

Comment

Salient points from a BER panel discussion on land

Since the ANC adopted it as one of the key resolutions at its 54th National Conference in December 2017, expropriation without compensation (EWC) has generated a lot of anxiety amongst the farming community, the broader business sector and international investors. The uncertainty increased in February when the ANC supported an (admittedly watered-down) EFF motion in Parliament to amend Section 25 of the Constitution in order to facilitate EWC.

After reading the ANC's resolution on land redistribution, our view has been that, while there is likely to remain a lot of noise around the topic, the ANC was unlikely to implement a populist land policy that would threaten property rights in SA. Indeed, the ANC has been at pains to argue that the implementation of EWC should not undermine fixed investment, or damage local agricultural production and food security. At first glance, it does not seem plausible that the economy will not be damaged by EWC. However, a deeper read of the policy resolution reveals that the ANC's approach is based on three elements (as specified in the Constitution), i.e. increased security of tenure, land restitution and land redistribution. Crucially, the ANC resolved (although this was in our view not communicated well, if at all) that these interventions should focus on government-owned land. In particular, this relates to the redistribution of vacant, unused and under-utilised state land, as well as land held for speculation and "hopelessly indebted" land. Commercial farmland is not mentioned in the resolution.

The land issue and its impact on confidence and ultimately GDP growth was discussed during the BER's annual business briefing to clients on Thursday 31 May 2018 in Stellenbosch.

There is no dispute about the importance of successful land reform to correct the injustices of the past and to restore dignity to the majority of our population. Land reform has an important role to play in terms of redistribution and as part of an inclusive growth strategy. It is our position that it has to be an efficient process, in terms of its impact on redress and the fiscus. At the same time, it has to be an orderly process within the confines of the Bill of Rights.

In the panel discussion during the BER event, Enoch Godongwana, Chair of the ANC NEC Economic Transformation Committee, elaborated that the ruling party's intention is not to expropriate productive land. Furthermore, he argued that land expropriation will only be implemented on a case by case basis with a clearly defined purpose for each case. The case for no compensation should also be made following well defined criteria. Although he did not provide examples, this could include expropriating land for a low-cost housing development in an urban area, etc. These comments provide a further indication that the land debate has generated overly alarmist commentary and that the ANC under President Ramaphosa is committed to embark on this process in a manner that limits any damage to investor confidence and private sector fixed investment.

However, we strongly agree with fellow panellist and former Public Protector Prof Thuli Madonsela who argued that in order to prevent further anxiety, the ANC **needs to clarify the policy** outlined above to the general public without delay. In our view, it is not sufficient to say EWC will be done without any harm to the economy and investor sentiment as this is confusing and probably lacks credibility. However, sound communication that productive land will not be expropriated and that the focus is on improved utilisation of state-owned land could go some way to manage the concerns of landowners - particularly farmers - and foreign investors. From this perspective, it may also be necessary for the ANC to emphasize that its land vision is worlds apart from EFF policy. The EFF wants the state to not only be the custodian of all land in the country, but also to steer how the land is utilised for (by its definition) productive purposes.

Finally, also of interest is Prof Madonsela's strong opinion that a Constitutional amendment is not necessary to achieve the ANC's goals with EWC.

Therefore, we assume that SA will maintain the system of private rights to land, but should ensure a fast and radical redistribution process to ensure a more equitable ownership of all land. This should include better utilisation of government owned land and address tenure security on traditional land. With respect to agricultural land, the proposal on farmland in the National Development Plan (NDP) and the role of District Land Committees provides a very workable solution – whereby farmers, agribusiness and financial institutions combine forces to ensure that at least 20% of farmland in every district is redistributed. Through this process, the expertise and support role of commercial agriculture is leveraged and committed to a successful and productive land reform outcome. This will create stability and ensure that uncertainty is avoided, confidence is boosted and opportunities for GDP growth and job creation promoted.

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