technically feasible. After that some form of relationship is built up between the field officers and the client, and they often end up providing extension advice to farmers (including advice on how to comply with legislation such as conservation laws). However, Uvimba cannot afford to provide this service, and its field officers are not necessarily qualified to do so. The spokesperson for Ithala also raised the issue of compliance with the environmental legislation.

3. PRODUCTION ISSUES

Respondents discussed raised a wide range of issues regarding production of the commodities included in this analysis. While many of these relate to their particular circumstances, numerous regulatory and policy issues were raised.

3.1 LIVESTOCK FARMERS

One of the respondents reminded us that black farmers own an estimated third of the national cattle herd, but were historically restricted to 13% of the land. Thus, in the long run, the problems of livestock owners were intimately tied to the problems of land reform. Nevertheless, the NERPO spokesperson noted three pressing and distinct problems facing emerging cattle farmers in South Africa, namely problems with overgrazing, with stock theft, and with veterinary health.

Overgrazing

In the view of the NERPO spokesperson, overgrazing was a problem in the communal areas, but not where farmers owned the land. The homeland governments had some sort of social order where the management of the veld was decided in part by the tribal authorities. However, NERPO was concerned by what they saw as a culture of lawlessness where every member of the community demands to participate in decisions surrounding veld management. These problems can be traced to the fact that there is no clarity with respect to who has the authority in the rural areas. The authority of the traditional tribal authorities *vis-à-vis* local and municipal structures is blurred and policy on local government needs to be clarified.

Stock theft

The NERPO spokesperson argued that this was a problem specific to some areas of Limpopo and Transkei. The deregulation of the meat industry contributed to the problem because there is no control over meat slaughtering. Furthermore the meat hygiene regulations need to be enforced. Stock theft was perpetrated by syndicates, sometimes of farmers, who are well organised. The second source of stock theft is butchery owners who slaughter on the premises.. There are also speculators who buy or steal unbranded animals and simply brand them themselves, treating them as their own. The third is informal meat traders. They don't steal in bulk, but simply one or two animals that they sell from the side of the road.

Veterinary health

The spokesperson from NERPO noted that some provinces (especially KwaZulu Natal, Northern Cape and North West) are not providing an adequate animal health service to rural communities. One of the most important weaknesses in this regard had arisen from the suspension of dipping services. One respondent from Limpopo noted that the government there still maintains its vaccination programme, although many communal area farmers failed to make use of the service.

Further, NERPO had identified a specific problem with the policy on foot and mouth disease. While

the policy was effective in some areas, along the Zimbabwe border where buffaloes jump the fences there was an imminent danger of an outbreak. NERPO argued that the hundreds of Zimbabweans crossing the Limpopo without being tracked were a particular source of concern, as humans were effective carriers of foot and mouth on their feet. With respect to the governments' quarantine facilities for foot and mouth, he noted that it is important for provinces to make provision for more feed and/or provide more grazing in the quarantine camps. These views were also expressed at the meeting of the Northern Livestock Association.

Finally, the two correspondents from Limpopo said that they branded their own animals, and that, in their view, more than 90% of the emerging cattle farmers followed this practice. One respondent noted that this was one of the requirements for getting a loan from the Land Bank, while the other said that their local association had done much to reduce the cost of branding irons by a sharing arrangement among members. The respondent from the Eastern Cape noted that it was almost impossible to sell unbranded animals in his area. However, there were problems with compliance among communal area farmers. A branch manager of the Land Bank confirmed that they required that cattle be branded and microchipped, especially in the case of higher value pure breeds of cattle. In his view this insistence has contributed to the increase in the number of farmers who are adhering to the country's livestock identification laws.

3.2 GENERAL ISSUES

VAT registration

The NERPO spokesperson guessed that 99% of their members were not registered for VAT. Most of our respondents agreed. In their view, this was for one or more of a number of reasons:

- Emerging farmers don't want to register, as they feel that they are going to be taxed (i.e. that the Receiver will get hold of their details).
- The administration involved is overwhelming, especially in the light of the relatively low turnover of these businesses and the fact that they hardly kept any farm records.
- They were ignorant of the procedures for registration.

These farmers are most probably not in contravention of the law, as it is unlikely that their turnover is sufficiently high to warrant compulsory registration. However, they are missing the opportunity to claim back VAT on farm business expenses. Whether this will be worthwhile given the high cost of compliance will depend on the individual circumstances of each farmer. This is borne out by those instances where respondents were registered for VAT. Two respondents were registered because of their other business enterprises, while the spokesperson for the milling co-operative in KwaZulu-Natal argued that, as they sell directly to the public they have to be VAT registered, and they therefore hired a local bookkeeper who keeps all their books and submits all their returns. Nevertheless, these respondents were all aware of the high cost of compliance.

Other issues

A branch manager of the Land Bank raised a number of production issues that are pertinent to this investigation:

- **Record keeping.** He noted that a number of emerging farmers register themselves as Trusts, which was expensive, as the registration of the Trust Deed was expensive. These groups can't apply for loans unless they are registered as legal entities, although many of the groups the bank works with do not always understand the implications of the various legal forms especially around issues related to liability and legal requirements such as having to appoint an accounting officer etc.
- **Insurance.** All lenders are required to insure themselves and their fixed and movable assets

against losses. Ideally the Bank would like to insist on crop insurance, however most farmers can't afford it. The implication, especially for emerging farmers that are normally very highly geared, is that one bad year causes these farmers to fall into a debt trap.

4. SYNTHESIS AND RECOMMENDATIONS

In this section, the major conclusions drawn from the analysis are summarised first, followed by an assessment of whether the problems encountered relate to a specific policy or regulatory constraint. This assessment forms the basis for the recommendations that are made.

Land issues

In the first part of this analysis, the opinions and experience of respondents regarding access to resources (land, labour and capital) were recorded. The following conclusions were drawn from the analysis of land issues:

- The state does not seem to be a very efficient landlord to the many farmers who lease land from the state, or when it tries to allocate state land to beneficiaries of the land reform programme. In many cases these leases are allowed to lapse, or farms are left idle, in a process that is eerily reminiscent of the process of homeland consolidation. It is clear that this situation will not result in efficient use of the land. The current 'tenants' have no or weak security of tenure, hence no incentive to conserve the land, and the land is often invaded by 'squatters'. The problem has its origin in the bureaucratic and legalistic processes of land registration and of land claims, and the slow pace of delivery by the state. It serves little purpose to recommend changes to these processes – the system of land registration is ingrained in law, while the land claims process, at least in its current form, is inherently slow. The only remedy seems to be a targeted programme of support to those farmers who are leasing the land. In those cases where this is possible (no land claims, registered title), the leases should be converted to long-term contracts, either together with (i.e. lease-to-buy) or as a substitute for a first right of purchase. In those cases where problems of land claims or of land invasion arise, the state should carry out its responsibility to the full in order to expedite these processes, take the appropriate steps to ensure that the land is being managed in an environmentally responsible manner, and at the same time negotiate access to alternative land for the tenants (through LRAD) in order not to disrupt their business activities. The mess encountered among the citrus farmers should serve as a warning of how badly things can go wrong.
- Farmers complain that LRAD is working slowly, primarily because not enough land is coming onto the market and when it does, it is priced beyond their reach. Further, sellers of 'good' farms are often not prepared to wait for the long period that the process of land reform takes, even if the price offered is higher. Thus, the state should, as a matter of policy, speed up the process of transferring farms to beneficiaries.
- It seems as if the purpose of a business plan is to obtain a land reform grant rather than to order the farming activities of the recipients of the grant. One of the main reasons is the absence of farmer support programmes, which are either not in place at all, or a case of 'too little, too late'. This absence of farmer support represents probably the most important policy issue identified in this research.
- While only a few farmers on communal land were interviewed about problems relating to that issue specifically, the issue itself also arose out of conversations with other respondents. The general view was that the problem of traditional areas is not going away and the state is going to have to deal with it at some stage. The most important problems encountered were the inability to use such land as collateral, the fragmentation of farms, and the overgrazing on the 'commons'. Where a farmer (including one woman) had access to communal land, they

did not feel their security of tenure threatened, even if the rules did not aim to create certainty (e.g. the traditional authority has the right to allocate land to someone else, land is not readily allocated to women, etc.).

Compliance issues

Most of the discussion of labour matters revolved around the implementation of the BCEA, especially the introduction of the minimum wage. The lessons from these interviews are that:

- Few of these emerging farmers pay the minimum wage, and few could afford to pay those levels of wages.
- The burden of the minimum wage legislation consists of both the level of the wage and the administrative burden of complying with the conditions (formal work contracts, etc.)
- These small commercial farmers are unlikely to adopt more formal employment practices; hence the minimum wage will not be enforceable in their case.

A similar response was found when questions were asked about farmers' compliance with VAT, while other recorded examples include the need to keep minutes, etc. for CPAs, and the need to send records to the Registrar of Co-operatives. These are prime examples of the general problem faced by these emerging farmers – they confront rules, regulations and procedures that may make sense in the formal economy, but that at best make little sense in the world where they live, work and trade, and at worst hamper their ability to create livelihoods for themselves and their families.

The remedy is not always obvious, as exclusions based on area and population group, etc. reinforce the notion of 'two agricultures' that was inherited from the apartheid state. Yet the issue cannot be left in abeyance, as it also engenders disrespect for the law. In many cases (including BCEA) legislation provides for temporary exclusions. These should be used in conjunction with training and support programmes to help emerging farmers to cope with the requirements on an equal footing with their commercial counterparts.

Finance issues

There is little evidence that any rural financial services institution in South Africa, whether state or privately owned, are able to conduct their business at a profit, or that emerging farmers' access to finance has improved. However, it is not often clear to what extent the obstacles encountered by emerging farmers are institutional (inherent to the nature of the business), or to what extent they are the result of regulatory or policy decisions. Nevertheless, the following observations regarding such obstacles were made:

- There was a constant criticism of virtually all parastatal institutions, namely that their procedures were slow, bureaucratic, and ultimately ineffective. These institutions need to straddle the divide between their operations in the formal economy and their responsibility to meet development challenges, often in the informal economy, in a manner that better serves the needs of these clients. To this end, internal procedures need to be revised, and the state appraised in the event that a change is seen as risk enhancing. There is evidence that this could lead to more profitable business. This includes the position of first creditor of the Land Bank, an unnecessary addition to the protection received by that institution.
- While there is a strong case to be made against interest rate subsidies, there is also a strong case against a land reform programme that 'forces' people into accepting gearing ratios that would be regarded as suicidal in the commercial farming sector. More innovative means of setting and charging interest rates, including early payment discounts, state guarantees, and back-loaded interest payments have been recommended in the past, and should be accepted as a normal part of the land reform programme.
- There seems to be sufficient justification for the state to investigate at least the feasibility of

(subsidised) insurance against natural disasters for emerging farmers, whether they are borrowers, land reform beneficiaries, etc. as part of a disaster management strategy for the agricultural sector.

Livestock disease control

Most livestock farmers raised the issue of contagious diseases such as foot and mouth, and problems with the delivery of veterinary services. The suggested remedies were better control over the movement of people over the border, better control over the migration of buffaloes, and better managed quarantine facilities and procedures.

One example of a regulation that was accepted by farmers was the necessity to brand animals. While it is certain that even this would be disregarded by some, the respondents in this study all believed that it was worthwhile, and even made plans to cut the cost of compliance. The fact that the Land Bank would not lend in the absence of proof of registration does not harm the level of compliance.

Marketing issues

One of the more surprising conclusions from this investigation is the lack of concern amongst respondents about access to markets, either because they sell without hindrance into local markets, or on contract to a processor, or because they understand the needs of the export market.

Gender issues

Another rather surprising conclusion from the interviews with the discussants was the absence of any mention of gender issues as an obstacle to emerging farmers' access to resources or the market, despite the fact that a number of interviews were held with women farmers (including a 'female farmer of the year' award winner). This could conceivably be because gender does not represent a real obstacle to access, or because gender discrimination is so ingrained that women do not see the point of protest. More than one respondent argued that it was not customary for women to receive a land allocation from traditional authorities, and that the 'type of agricultural activities women carried out' such as poultry and vegetable production did not require large farms.

Nevertheless, the position of women under customary law has been investigated in the past, among others by the Commission of Inquiry into the Provision of Rural Financial Services (the Strauss Commission), which reported in 1996. Their (lack of) legal status is an issue that needs to be given the attention it deserves.

Agribusiness extension services

Another matter that has been confirmed in these interviews is the adverse consequences of the almost total collapse of the extension services provided by the state, and the importance of extension as a vital part of the farmer support services that are required to make the land reform programme a success. Again, it hardly serves any purpose to make detailed recommendations on how to change a service that in some instances does not function at all, and in others is so uncoordinated with the land reform programme as to constitute an obstacle in its own right.

Environmental issues

Finally, South African laws increasingly require state agencies to police compliance with environmental laws. One clear example that came up in the interviews was the obligation by financial institutions to monitor compliance as part of their loan servicing. As with other such policies (e.g. VAT compliance, paying minimum wages) opportunistic behaviour by some farmers and the lack of enforcement capacity by the state will serve to merely add to the already high transaction costs of the rural financial institutions.