

PARLIAMENTARY SUBMISSION TO THE CONSTITUTIONAL REVIEW COMMITTEE: AMENDMENT TO S25

21 August 2018

BUSINESS UNITY SOUTH AFRICA
7 SEPTEMBER 2018

BACKGROUND

- Confederation of business organisations
- Represent a cross-section of business – large and small, across sectors, emerging and established
- BUSA represents its members in various structures, locally and internationally, in the interests of growth, development and transformation

BUSA BOARD
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Unisectoral	Chambers	Professionals	Corporates
Representing sectors of the economy	Representing Chambers of Commerce and Industry	Representing Professional Business Bodies	Representing Corporates and Closed group of Board of Trustees

BUSA STRATEGIC OBJECTIVES

ENABLING ENVIRONMENT FOR INCLUSIVE GROWTH AND EMPLOYMENT IN SOUTH AFRICA	
1	Transformed, Inclusive Economy that Creates Sustainable Employment
2	Small & Medium Enterprises Thriving
3	Predictable, Certain & Enabling Regulatory Environment
4	Affordable, Reliable & Sustainable Energy & Infrastructure (Water, Technology & Road Transportation) to Meet Current and Future Needs
5	Productive & Stable Labour Market
6	A Progressive Tax System that Supports Inclusive Growth Objectives
7	Trade Regime & International Cooperation that enables South African Business
8	Education & Skills Development for Current & Future Work
9	Affordable Comprehensive Social Security Framework for Future Generations , including NHI
10	Ethical & Accountable Business for Cooperation & Influence in SA, SADC, Africa and Globally

LAND REFORM IS NECESSARY

- Legacy of land and property ownership continues to be an obstacle to transformation, economic growth and social development.
- Recognise the importance of land reform in addressing apartheid-era land dispossession and as a means of inclusion and restoring dignity.
- Requires a strengthening and spreading of ownership of property, including land, to address structural imbalances.
- Furthering and entrenching of land rights has been unacceptably slow and beset by problems – endemic, structural and administrative.
- This is not a problem of s25 of Constitution, which allows for expropriation within the provisions of just and equitable compensation.
- The bounds of 'just and equitable' should first be tested before considering Constitutional amendment.
- Endorse the findings of the Motlanthe *High-Level Panel* and *Operation Phakisa*, that the existing constitutional framework is not an obstacle to land reform, but rather implementation challenges and failures are the impediments thereto.

LINKING CONSTITUTIONAL CHANGES & BUSINESS CONFIDENCE

- The Constitution is the foundation stone of our democracy, providing a stable platform of rights that upholds the rule of law.
- The Constitution provides long-term assurance to all stakeholders that rights will be protected, while providing space for advancing the transformation imperative
- Land rights are inextricably linked to property rights which are a necessary condition for democratic freedom, economic prosperity, social development and human dignity.
- For local and international business investors, the Constitution provides the ultimate form of security that investors will not be arbitrarily deprived of property.
- In relation to residential and commercial property and utilised agricultural land, the possibility of expropriation without compensation would result in uncertainty, which will affect investment negatively.



CONSTITUTIONAL CHANGES & BUSINESS CONFIDENCE

- The link between land and property rights has been reinforced by investors, local and international, as well as sovereign credit ratings agencies that have indicated that uncertainty about property rights will have an adverse effect on business confidence and investment.
- Recent developments bear this out, with many influencers acknowledging that land reform is necessary, but indicating that this should be done in a legal, transparent manner that brings certainty and clarity, thereby enabling economic growth and food security.
 - South Africa is the only net exporter of food on the continent.
 - A third of all manufacturing is dedicated to agricultural processing.
 - The sector has massive potential to grow and to create jobs, to provide food security and to be the arrowhead of sustainable transformation.



IMPLEMENTATION IMPERATIVES

- Systemic problems with implementation of government policy e.g.
 - Inadequate legislative framework
 - Lack of co-ordinated and scalable action within public and private sector
 - Corruption, lack of training and capacity
- Effective and sustainable solution requires a national land reform plan developed and implemented in partnership between government, business and civil society, based on sound economic principles and evidence:
 - Coherent legal framework
 - Institutional capacity
 - Financing solution
 - Infrastructure – irrigation, water, transport and digital platform
 - Building capacity, including commodity-specific expertise and a rural education and skills strategy targeting youth for the 4th Industrial Revolution
 - Setting aside land in urban areas for small business trading



CONCLUSION

- Section 25 is sufficient to achieve sustainable land reform to enable transformation and growth, while still maintaining confidence in South Africa's commitment to property rights, as well as fostering a growth-friendly policy environment.
- Constitutional amendments are not necessary to achieve meaningful land reform, and that the consideration thereof is creating policy uncertainty.
- Public-private partnerships with the agricultural, agribusiness and banking sectors and a shared vision for land reform will be the only sustainable solution for real economic empowerment.
- If, however, this Review Committee recommends that Constitutional Changes are necessary to demonstrate the country's commitment to land reform, we would appeal that this be effected in a manner that brings clarity, certainty and entrenches property rights as a basis for economic growth and social development.





BUSA

