



REPUBLIC OF NAMIBIA

MINISTRY OF LANDS, RESETTLEMENT AND REHABILITATION

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HIFIKEPUNYE POHAMBAMBA, MP, MINISTER OF LANDS,
RESETTLEMENT AND REHABILITATION ON
EXPROPRIATION OF AGRICULTURAL LAND ON THE 2ND
MARCH 2004, IN THE NATIONAL ASSEMBLY

Comrade Deputy Speaker

Honorable Members

After the address by the Right Honorable Prime Minister, Comrade Theo Ben Gurirab on the evening of 25th February, 2004, I would like to confirm my Ministry's adequate preparedness to implement the expropriation option for acquiring commercial agricultural land. Members of this august House will recall that, from 24th June to 1st July 1991, the SWAPO Party Government convened a Land Conference that was meant to be a consultative process. This historic Conference gave birth to the renowned Agricultural (Commercial) Land Reform Act, Act 6 of 1995.

The Conference noted that, much of Namibia's prime farming land was expropriated by the German and South African colonial regimes and then allocated to white settlers exclusively. The Conference correctly concluded that something practicable must be done in order to redress this injustice. With regard to absentee landlords, the Conference "*resolved that land owned by absentees should be expropriated*" especially where such owner is not a Namibian. The Conference also noted that, I quote, "*Some commercial farmers own more than one farm or large tracts of land while many Namibian farmers lack sufficient land to make an adequate living*" and that, "*redistribution of such farms will open up access to a greater number of Namibian farmers*". The Conference resolved, "*that very large farms and ownership of several farms by one owner should not be permitted and such land should be expropriated*" to benefit the landless majority.

Regarding farm workers, the Land Conference was very clear about the need to address the exploitation of those who work on the land, toil on a daily basis and at the end of the day receive a meager portion of its proceeds. Evidence shows that, almost 14 years after independence, many of the farm workers live and work in deplorable conditions with very poor housing and virtually no access to

social services and when their usefulness has come to a miserable end, they are dumped along the roads like useless scrap, with no human feelings whatsoever.

The injustices perpetuated on farm workers by some farmers are condemned in the strongest terms and cannot be accepted in an independent Namibia. The nation has, in the past, witnessed the inhuman treatment of farm workers by some commercial farmers and, we believe, it is the duty of the Government to put in place mechanisms aimed at protecting the citizens of this country. In this regard, the Land Conference resolved that, I quote, "*Farm workers should be afforded ... the right to reside on the farm after retirement*". The Government considered the resolutions of the Conference and proceeded to enact various pieces of legislations aimed at improving the wellbeing of the workers. The Agricultural (Commercial) Land Reform Act, Act 6 of 1995, provides for acquisition of land through the willing-seller, willing-buyer approach and expropriation of land for agricultural purposes in the public interest.

Comrade Deputy Speaker,

My Ministry has been working tirelessly to prepare the modalities of implementing these provisions. I can say, with confidence, that my Ministry has put all the logistical requirements for the full implementation of the provisions of the Act, including expropriation. The necessary legal requirements are in place and the human and financial resources have been acquired in order to support the implementation of the expropriation option of the Act. The Act provides that the Minister may "*acquire, in the public interest, in accordance with the provisions of the Act, agricultural land in order to make such land available for agricultural purposes.*" It is the view of our government that, acquisition of land is a crucial element in the entire spectrum of poverty alleviation measures, because the one who possesses and

owns land has the key to the means to acquire wealth. In this perspective, the acquisition of land is viewed to be in the public interest, as it is meant to empower the majority of our people and uplift their well being, through access to the central factor of production – the land.

Honourable Members,

I would not like to dwell on the academic side of the definition of public interest, but would like to indicate that academic debates on this issue may be thought provoking but will not resolve the problems facing this nation on the issue of land. The government is advocates for economic empowerment to alleviate poverty and that should include the majority of our people who were disadvantaged by the previous discriminatory laws or practices.

Comrade Deputy Speaker,

I know that, after the address of the Right Honorable Prime Minister, the nation, and most probably people outside Namibia, would like to know how expropriation is going to be implemented and, in particular, how “*just compensation*”, enshrined in the Namibian Constitution, is going to be determined. In a nutshell, the process shall be triggered by a notice of expropriation served upon the owner of the agricultural land. On receipt of the expropriation notice, the owner will be required to prepare and submit a claim for compensation to the Minister of Lands, Resettlement and Rehabilitation who, in this case, is the acquiring authority. The effect of the expropriation notice is that; the owner is not supposed to make any new improvements on the property except the maintenance of the existing infrastructure to good working condition while still in possession of the property.

The expropriation Notice will be followed by an inspection and valuation of the property and a counter-offer to the owner’s claim for compensation,

should the Minister deems the owner's claim for compensation is excessive. Where a land is expropriated, compensation to the owner shall be based, primarily, upon the market value of the land. In this regard, the market value will be determined as the amount that would have been paid for the land if it had been sold on the date of expropriation in the open market by a willing seller to a willing buyer. In determining the open market value, no account will be taken of any anticipated or actual use to which the acquiring authority will put the land and any increase or decrease in value of land as a result of development in respect of which the expropriation is being done. In other words, the property is valued in its current use as at the date of expropriation. In addition to the open market value, due consideration shall be given to any other loss that may have been incurred as a result of the action of the acquiring authority.

Honorable Members,

Where a lease exists and the owner of the expropriated land proves that such lease, is still in force, compensation shall be paid for the remaining term of such lease. In other words, the owner's cost of premature termination of the lease will be paid by the expropriating authority in order to terminate such lease.

The Act provides that, for the purpose of compensation, the expropriating authority will not take into account the enhancement in value as a result of an unlawful use of the property or improvements made after the date of notice except where such improvements were necessary for the proper maintenance of existing improvements.

Comrade Deputy Speaker,

I have pleasure to draw to the attention of august House, Article 18 of the Namibian Constitution, and I quote:

“Administrative bodies and administrative officials must act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal.”

Section 27 of the Agricultural (Commercial) Land Reform Act gives the parties an opportunity to apply to the Lands Tribunal for the determination of compensation. The determination of compensation by the Lands Tribunal does not go without costs that shall be awarded against the party who loses the case. This may be the Minister or the owner of such expropriated land or the holder of a lease or any other right in the expropriated property. The magnitude of such costs shall be determined by the Lands Tribunal.

As indicated by the Right Honorable Prime Minister in his address to the nation, the Ministry of Lands, Resettlement and Rehabilitation has since 1995 been allocated **Twenty Million Namibian Dollars** to purchase land on an annual basis, which amount has now been increased to **Fifty Million Namibian Dollars**. This money will be used to acquire farms through expropriation and/or through the willing seller willing buyer process. The Ministry has adequate funds to kick-start the process and will proceed with this option without further delay as those who should have benefited from land reform are becoming impatient since the principle of *willing-seller willing buyer* failed to deliver the required results. The identification of farms will be in those areas where no offers are forthcoming and where specific land reform programmes have been planned. The Minister will proceed to acquire property

through expropriation only after due consultation with the Land Reform Advisory Commission. The Commission, which composed of all stakeholders, was established in accordance with section 4 of the Agricultural (Commercial) Land Reform Act, in order to assist the Minister in administering the Act.

**Comrade Deputy Speaker,
Honourable Members,**

I have no doubt that, the citizens of this great country see justice in the full implementation of this law and will rally behind the Government in its land reform programme. I further take this opportunity to inform this august House that expropriation notices will soon be served to the owners of commercial farms that are targeted to kick-start this process.

Comrade Deputy Speaker,

It is clear that the Government may not resettle everyone, but the Government is committed to resettle those who need the land and make a meaningful contribution to the growth of the agricultural sector. The Ministry of Lands, Resettlement and Rehabilitation has, during the past two years, accelerated its efforts to secure agricultural finance, to support the resettlement programme. It is, however, reassuring to note that the Agricultural Bank of Namibia has agreed, in principle, to advance loans to the beneficiaries of resettlement. It is my wish that other financial institutions should consider following the example of AgriBank of Namibia. The availability of finance and the prudent selection of beneficiaries of the resettlement programme will ensure that the accelerated land acquisition process will not disrupt the agricultural sector.

Comrade Deputy Speaker

In conclusion, expropriation will run concurrently with the willing-buyer willing-seller approach until such time that the current imbalances in the ownership and control of agricultural land has been fully addressed. The implementation of this option shall be done in a peaceful and orderly manner in accordance with our Constitution and the applicable laws.

I THANK YOU