

**IDENTIFICATION OF A PROJECT FOR “POST-  
SETTLEMENT AND DEVELOPMENT SUPPORT TO  
RESTITUTION BENEFICIARIES” FOR THE  
COMMISSION ON RESTITUTION OF LAND RIGHTS IN  
THE DEPARTMENT OF LAND AFFAIRS OF SOUTH  
AFRICA**

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## **1. Political, social and economical context of the intervention**

Land dispossession in South Africa during Colonial and Apartheid rule meant that land reform was one of the most burning issues when a blueprint for the reconstruction of the New South Africa was hammered out at the multiparty negotiations at the Conference for a Democratic South Africa (CODESA) and the Transitional Executive Council. One of the first policy decisions taken by President Mandela after becoming President of South Africa in 1994 was to provide assistance to communities who at the time managed to return to their ancestral land. These became known as lead projects and while the primary objective was to contribute to their economic development, an important second objective was to learn lessons for subsequent restitution claims. This commitment to land reform was enshrined in the Bill of Rights of the South African Constitution (Act 26 of 1996). This clearly underlines the South African government's perspective of land reform as an important instrument to effect restorative justice and socio-economic development.

Land reform in South Africa is built on three pillars, Redistribution, Restitution and Tenure Reform. One of the first pieces of legislation to emerge from the newly constituted Department of Land Affairs was the Restitution of Land Rights Act (Act 22 of 1994). This provided a framework, which enabled South Africans who had lost rights to land under specific circumstances (racial legislation and/or practices) to lodge claims for the restoration of these lost rights and to also further establish procedures and institutions for the resolutions of these claims. Since 1995 a Commission on Restitution of Land Rights (CRLR) comprising of a Chief Land Claims Commissioner (CLCC), supported by Regional Land Claims Commissioners (RLCC) has been responsible for the resolution of the claims lodged. Disputes and judgements are referred to a Land Claims Court specially established for this purpose. The Minister of Land and Agriculture, Ms. Thoko Didiza is the political head of the claims process.

By December 2004, 57 257 claims have been settled of which 3 114 were rural claims. A total of 16 824 rural claims were validated by the CRLR during the validation phase. Where feasible, and where it is desired by claimants, these claims involve transfers of land, which contribute to the realisation of government's stated objective of transferring 30 % of agricultural land by 2014 to previously disadvantaged people.

Whilst government is trying to align institutions and resources to provide ongoing support to these beneficiaries it became clear that an immediate intervention is needed to provide support to this and other claims that will be settled before the completion of the restitution programme in 2008. During a recent Land Summit held in August 2005, a recurring theme from

role-players across the sectors involved in the land reform programme was the lack of coordinated assistance accessible to beneficiaries.

The Belgian government has been supportive of South Africa's land reform in general and restitution specifically since 1998. The South African and Belgian Cooperation is formalised through a general agreement signed on the 8<sup>th</sup> of July 2002. This agreement is valid for a period of five years after which it is renewable for a further five years. Support to South Africa's land reform programme is specified in the Indicative Development Cooperation Programme (2001-2005), which also includes support to the health, safety and security sector the New African Initiative.

Since 1998 the Belgian government has provided support to the CRLR in the following areas:

- Information campaign – a national information campaign aimed at ensuring that South Africans were informed about the land claims process and the impending cut-off date at 31 December 1998
- Validation phase – during this phase claims were examined to establish whether a claim met the legal requirements in terms of the Restitution of Land Rights Act.
- Verification phase – aimed at determining the rightful claimants of valid claims.
- A further process involved speeding up of the restitution process. The South African government seeks to finalise the restitution process by March 2008.

All these interventions were specified and formalised through specific agreements signed by authorised officials from both governments.

The South African government has presented a proposal outlining the proposed post-settlement and development support to restitution beneficiaries to the Annual Consultation meeting between the South African and Belgian government during February 2005. The proposal was accepted and an indicative amount of €6 million was allocated to the project.

## **2. Relevance of the proposed intervention in the framework of the development policy according to international criteria**

South Africa's land restitution programme has two major objectives. The first is restorative justice and the second is to ensure economic growth amongst the poor in the country. This second objective is therefore clearly in line with the first millennium goal which seeks to halve the proportion of people whose income is less than a dollar a day and to halve the number of people who suffer from hunger by 2015. The proposed Post-Settlement Support to Restitution Claimants and other related programmes like the Expanded Public Works Programme, the Agricultural

Starter Pack Programme and the Comprehensive Agricultural Support Programme (CASP) are all measures, which seek to address poverty and hunger in the country. A fundamental outcome of land reform and the proposed post-settlement and development support to restitution claimants is therefore an expansion in the livelihoods strategies of poor rural South Africans, with attended measures to ensure that beneficiaries can access and sustain these strategies.

Throughout history inequality to access and ownership of land has often led to violent conflict with its accompanying negative effect on the economies of communities concerned. In South Africa with its skewed land ownership patterns, a real fear exists that frustrations amongst landless as a result of slow and ineffectual land reform programme might boil over and manifest itself in approaches that could have dire consequences for an orderly and legally-underpinned programme. The proposed project would therefore contribute to stability in the country and successful restitution, with lasting benefits beyond the mere return of land, would contribute to the entrenchment of democratic values within restitution projects.

One of the targets of the seventh Millennium Development Goal is the integration of the principles of sustainable development into country policies and programmes, and a reversal in the loss of environmental resources. Since 1994, environmental issues have moved into the socio-political arena where they cut across human rights, access to and use of natural resources, social justice, equity and sustainability. Since 1994 the South African government has tried to chart a developmental path that seeks to prioritise and meet people's basic needs whilst at the same time ensuring the sustainability of our natural resources.

Amongst the aims of the General Agreement between the South African and Belgian government are combating of poverty, the promotion of democracy and respect for the rule of law. The intended outcomes of the proposed post-settlement support programme are therefore in line with the general agreement signed between the two countries.

### **3. Problem analysis**

In terms of the Restitution of Land Rights Act, the CRLR has the mandate to monitor the implementation of restitution awards, whilst the White Paper on Land Reform provides for the Department of Land Affairs to implement awards, "either directly or by specifically designated bodies..." i.e. post settlement support. A process, with Belgian support, is currently underway to determine a ten-year strategy for post-settlement support. This strategy will present options that seek to address the complexities of securing sustainable livelihoods for resource-poor South Africans on a variety of land types and enterprises. One of the options will seek to provide a long-term strategy to the question on where post-settlement support should be located. The decision on the Integrated Framework for Post Settlement

support will rest with the Ministry of Land Affairs, and will be informed by the recommendations of the Formulation Phase.

Support for these newly settled claimants needs to address a number of challenges, including but not limited to the following:

- Resolution of claims and planning for post-settlement support needs to happen concurrently, rather than follow a linear process.
- Beneficiaries often do not have the required skills to manage and sustain existing and new ventures on the land;
- Beneficiaries do not have the necessary financial capital or access to financial capital to maintain existing ventures or to start new ventures.
- The necessary synergy between government, the private sector and civil society is not sufficiently developed to ensure a coordinated approach for post-settlement support to new entrants into the formal economy.

The CRLR has established a Post-Settlement Support Unit, and during the formulation phase the capacity of this unit and the DLA will be assessed to determine the capacity needs of the project.

#### **4. Analysis of the objectives**

Whilst the objective within this programme is to be reached by the CRLR, it needs to be recognised that it is supplementary to what other departments and institutions are doing. In particular synergy will be sought with the work of the Departments of Land Affairs and Agriculture, The Department of Provincial and Local Government (and their Integrated Development Plans) and Local Economic Development initiatives by Municipalities, donors and private and civil society initiatives. There will also need to be close engagement with the Post-Settlement Support Strategy Project.

The specific objective of this process is to provide post-settlement support to beneficiaries of restitution claims in accordance with the Restitution of Land Rights Act.

One of the result areas flowing from this objective would be to operationalise and roll-out the Post-Settlement Strategy, identify different enterprises and to develop appropriate models that can be replicated in other enterprises. Specific activities will include the following:

- Consider the Post-Settlement Strategy and operationalise aspects of the strategy;
- Development of a framework for project planning processes which would include needs identification, pre-planning, caretakership agreements and feasibility

- Do a stakeholder gap analysis to avoid duplication and to determine missing roles for different role-players to ensure the success of the enterprises;
- The development of business plans and business models/templates for selected enterprises. These plans would include the complete value chain, manufacturing and value adding processes, commodity marketing, viability and models, e.g., sugarcane, forestry, etc.
- Facilitation of developmental plans for selected resolved claims. These plans will seek to address developmental issues beyond the specific requirements of the productive enterprises and will address issues like shelter and other basic needs and services. It is envisaged that all the plans might not be developed within this project but it will seek to coordinate the different activities within the project.

A second result area seeks to ensure that the relevant Service Level Agreements/Memoranda of Agreement are in place and restituted rural communities possess or have access to the necessary capacity and resources to ensure the success of their ventures. At this stage one of the mechanisms proposed is an incubator fund that will provide top-up funding to selected enterprises. During the formulation phase the feasibility of this proposal will be examined and it will make recommendations with regard to the implementation of such a funding mechanism.

The project will build on and contribute to the Post-Settlement Support Strategy that seeks to establish a ten-year post-settlement support strategy for land reform beneficiaries and it will provide an exit strategy for the CRLR. The exit strategy will result in smooth handover to the most appropriate institution

## **5. Global goal**

Poverty reduction through the creation of rural sustainable livelihoods within the context of the Land Restitution Programme.

## **6. Specific objective**

To provide post-settlement support to beneficiaries of restitution claims in accordance with the provisions of the Restitution of Land Rights Act.

## **7. Beneficiaries and local institutional partners**

The direct beneficiary of this project will be the Department of Land Affairs and Agriculture, specifically the CRLR who will be able to access funds through the Land Restitution Trust Fund (LRTF). A management system involving the South African National Treasury, the CRLR and the Belgian government is already in place.

The Department of Land Affairs will be the administrative entity responsible for executing the project. The Ministry will also designate the chairperson of the LRTF. The chairperson of the LRTF will appoint a project manager who will be responsible for the technical, administrative, budgetary and accounting management of the project. Currently, the Chief Land Claims Commissioner serves as the chairperson.

The Belgian government will designate the Directorate General for Development Cooperation (DGDC) as their administrative entity responsible for the Belgian contribution to this project. The Belgian government shall designate the Belgian Technical Cooperation (BTC) as the entity responsible for implementation and follow-up of the project. BTC will be represented by its Resident Representative stationed in Pretoria.

The indirect beneficiaries will be successful rural claimants who will be able to access support from the CRLR through mechanisms that need to be determined and established during the Formulation Phase.

Other stakeholders involve include the following institutions:

- Government Departments,
  - Department of Land Affairs (DLA);
  - Department of Water Affairs and Forestry (DWAF);
  - Department of Environmental Affairs and Tourism (DEAT);
  - Department of Provincial and Local Government (DPLG);
  - National Department of Agriculture (NDA);
  - Department of Housing (DoH)
  - Department of Trade and Industry (DTI);
  - Provincial Departments of Agriculture
  - Provincial departments of Housing and Land Administration
  - Provincial government
  - Local and district municipalities
- Parastatals
  - ESCOM, TELCOM, IDC, SETAs
- Civil society institutions. In particular cooperative relations need to be established with NGOs already supported to provide post-settlement support to claimant communities.
- Development financial institutions both public (Land Bank, DBSA) and commercial financial institutions
- Cooperatives and commodity producer associations
- Commercial farmers' organisations like National African Farmers Union (NAFU) and Agriculture South Africa (Agri-SA).
- Donors, bilateral and the private sector

Within each model, the necessary stakeholders will be identified and the CRLR will establish a development forum or become part of fora already in existence.

## **8. Motivated choice of the strategy**



In particular the strategy will rests on the following pillars:

- Selection of models for post-settlement support and the development of development plans and business plans and their implementation. This aspect of the strategy is immediately implementable, and selection of models will be informed by the long-term strategy for post-settlement support currently being developed.
- Capacity building for CRLR staff and claimants. This aspect is implementable in the short term, but is dependent on the development of a training programme and the availability of appropriate trainers. A particular aspect of the capacity building programme aimed at claimants would be mentoring programmes, with existing enterprise owners twinning with selected projects.
- Top-up funding. This prong of the strategy can only be implemented after the establishment of criteria for the allocation of resources to regions and/or ventures. It also needs to be established whether this particular approach is the best way to provide funding to ventures on restituted land. Both these questions will be explored during the formulation phase.
- Long-term support to restitution beneficiaries. This component will seek to operationalise and roll-out lasting support to restitution beneficiaries. The 10-year strategy currently being developed will set a framework for this implementation.
- The maintenance of an information database relevant to post-settlement support. Responsibility for maintenance of this database after the commission has completed its work will be determined through the previously mentioned exit strategy

## **9. Localization of the project**

The project will be implemented throughout South Africa and will select from settled rural claims those localities, which could serve as models for similar enterprises throughout the country.

Within each model the necessary stakeholders will be identified and the CRLR will establish a development forum or become part of fora already in existence. The Post-Settlement Support Strategy Project will give guidance to this process.

## **10. Prerequisites**

The implementation of the project will be formalised in a specific agreement between the South African and Belgian governments. This will be followed by a Formulation Report, which would determine the necessary technical and financial requirements for the successful implementation of the project.

## **11. Principal assumptions that could hamper the implementation of the project**

- The Department of Land Affairs has insufficient capacity and resources to implement restitution awards.
- Lack of clarity of the notion of the incubator fund, its conceptualisation, role and modalities
- Internecine conflict amongst claimants resulting in ventures not being implemented or stalled
- Unplanned occupation of claimed land compromises existing ventures or prevent potential ventures from being implemented.
- The process can become an overly technocratic exercise, if inappropriate planning and business tools do not reflect the aspirations of the beneficiaries; or plans are not understood by the restitution beneficiaries.

## **12. Estimation of the duration of the project**

The project will run for a period of three years after the signing of the Specific Agreement.

## **13. Financial and Human resource contributions of both governments**

The South African government will provide the human and institutional capacity to implement the project.

The Belgian government has committed €6 million for the project. The Belgian government may also contribute further to the programme by making technical support available during the implementation phase of the post-settlement support programme.

## 14. Estimation of the global cost of the intervention

<b>Goal</b>		
Poverty reduction through the creation of rural sustainable livelihoods within the context of the Land Restitution Programme.		
<b>Objective</b>		
To provide post-settlement support to beneficiaries of restitution claims in accordance with the provisions of the Restitution of Land Rights Act.		
<b>Outputs</b>	<b>Activities</b>	<b>Assumptions</b>
Post-settlement models	Develop criteria for the identification of models	Sufficient resources are available to contract service providers for the implementation of approved business plans.
	Each RLCC identify and select settled claims that meet the selected criteria.	
	Stakeholder analysis to determine relevant role-players and roles	
	Develop framework for development of plans with a particular focus on participatory methodologies plans	
	Ensure that planning for restitution claimants are integrated with other development plans and initiatives.	All identified role-players on board and necessary capacity and resources from stakeholders committed to initiatives

	Appointment of service providers for development of plans where needed.	Consultant well versed in development issues especially land reform, specifically restitution and service delivery.
	Verification of the feasibility of plans prior to its acceptance.	
	Monitor and evaluate implementation of plans.	Stable and organized communities.
Capacity building management.	Training needs assessment of both CRLR and claimants	
	Design training programmes	
	Develop institutional capacity building plans.	
	Appoint training consultants.	
Restitution Incubator Fund.	Determine feasibility of proposed top-up funding mechanism	
	Develop criteria for and modalities for accessing assistance from this fund.	
Information management.	Integrate post-settlement information into the Landbase system.	IT system developed to store post-settlement projects information.
	Development of standard information packs for claimants.	Resources sufficient to allow for widespread distribution.
	Develop a communications strategy for the project	
Exit strategy	Design and implement a post-settlement exit strategy for the CRLR.	An institution has been identified which would be responsible for ongoing support to beneficiaries of land reform.



## List of Acronyms used

CODESA	Conference for a Democratic South Africa
CRLR	Commission on Restitution of Land Rights
CASP	Comprehensive Agricultural Support Programme
LRTF	Land Restitution Trust Fund
DGDC	Directorate General for Development Cooperation
BTC	Belgium Technical Cooperation
DLA	Department of LAND Affairs
DWAF	Department of Water Affairs and Forestry
DEAT	Department of Environmental Affairs and Tourism
DPLG	Department of Provincial and Local Government
NDA	National department of Agriculture
DoH	Department of Housing
ESCOM	Electricity Supply Commission
TELCOM	Telecommunications South Africa
IDC	Industrial Development Corporation
SETAs	Sector Education and Training Authorities
DBSA	Development Bank of South Africa
NAFU	National African Farmers Union
RLCC	Regional Land Claims Commission
IT	Information Technology

