**THE NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**486. Mrs E N Ntlangwini (EFF) to ask the Minister of Trade and Industry:**

(a)What is the status of the Broad-Based Black Economic Empowerment Commission’s investigation into the dispute between a certain person (name furnished) and a certain company (name and details furnished), (b) on what date was the case first brought to the commission and (c) on what date will the (i) investigation be completed and (ii) findings be released?

**Response:**

According to the B-BBEE Commission:

1. The matter has been investigated and the parties agreed to consider alternative dispute resolution in terms of regulation 15 (11) of the BBBEE Regulations. The draft alternative dispute resolution agreement was sent to the parties following a round-table meeting on 4 December 2018 and the B-BBEE Commission still has not received input on the draft alternative dispute resolution agreement from the complainant.
2. The B-BBEE Commission received the complaint on 31 July 2017 from Mr. Aobakwe Tabe on behalf of his ailing mother Ms Ida Tabe.
3. During the investigation, Hotazel Motors (Pty) Ltd requested the B-BBEE Commission to facilitate the resolution of this through regulation 15(11) of the B-BBEE Regulations. The complainant was consulted, both parties agreed to consider alternative dispute resolution, and it was made clear that in the event that this process fails to resolve the matter, the B-BBEE Commission will proceed to finalise the investigation and issue its findings, with or without recommendations. A round-table was held with all the parties, and the draft alternative dispute resolution agreement was drafted by the B-BBEE Commission as agreed and sent to all parties for their input and response on 4 December 2018. The alternative dispute resolution agreement was signed by Hotazel Motors (Pty) Ltd on 12 December 2018, however, Mr Aobakwe Tabe requested several additional documents which were duly furnished to him. The B-BBEE Commission still awaits feedback from Mr Aobakwe Tabe despite numerous follow-ups to date. If the B-BBEE Commission concludes that Mr Aobakwe Tabe has been afforded sufficient opportunity to respond but has not done so, the B-BBEE Commission will have no choice but to declare the alternative dispute resolution process unsuccessful and proceed to make its findings, with or without recommendations, on the matter as required in the B-BBEE Regulations and the B-BBEE Act.

(c)(i) The B-BBEE Commission will make its findings any time after the alternative dispute resolution process is declared unsuccessful. Meanwhile, the B-BBEE Commission has been affording indulgence to Mr Aobakwe Tabe to provide his input and response to the alternative dispute resolution agreement.

(c)(ii) The B-BBEE Commission is required to afford the respondent thirty (30) days to respond to the findings in terms of regulation 15 (13) of the B-BBEE Regulations prior to issuing its final findings, and thereafter it may publish its findings. The B-BBEE Commission is, however, not permitted to publish its findings if the respondent institutes a judicial review or if the period allowed for such process has not lapsed.

*“Except as explicitly state herein the Ministry: Department of Trade and Industry* ***(the******dti)*** *does not express an opinion in respect of any factual representations. The opinion /memo provided is limited to the matters stated in it and may not be relied on upon by any person outside* ***the dti*** *or used for any other purpose neither in its intent or existence. It must not be disclosed to any other person without prior written approval other than by law. Nothing contained herein shall be construed as limiting the rights of* ***the dti*** *to defend or oppose any claim or action against* ***the dti****."*