

INGONYAMA TRUST BOARD

ESTABLISHED IN TERMS OF THE KWAZULU-NATAL INGONYAMA TRUST ACT
(ACT NO. 3 OF 1994) VAT REGISTRATION No.: 4340182098



REPORT BY INGONYAMA TRUST BOARD TO THE SELECT COMMITTEE

20TH SEPTEMBER 2011

Hon. Ms A.N.D. Qikani

The Chairperson of the
Select Committee on Land and
Environmental Affairs

Dear Hon A.N.D Qikani

RE: RESPONSE FROM INGONYAMA TRUST BOARD

INTRODUCTION

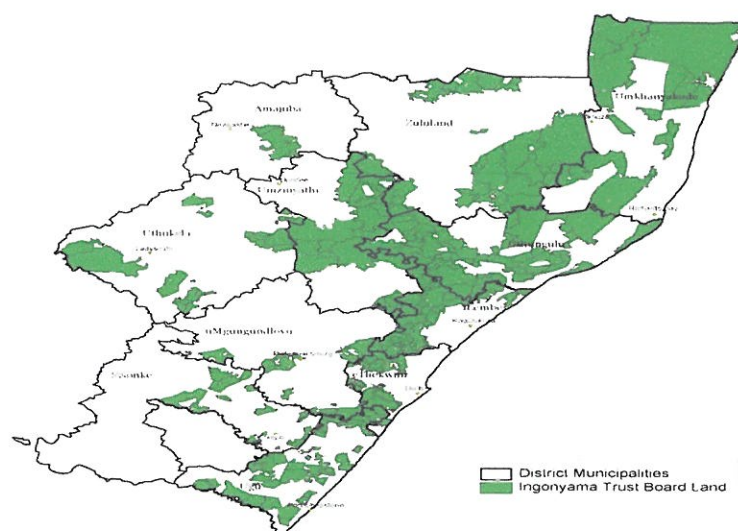
The Select Committee has asked Ingonyama Trust Board to respond to the following questions;

- a. Background of Ingonyama Trust Board
- b. Relationship between the Department of Rural Development and Land Reform and ITB (independent, dependence etc.)
- c. Relationships with other various stakeholders in KZN (Amakhosi, Municipalities and Provincial Departments)
- d. Issues of land tenure and whether the ITB has capacity to deal with this matter and whether is it a primarily a departmental function or not
- e. Land claims on land under ITB
- f. Financial Reports in the last three years (**Refer to attachment**)
- g. Challenges

a. BACKGROUND OF INGONYAMA TRUST BOARD

The Ingonyama Trust was established in 1994 by an Act of Parliament – Act No 3 of 1994 with His Majesty the King as the sole Trustee. An amendment Act in 1997 among other things established a Board to actually administer the affairs of the Trust. The Board comprises of eight members plus Isilo. Additional eight (8) Board members are appointed by the Minister RDLR, considering the National and Provincial interests.

The Trust is the largest landowner in the Province with a total extent of 2, 773, 875 hectares held under some 1600 individual titles. The Trust owns land in all of the 10 District Municipalities and Metro Municipal areas in KZN. The following map shows the areas that are under ITB within the Province.



District Metro	M /	%of Mun. area owned by ITB (Ha)	ITB Extent (Ha)	Total Area per DM (Ha)
Amajuba		2.74%	18971	691,186
eThekweni		34.86%	79,913	229,132
iLembe		56.48%	191.913	326,930
Sisonke		7.31%	68,677	1,103,520
Ugu		37%	191,183	504,757

Umgungundlovu	7.63%	68,883	903,141
Umkhanyakude	35.11%	486,724	1,386,147
Umzinyathi	40.11%	344,497	858,965
Uthukela	15.11%	171,196	1,133,120
Uthungulu	55.25%	453,840	894,258
Zululand	31.51%	453,840	821,420

The Board sees real estate as its major activity. The core business of the Trust is to manage the land for the “material benefit and social wellbeing of the individual members of the tribes”. However, no alienation or burdening of the land may occur without the written permission of the relevant traditional or community authority.

Objective

Optimal land usage for the material benefit and social wellbeing of the communities living on Ingonyama Trust land.

Our Vision

To improve the quality of life of the people living on Ingonyama Trust land by ensuring that land usage is to their benefit and in accordance with the laws of the land.

Our Mission

To provide the best possible land management systems to communities who live on Ingonyama Trust land.

b. RELATIONSHIP BETWEEN THE DRDLR AND ITB (independent, dependence etc.)

Ingonyama Trust Board is a schedule 3A Public Entity - in terms of the PFMA (Act 1 of 1999). The Minister of Rural Development and Land Reform is the Executive Authority of the Board in terms of the Public Finance Management Act (Act 1 of 1999) (PFMA). The sole Trustee of the Ingonyama Trust is His Majesty King Zwelithini Goodwill ka-Bhekuzulu. The Board is the Accounting Authority in terms of section 49 of the PFMA.

c. RELATIONSHIP WITH STAKEHOLDERS

a) Amakhosi

A good working relationship has been developed with Amakhosi whose jurisdiction is under Ingonyama Trust Board. It is important to point out that out of the three hundred Amakhosi in KZN, only two hundred and forty nine are under Ingonyama Trust. In June 2011, Amakhosi represented by Chairperson and Deputy Chairperson of the Local Houses together with Ingonyama Trust Board resolved to form a Coordinating Committee to address matters of mutual concern. Furthermore, among other resolutions Amakhosi requested ITB to decentralize its Offices so that services are rendered at closer localities. An MOU between ITB and the Provincial House of Traditional Leaders will be signed soon.

b) Municipalities

The Board has established a cordial relationship with KZN Salga. During the induction program of new Councillors, the Secretariat was invited by Salga to make presentations to the new Councillors on the ITB mandates and core functions. This program is to be extended to the second phase of training Councillors at their Local Council level.

Furthermore, ITB has established various working relations with certain Local Municipalities whereby Cooperation Agreements are entered into by the Local Municipality, ITB and the Traditional Council.

There are however, challenges on “**Property Rates**” with certain Municipalities. As the matter is in Court, the Board would prefer not to dwell much on this subject.

c) Provincial Departments

The Board has established close working relationship with the following Provincial Departments; Cogta, Human Settlements, RDLR, Agriculture, Public Works and Economic Development. An MOU's will be signed soon with Cogta and Human Settlements.

d. LAND TENURE

The land tenure issues that ITB deals with are not nor have they ever been dealt with by the Department. Therefore, the tasks cannot be viewed as the primarily responsibility of the Departments functions nor can it be assumed that the Department has capacity to do it.

e. LAND CLAIMS ON LAND UNDER ITB

REF. NO.	CLAIM	DATE	STATUS	COMMENTS
1	Kusile Land Claim	25 June 2004	Claim withdrawn	Following Land Claim Court hearing of 18-20 March 2009, ITB were formally released from the proceeding with costs (see attached memo dated 23 March 2009).
2	Farm Brentwood No. 15508	27 January 2006	Section 11 (1) Notice Gazetted	No response to request of 13 June 2006 for more information despite follow ups.
3	Farms at Vryheid	02 September 2005	Section 11 (1) Notice Gazetted	No response to letter of 14 June 2006 requesting more information.
4	Coastal Forest Reserve	29 June 2001	Section 11(1) Notice Gazetted	No response to letter of 10 August 2001 requesting more information.

5	Ndumo Game Reserve	29 June 2001	Section 11 (1) Notice Gazetted	Settlement Agreement on-going. No direct involvement by ITB.
6	Tembe Elephant Park	-	-	No information but understood that Settlement Agreement is on-going. No direct involvement by ITB.
7	Manzengwenya State Forest	04 August 2004	-	Awaiting response to letter of 04 August 2004.
8	Amachube Land Claim	-	-	Covers 19,074 hectares of ITB Land. Awaiting more information as requested in ITB letter of 18 December 2006.
9	Maphelana Nature Reserve	18 June 2007	-	Additional information requested but never received. Covers 458 hectares of Reserve No. 4 No. 15823.
10	Rem of Klip River Location No. 4665	20 October 2005	Section 11 (1) Notice Gazetted	Covers 182 hectares. Additional information requested but never received.
11	Farm Pamanisa No. 10916	7 March 2003	Section 11(1) Notice Gazetted	Covers 389 hectares. Extent of claim queried on 10 May 2004 response dated 17 May 2004 but no further action.
12	Farm Mist No.1 No. 7636	07 March 2003	Section 11 (1) Notice Gazetted	Covers 684 hectares. Extent of claim queried on 10 May 2004 response dated 17 May 2004 but no further action.
13	Reserve No. 12 No. 15832	21 December 2001	Section 11 (1) Notice Gazetted	Covers 763 hectares of Nongoma Town Commonage. No response to letter of 24 January 2002 requesting further details.
14	Khambule Mission	04 July 2001	Section 11 (1) Notice Gazetted but no copy received	Details still awaited in response to our letter of 14 August 2001.
15	Farm Lot S79 No. 5084	10 February 2006	Section 11 (1) Notice	Detailed information requested on 16 October 2007 but never received.

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g. CHALLENGES AND CONSTRAINTS

The current challenges facing the Ingonyama Trust Board can be summarized as follows;

(a) Legislation

The KwaZulu-Natal Ingonyama Trust Act No. 03 of 1994 was last amended in 1997. Some of the legislations that are cited in the Act have been repealed or substantially amended. As a result, there is an urgent need for the Board to approach Parliament via the Minister to amend (update) its legal framework so that its mandate is even better aligned to its core business and current expectations from the communities.

(b) Royalties

The coming into effect of the Mineral and Petroleum Resources Development Act 28 of 2002, created uncertainty to some mining companies as they now argue that the legislations requires them to pay royalties to the Treasury rather than to the Trust. The Board has subsequently submitted a written request to the Minister of Mineral Resources for it to retain Royalty Income. Royalty income makes up a significant portion of the Trust income, therefore if royalties are paid to the Treasury this will affect ITB's community programs, i.e. its beneficiary communities.

(c) Human Resources


For the ITB to effectively execute its mandate it is important that in the near future its offices are decentralized to be closer to the communities that the Board serves. This will require additional staff, office infrastructure and an increase in budget.

(d) Rates claimed by municipalities

A dispute has consequently been declared with Ethekwini Municipality, and the High Court ruled that the Trust is liable for the payment of rates. The Board has appealed against this decision of the High Court for the payment of rates. The case has serious repercussions on all communal land under the Trust hence the Board took a decision to appeal. Board realize on Senior Counsel's opinion that it is exempt from the payment of rates in terms of Rating of State Property Act 1984 (Act no 79 of 1984) and the fact that the Trust was misunderstood by the court to be the successor to the old SADT.

(e) Non- valuation of Land

The Auditor General has qualified the accounts because we have not valued approximately 2.8 million hectares of land as imposed in terms of GRAP Accounting standards. We advise that there is no material benefit in valuing the land at a huge cost. Those funds can be put to better use, and, we would be almost duplicating the municipal land valuation process. We are exempted as an organ(s) of State from having certain land valued. The Auditor General staff has suggested that we explore this avenue and we are doing so.

A handwritten signature in black ink, appearing to be 'S. J. Ngwenya', is written over a horizontal line.

S. J. Ngwenya

**Acting Chairperson
Ingonyama Trust Board**