

National conference on the enabling environment for social enterprise development in South Africa



International
Labour
Organization

BIRCHWOOD CONFERENCE CENTRE
Viewpoint Street, Bartlett, Boksburg 1459, Johannesburg

22-23 OCTOBER 2009

CONFERENCE STATEMENT

We, the participants of the national conference on the enabling environment for social enterprise development in South Africa, 22-23 October 2009:

1. Welcome the Plan of Action for the Promotion of Social Economy Enterprises and Organisations in Africa, the outcome of the ILO Regional Conference "The Social Economy – Africa's Response to the Global Crisis", held 19-21 October 2009. In particular, we welcome the recognition of social enterprises as part of the social economy, along with cooperatives, mutual benefit societies, associations and foundations, all of which have the specific feature of producing goods, services and knowledge while pursuing both economic and social aims and fostering solidarity.
2. Accept for the purposes of the conference the following working definition of social enterprise in South Africa: "A social enterprise's primary objective is to address social problems through a financially sustainable business model, where surpluses (if any) are mainly reinvested for that purpose". The participants accept that this working definition may yet change, and note the possible need for simpler language to facilitate broad understanding of the concept.
3. Note that this working definition embodies key principles that define social enterprise, notably (1) the primacy of the enterprise's social purpose and (2) financial sustainability. The clause on reinvestment of surpluses is an indicator and guarantor of the primary social purpose.
4. Agree that there is a need to create a more enabling environment for social enterprise development in South Africa, in order to promote entrepreneurial opportunity, decent employment and greater social impact.
5. Propose that such an enabling environment should pay attention to (1) policies and (2) institutional mandates and capacities to implement those policies.
6. Recommend the establishment of a central focal point within Government tasked with promoting and creating an enabling environment for social enterprise development, possibly in the Presidency Policy Unit, National Planning Commission or Ministry of Economic Development.
7. Recommend that this focal point should lead efforts to encourage a culture of social entrepreneurship and an acceptance of social enterprise as an important contributor of innovative and sustainable solutions to social problems.
8. Recommend that this focal point should work with relevant Government Departments to create an enabling environment for social enterprise, through mechanisms related to education, public procurement, fiscal policy, company law, B-BBEE, business development service provision, etc.
9. Propose that social enterprise is seen as complementary to the role of government, without assuming the responsibilities of government.

Legal and regulatory framework for social enterprise

10. Recognise that social enterprises currently exist under a variety of legal entities, including Non-Profit Organisations, Companies (cc, Pty Ltd, Section 21), Co-operatives, Foundations, Trusts and Voluntary Associations.
11. Acknowledge that these entities are governed by various pieces of legislation and authorities.
12. Recommend that the founders and managers of social enterprises are allowed the flexibility to choose which legal entity best suits their purpose and business model.
13. Recognise that in the absence of specific legal forms for social enterprise, the existing legal forms have in some cases constrained social enterprise development, e.g. accessing finance and fiscal advantages.
14. Recommend that the principles and definition of social enterprise are legally codified in order to allow reference to social enterprise across these various pieces of legislation.
15. Encourage the development of guidelines to interpret this 'social enterprise code' in relation to the various legal entities and legislative contexts. This set of guidelines would allow a common reference point for the interpretation of the principles and definition of social enterprise as they relate to company law, the NPO Act, Broad-Based Black Economic Empowerment (B-BBEE), Cooperative law, etc. For example, it should define when a cooperative should also be seen as a social enterprise; whether support for social enterprise development should allow eligibility for B-BBEE points on enterprise development as well as socio-economic development, etc.
16. Note that any guidelines or amendments to existing legislation should not inhibit or endanger democratic processes or freedoms, nor limit the role that non-profit, civil society organisations play in maintaining social stability and protecting those freedoms.
17. Recommend that registration processes, e.g. as vendors to government, for tax exemption and entity registration, should be streamlined.
18. Encourage further exploration of legal measures that could facilitate access to finance including share equity by social enterprises.
19. Encourage further exploration of legal measures that could allow for more robust trading by social enterprises where that trading is related to Public Benefit Activities.
20. Encourage further exploration of social enterprise franchising as it relates to the legal and regulatory framework in South Africa.
21. Encourage further exploration of the possibility of specific legislation on social enterprise in the medium term.
22. Encourage further exploration of means of measuring the social impact and social return on investment of social enterprises.
23. Encourage further exploration of employment relations within social enterprises as they relate to volunteers, trainees, incubated entrepreneurs, etc.

Access to finance

24. Note that conventional as well as social enterprises face challenges in accessing appropriate and affordable finance.
25. Note that new forms of finance are becoming available globally, as 'blended value' and social investment funds are established and as the managers of corporate social investment and enterprise development funds become increasingly interested in social enterprise development.
26. Recognise that a clear definition and legal framework for social enterprise, with a clear delineation between social businesses and non-profits, will enable access to different types of finance by providing clarity to investors, lenders and donors.
27. Recognise the need for social enterprises to be able to demonstrate their social as well as financial return, and to present this information in a way that is appropriate for finance providers.
28. Encourage Government to stimulate the market for finance for social enterprises, following a review of international best practice.
29. Encourage the development of intermediaries and products that can link investors with appropriate social enterprises.
30. Recommend exploration of the development of a Risk Guarantee Fund to stimulate access to commercial finance, and a Social Enterprise Fund (based within the Industrial Development Corporation or similar body) to provide capital specifically for social enterprises.
31. Recommend the social enterprise community reflect and focus on building "investible" enterprises.
32. Recommend further exploration of mechanisms to allow access to equity finance by social enterprises, with the necessary safeguards to ensure that the primary social purpose of the enterprise is not diverted or diluted, e.g. dividend caps. For example, in the UK the Community Interest Company prescribes a maximum dividend cap as well as an aggregate dividend cap.

Access to business development services

33. Recognise that non-financial business development services (BDS) are crucial in supporting the establishment, growth, effectiveness and efficiency of social enterprises.
34. Recognise that research indicates a demand for appropriate BDS for social enterprises in South Africa.
35. Note that current BDS services are provided by both State institutions and private sector providers.
36. Note that the current BDS market is distorted by excessive and unnecessary subsidisation of State BDS providers and therefore encourage an approach that corrects this distortion.
37. Note that potential social entrepreneurs are currently turned away from BDS centres as they are either not recognised as potential entrepreneurs, or they do not present their social business idea in a way that is acceptable to BDS facilitators.
38. In relation to State BDS providers:
 - 38.1. Recommend that the mandates of BDS institutions (including but not limited to the Small Enterprise Development Agency and the National Youth Development Agency) should be clarified to confirm that they have the mandate to extend their service offer to social as well as conventional enterprises.
39. In relation to both State and private sector BDS providers:
 - 39.1. Recommend that the capacity of those institutions and relevant officers within them to interrogate the concept of social enterprise, to recognise a potential social entrepreneur and identify appropriate support, be enhanced.
 - 39.2. Encourage all service providers to develop and make available appropriate BDS tools for social enterprises.
 - 39.3. Encourage all institutions to learn from and replicate outreach and awareness campaigns such as social business development plan competitions, and to deliver capacity building to potential social entrepreneurs reached through these campaigns.
 - 39.4. Encourage BDS providers to develop support and capacity building strategies to:
 - 39.4.1. Map BDS materials to an agreed framework to facilitate alignment to users' needs.
 - 39.4.2. Improve access to markets.
 - 39.4.3. Measure social impact.
 - 39.4.4. Facilitate community ownership and participation.
 - 39.4.5. Strengthen Succession Planning skills.
 - 39.4.6. Strengthen application of principles of Corporate Governance.