



EQUITY OF ACCESS IN SOUTH AFRICAN PORTS
PORTS REGULATOR BASELINE REPORT ON THE IMPLEMENTATION
OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT
(2015/16 STATISTICS)

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1. Introduction

The Ports Regulator of South Africa, “the Regulator” must monitor the activities of the National Ports Authority (NPA /the Authority), to ensure that it performs its functions in accordance with the National Ports Act, 2005 (the Act). In line with section 30 (b) of the Act, the Ports Regulator must promote equity of access to ports and to facilities and services provided in ports.

Regulations developed in terms of the National Ports Act, Act of 2005, and promulgated by the Minister of Transport in 2007 defined equity of access in the SA port system in terms of the incorporation of black economic empowerment into decision-making of the Authority in terms of the Code of Good Practice as per section 9 of the B-BBEE Act (as amended). The Regulations make provision for implementation of BBBEE in ports where chapter one outlines how economic participation and empowerment of historically disadvantaged groups in port operations will be driven through set B-BBEE targets for the Authority and monitoring of thereof by the Ports Regulator. Chapter two of the regulations sets out the framework for complaints and/or appeals process to address lack of economic participation in port operations in line with a set private sector participation framework.

Regulation 3(1) required the Authority to ensure that in the three years of the Regulations becoming effective, that at least 25% of those it contracted with were Level Four B-BBEE contributors whilst Regulation 3 (2) extended this to 75% by year five and Regulation 4 defined the Ports Regulator’s monitoring role i.e. receipt of annual reports from the NPA pertaining to Regulations 2 and 3.

The Authority has submitted B-BBEE reports to the Regulator annually since 2013/14 focussing on the following agreements, licences and port rule/ services:

- i. Section 56 (1) terminal operators agreements, for the operation of a port terminal or port facility¹.
- ii. Section 57 Licences which are issued to regulate port services. ²
- iii. Section 65 Licences based on port rules for the licensing of companies to provide services in ports³
- iv. Registrations/permits – vessel agents
- v. Authorisations and/or section 79 Ministerial Directives
- vi. Sale of property
- vii. Lease of property

¹ Section 56 agreements may include the leasing of land and infrastructure as well as the right to operate the port terminal or facility, with Section 56 (4) covering outsourcing agreements where the Authority fully or partially outsources the carrying out of its functions to a third party

² This includes stevedoring and waste disposal Licences.

³ bunkering and diving services

viii. Partnership with private sector

The Regulator's 2014 compliance assessment concluded that there was compliance with both the Act and its Regulations with regards to B-B-BBEE with 85.62% of all Section 56s, Section 57/65s, Port Licences and Registrations that were entered into, issued or granted to persons or entities that had attained the B-BBEE Status of at least a Level Four Contributor rising to 89.7% by 2015/16.

This report endeavours, within the context of the Regulations, to establish a baseline of the extent of equity of access within the port system with due regards to performance on the transformative elements of the B-BBEE certificates beyond Level 4 BBEE contributor.

1.1. Objectives and focus of the project

The objective of the report is to establish a baseline or starting point for measuring transformation in the SA port system by focusing on B-BBEE elements of companies that the Authority contracts with in terms of section 56, section 57 and section 65 of the Act with a focus on:

- a) B-BBEE levels
 - Type of scorecard used,
 - Local and foreign ownership (specific to terminal operations), and
 - Verification agencies.
- b) Reflection on the extent of participation by Large Enterprises (LEs), Emerging Micro Enterprises (EME) and Qualifying Small Enterprises (QSE) in the different sub-sectors in ports (terminal operations, commercial leasing and licensing, port activities - stevedoring, diving, waste disposal, bunkering, and vessel registration agents); and
- c) The extent of ownership by black and women owned entities in these subsectors.

1.1. Limitations

The following are some of the limitations that apply to the report.

- a) Due to a focus on the enabling legislative provisions and reliance on the Regulator's compliance function which is focussed on the B-BBEE compliance in terms of section 56, section 56 and section 65, this baseline report does not cover the entire universe of the NPAs procurement. In particular, the BBEE through Supply Chain process and contracting on infrastructure/capex projects are not included. Processes are in place to ensure that the Regulator's capacity is expanded to cover this in future updates.

- b) The scope of the study was not expanded to include an assessment of actual values of contracts/leases which would assist in quantifying the significance of participation by different types of empowered companies/entities. Whereas, the measured Entity's status (EME, QSE, LE) allows for a rough estimation of maximum values of the companies (annual turnover), the report could only triangulate information from the Terminal Operator Performance System (TOPS) and the Regulator's compliance project to quantify the extent to which the measured entities are responsible for terminal operating space in the port. These represent an area where further work which would nuance the observed changes happening in the sector is required.
- c) The veracity of the certificates relied on is an issue, especially with practices such as fronting, etc. Whilst verification of certificates is outside the mandate of the Regulator and the scope of the project, providentially, the B-BBEE Commission – the country's watchdog on B-BBEE matters - has published a report (B-BBEE Commission, 2017) on the practices of rating agencies enabling us to at least cross-reference and in future to keep watch of companies with certificates issued by companies under investigation by the BBBEE Commission. In addition, the Annual Reports of those Johannesburg Stock Exchange (JSE) listed companies (terminal operators) were perused for the purpose of verifying consistency of the information presented with that in the company's annual report. This method of verification, however, was limited by the fact that to date, only 7 of the 37 Terminal Operators are listed on the JSE, and have publicly available annual reports.

1.2. Structure of report

The rest of the report is structured as follows. The next three sections (Sections 2 to Section 4) covers the B-BBEE certificates of terminal operators, commercial and terminal leases, and section 57 Licences and reports on the size of the enterprises, the B-BBEE scorecards they used, the B-BBEE levels of the companies, the verification agencies used by the companies, amongst other things. Sections 5, 6 and 7 includes average B-BBEE scores in relation to the elements by companies, i.e. average ownership, employment equity, management control, skills development, enterprise development, preferential procurement, and socio-economic development. We also reflect on the use of the old and new B-BBEE codes with a view to recommending a prompt adoption and use of Transport/Maritime Score Card as far as possible in this sector.

Each section concludes with a brief summary with the main conclusions and recommendations made at the end of the report. A strategy for addressing transformation in the port system will be developed from updates to this baseline report.

2. B-BBEE Analysis – Terminal Operations (Section 56 Agreements)

Against the backdrop of the existence and use of old and new score cards in the transport and maritime sector, we provide a quick summary of the scorecards used by companies operating SA terminals as well as the rating agency they have used, before we outline their B-BBEE status and profiles.

2.1. Terminal Operators

Section 56 of the Act, regarding provision of port services, port facilities, and use of land, allows the Authority to enter into agreements with any person in terms of which that person, for the period and in accordance with the terms and conditions of the agreements, is authorised to design, construct, rehabilitate, develop, finance, maintain or operate a port terminal or port facility, or provide services relating thereto; and shall provide any other service within a port designated by the Authority for this purpose.

As in 2015/16, there were 85 active⁴ terminal operator agreements entered into by the authority and this section will look into the companies that entered into these agreements with the Authority. Although there are a total of 85 active Terminal Operating Licences issued, there are only thirty-seven terminal operating companies as some terminal operators have licences to operate more than one terminal. This section will analyze the B-BBEE certificates of the 37 terminal operators.

2.1.1. B-BBEE Scorecard Used - Terminal Operators

Figure 1 shows the scorecards that were used by terminal operators. The summary indicates that a vast majority of companies within the maritime transport sector are using Generic B-BBEE codes (19 out of 37 terminal operators), with over 50% using the generic scorecards, and only 6 (16.2%) were using the Maritime Transport & Services Industry (MT&SI) codes. Three out of 37 (8%) were using the Road Freight transport sector codes and three EMEs used affidavits.

⁴The 2015/16 B-BBEE report submitted to PRSA by the Authority shows that the following terminal licences; TOL/DB/02, TOL/DB/49, TOL/DB/50, and TOL/CT/01 were inactive. It further show that TOL/DB/30 and TOL/DB/58 were 1 terminal licence.

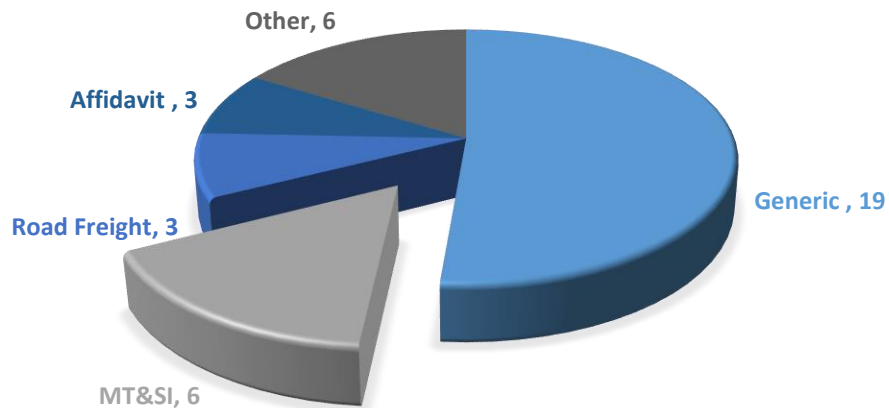


Figure 1: Scorecard used- Terminal Operators

2.1.2. B-BBEE Verification

There are concerns around the certificates issued by verification agencies or even the use of unverified verification agencies to obtain their B-BBEE accreditation. There are verification agencies who have been reported by the Broad-Based Black Economic Empowerment (B-BBEE) Commission as being under investigation for possible violation of the B-BBEE Act relating to their processes in verifying B-BBEE ownership structures and non-compliance with the Codes of Good Practice.

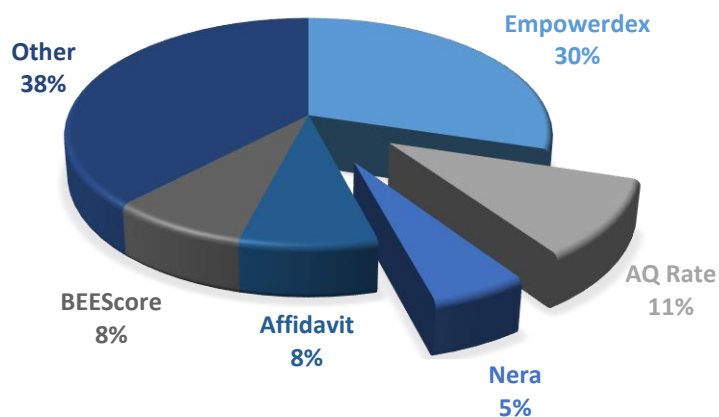


Figure 2: B-BBEE Verification agencies used

Figure 2 summarises which verification agencies were used by terminal operators as presented on each terminal operator's B-BBEE certificates for as obtained from the NPA. A majority of the terminal operators relied on the services of "Empowerdex" as their preferred verification agency, with 30% (11 out of 37) of the terminal operators utilizing their services. The second preferred verification agency by terminal operators was "AQ Rate Services", with 11% (4 out of 37) relying on their services. "BEEScore" was used by 8% (3 out of 37 terminal operators) of the terminal operators, and 8% used affidavits as they were Exempt-Micro Enterprises, and 5% (2 out of 37) relied on the services of National "Empowerment Rating Agency (NERA)" as their rating agency.

There are among the companies that have been reported to be under investigation by the B-BBEE Commission as of 07 August 2017. The investigation is to "determine whether the black ownership structure of the verification agency complies with the black ownership requirements and whether in its conduct of verification it follows the procedures required of a verification agency and the verification professionals in line with the B-BBEE Act", (B-BBEE Commission, 2017)

2.2. B-BBEE Measures in Terminal Operations

This section reports on the size of the terminal operators according to measured entity status. Of the 85 active terminal operator Licences, there effectively are 37 companies that hold the Licences which means some companies hold multiple Licences in a port and/or across the different ports. Depending on whether the report can consolidate the Licences held by each company and analyse the 37 companies or analyse the B-BBEE certificates of each company the results vary slightly, though the trend is the same.

The consolidated picture is summarised in Figure 3, where a majority (73%) of the 37 measured terminal operators fall under the Large Enterprises (LEs) category which according to the B-BBEE criteria are companies with annual turnover of R50million and above. 8% are Qualifying Small Enterprises (QSE) with turnover of between R5million and R10 million per annum and 8% are Exempt Micro Enterprises (EMEs) whose turnover is below R5million per annum. A significant proportion of 11% are B-BBEE non-compliant and whose annual turnover and B-BBEE status cannot be determined.

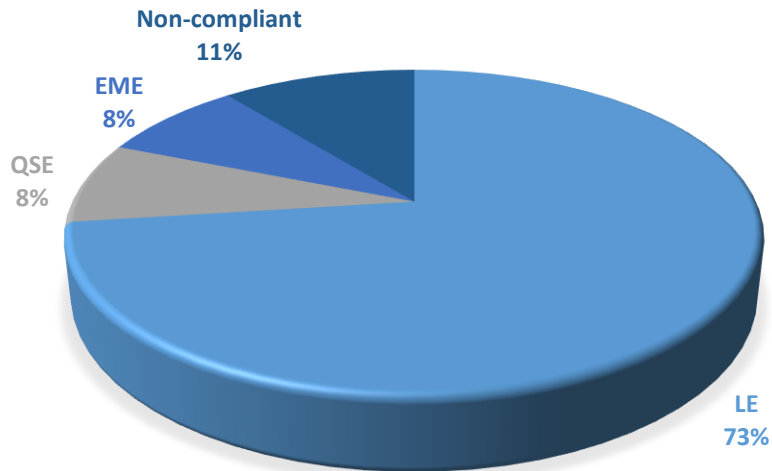


Figure 3: Measured Enterprises in port operations

Overall, only three terminal operators across the port system were EMEs and another three are QSEs. Figure 3 shows that Large Enterprises and non-compliant entities held a majority (84%) of the terminal operator licences with only 16% accounted for by EMEs and QSEs collectively. The participation of EMEs and QSEs in terminal operation licensing is undeniably very small.

The size and proportion of the prime port real estate, measured in term of square meter (m²) of port area occupied, indicates the significant role that a terminal operator plays in a port. The square meter area occupied by the different terminal operators were summed together by licence holders in each category to determine the total terminal operator area occupied by the respective measured entity category and these are reported in Figure 4, as a percentage of total area.

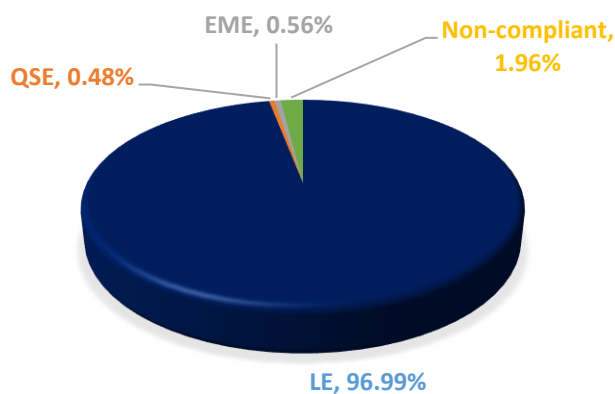


Figure 4: Terminal Operator area per B-BBEE Category

The same trend emerges where almost all (96.99%) of the 8 245 522.1 m² of available terminal area is licenced to Large Enterprises. The 41 137.6m² (0.48%) operated by QSE and 47 746m² (0.56%) occupied by EME are even less than the remaining 166 600 m² (1.96%) occupied by non-compliant terminal operators. QSEs and EMEs combined only occupy just over 1% of the terminal operator area, showing that their participation is not significant, by size of terminal area.

2.2.1. Spread of licence, terminal area and number of operator licences by measured entity.

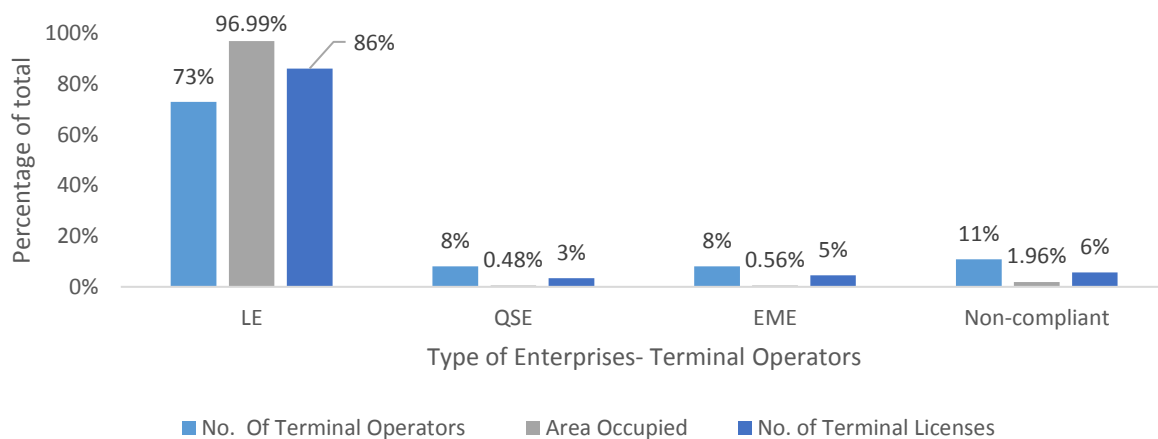


Figure 5: Terminal Operator Licences and Area occupied- Per category

Figure 5 shows the percentage of terminal operators per category relative to the extent of their involvement in terminal operations through number of licences and area occupied. Large Enterprises accounted for 73% of the terminal operators and they operated 86% of the terminals whilst occupying 8 245 226.1 m² (96.99%) of total terminal area. For the most part terminal operator licences and terminal area occupation in the port system are in the hands of Large Enterprises and B-BBEE non-compliant companies.

Section 80 of the National Ports Act empowers the Minister of Transport to develop regulations which will govern how historically disadvantaged individuals and/or groups participate in port operations through a private sector participation framework (Republic Of South Africa, 2005) . The absence of such a framework since the start of regulation may account, in part, for the situation reported above. From a transformation perspective, the renewal of licences offers the opportunity for the Authority to address access by

categories other than Large Enterprises and non-compliant entities, ensuring that more QSEs and/or EMEs participate.

2.2.2. Terminal operators and their ownership: No. of Terminal Operators per category

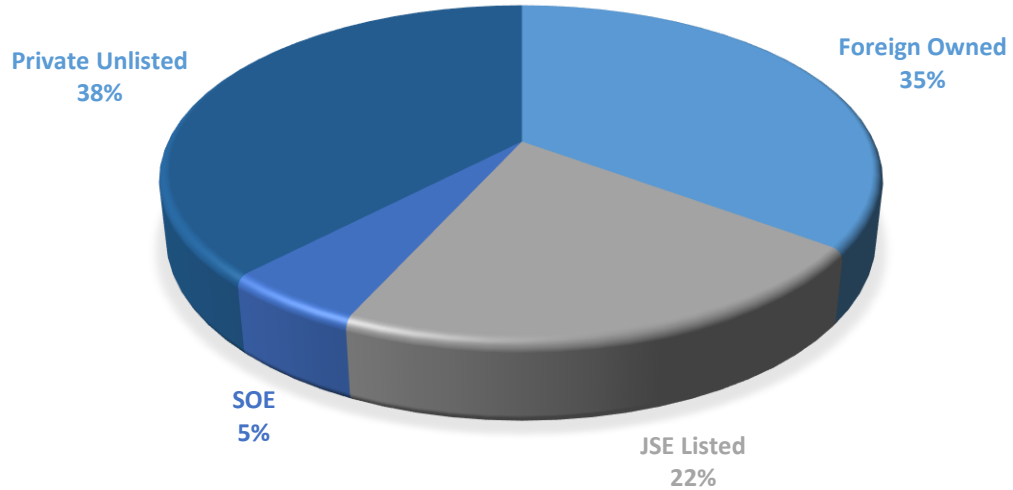


Figure 6: Terminal Operators: Local and Foreign as a percentage of the total number of companies

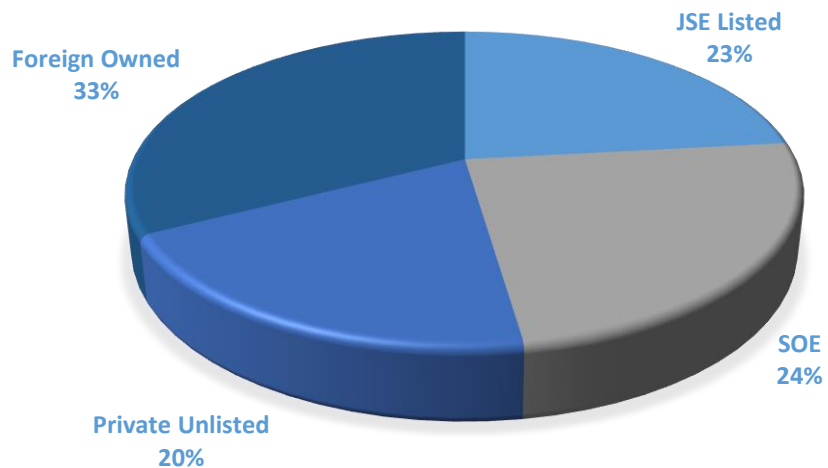


Figure 7: Terminal Operator Licences in the hands of Local and Foreign Companies as a percentage of total number of licenses

Figure 6 shows the ownership of companies in terminal operations where 38% of the companies are private unlisted, 35% are foreign owned, 22% are JSE listed companies, and 5% are state owned. While Figure 7 shows the percentage number of terminal licenses that are in the hands of terminal operators and the ownership of those terminal operators and it shows that 35% of terminal licenses are in the hands of foreign owned companies, 24% are with state-owned entities, 23% are with JSE listed entities, and 20% are with private unlisted terminal operators. Figure 8 shows that the two state-owned terminal operators occupy 63% of terminal area in South African ports.

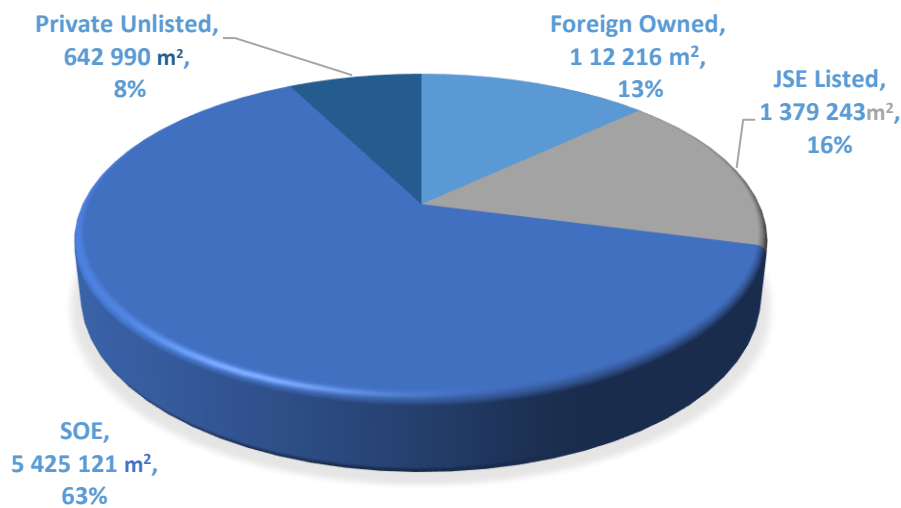


Figure 8: Terminal area occupied by companies in the port

2.2.3. B-BBEE levels of the terminal operators

This section summarises the B-BBEE compliant levels of all measured terminal operators. The B-BBEE complying levels range from Level 1 (highest compliant level) to Level 8 (least compliant level) as well as assesses the extent of enterprises that were B-BBEE non-compliant. These are summarised on Figure 9.

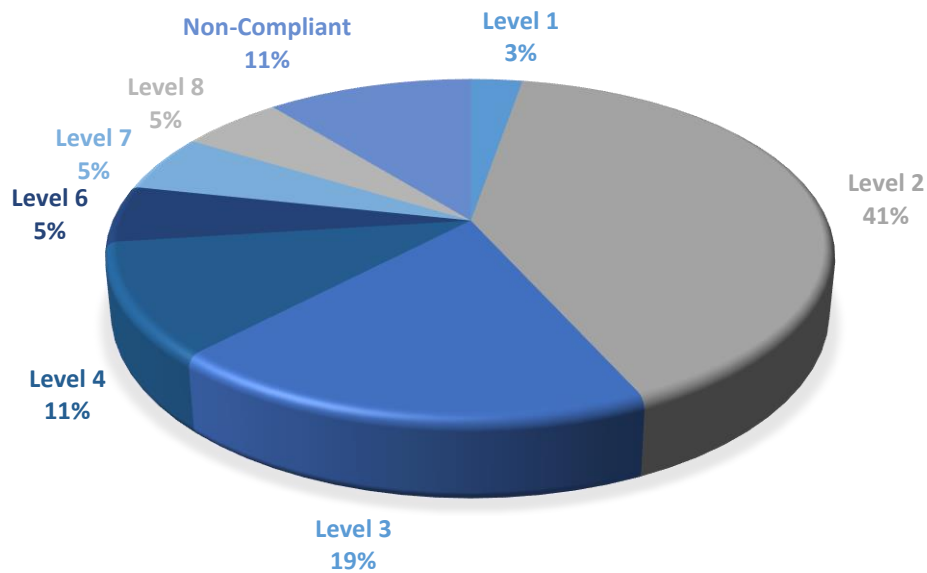


Figure 9: B-BBEE levels of terminal operators

Three quarters, 74% of companies, collectively achieved B-BBEE ratings of level four or higher, meeting the requirements of the BBBEE regulations. On the other side of the spectrum, a quarter of operators had BBBEE ratings between level 5 to 8 and non-compliant. Holding other developments constant, these represents area of improvement i.e. where the Authority would be able, in reviewing such contracts, ensure that the company's ratings are in line with the required BBBEE levels.

2.2.4. Terminal Licences per B-BBEE Levels

The ensuing assessment was based on a consolidation of licences by terminal operator. When looked at by actual terminal licences, the picture is as reflected in Figure 10. The overall average of terminal operators with level four and above rating increases from 74% to 81% which is in compliance with the regulations notably, over half of these had a BBBEE level 2 rating.

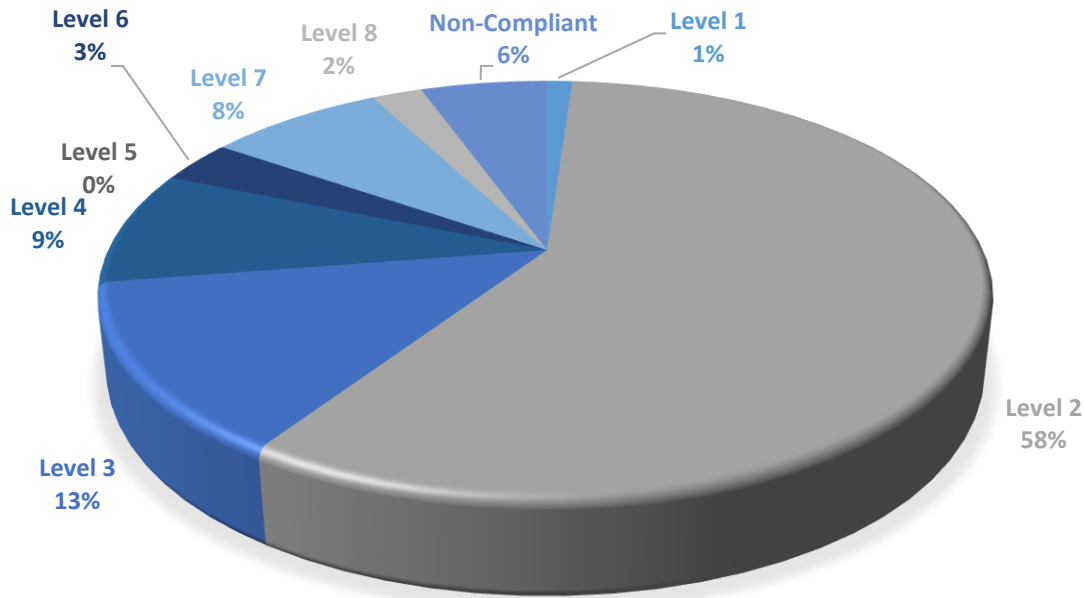


Figure 10: Terminal licences per B-BBEE levels

As mentioned before, the Authority is in compliance with the Regulations as it contracts, or issue licences and permits to more companies with level 4 BBBEE rating and above. The utility of achieved B-BBEE levels does not go beyond compliance with Regulations. Transformation imperatives are driven in the short and long term on the different elements of the scorecard i.e. ownership, management, skills development, enterprise development and preferential procurement. The real transformation imperative is for black people or those with significant ownership by black people and women as well as management control in such entities in the hands of blacks and/or women. It is also in ensuring that these targeted groups, that have had, very limited to no opportunities to participate significantly in ports, start making tangible inroads into the different operations, leasing and port activities making skills development, enterprise development and preferential procurements significant avenues to bring about required changes in the long run. As a baseline for the measurement, statistics on these based on 2015/16 BBBEE certificates is presented below.

2.3. B-BBEE Score Card Elements

2.3.1. Black Ownership in terminal operations

Ownership is one of the priority elements for B-BBEE and it is one of the main measures of transformation in the country. The ownership element's purpose is to measure effective ownership of companies and indicators used for measurement include; voting rights; economic interest; and realization points of the net value in broad-based ownership schemes and employee share ownership programmes as ownership indicators. Ultimately, the maximum score achievable through the ownership element towards B-BBEE is 25 out of 105 total points⁵. Ownership recognizes and measures the entitlement of black people to voting rights and economic interest associated with equity holding in a company with voting rights affording the right to determine strategic and operational policies of an enterprise. For this reason, black ownership in B-BBEE includes voting rights, entitlement to economic benefits i.e. dividend participation and the capital appreciation, as well as the debt free ownership held by black people in a company, (Xaba, 2017) with same applying for women.

Participation by black and women owned entities was assessed, not only from an ownership perspective, but also giving regard to the number of licences and size of terminals in their control. As noted before, although the actual value of the transactions would be useful in quantifying the extent of participation, i.e. indicating the relative worth of the number of licences, the scope of this report did not allow for such.

The 21 terminals operated by the two SOEs and account for 60% of terminal area are not included in the assessment as they are subjected to a specialised score card which does not include "ownership" as an element.⁶

⁵ BBEE generic score card, the DTI.

⁶ Transnet Ports Terminals (TPT) and Strategic Fuel Funds (SFF) are the two state-owned terminal operators in South Africa ports and they operate 21 terminals with 20 terminal licenses in the hands of TPT and 1 liquid-bulk license in the hands of SFF.

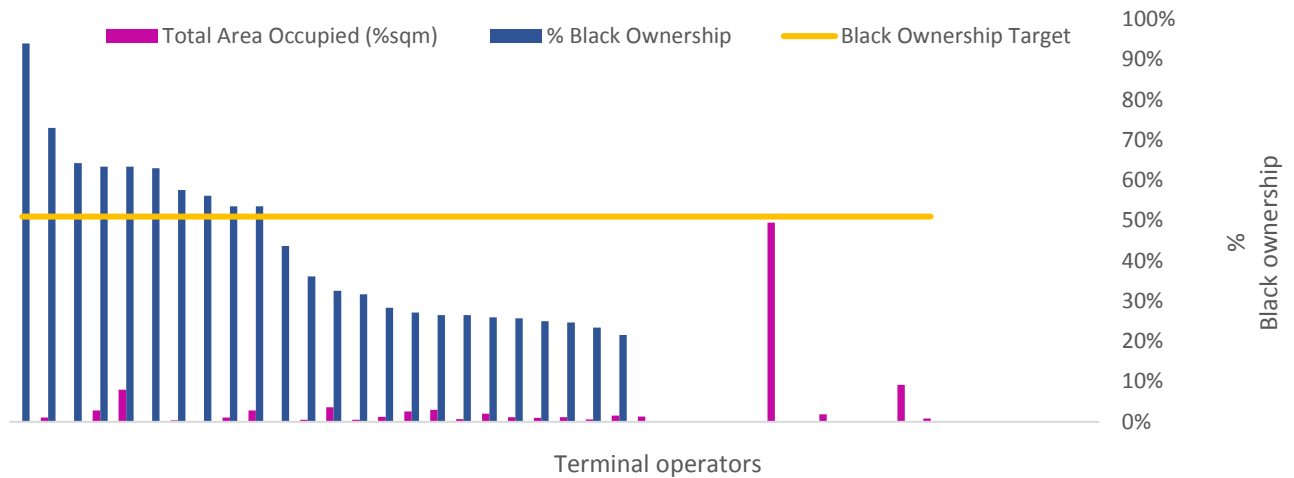


Figure 11: Black Ownership and Terminal Licences

Terminal operators with the highest to the lowest levels of black ownership are reflected from the left to right. Overall, only 24 terminal operators had a level of black ownership (black ownership that is above 0%), and 10 terminal operator's black ownership was above 50%. The terminal with the highest black ownership of 94% is an EME which operates a liquid bulk terminal in Durban. 4 terminal operators have black ownership that is between 30% and 60%, while 10 have a black ownership that is below 30% but greater than 0%.

Terminal operator with the largest black ownership (94%) only occupied 0.06% or 64 356 m² of the total terminal operator area. Out of the five other companies with more than 50% black ownership, only two occupied more than 3% of terminal operator area respectively with the rest occupying less than 1% of terminal operator space. Notably, the terminal with the second highest black ownership of 73.4% and occupied 1.11% or 85 257 m². Five terminal operators had black ownership below 40% with the rest between 20% and 30%. Together with the two SOEs whose black ownership is not measured, these companies with limited black ownership collectively account for almost two thirds (63%) of terminal area.

2.3.2. Women Ownership in terminal operations

In this section the report analyses women ownership within terminal operations against the number of terminals that are operated by the terminal operator and at the area occupied by each terminal operator within the port system. The findings are summarised in Figure 12 .

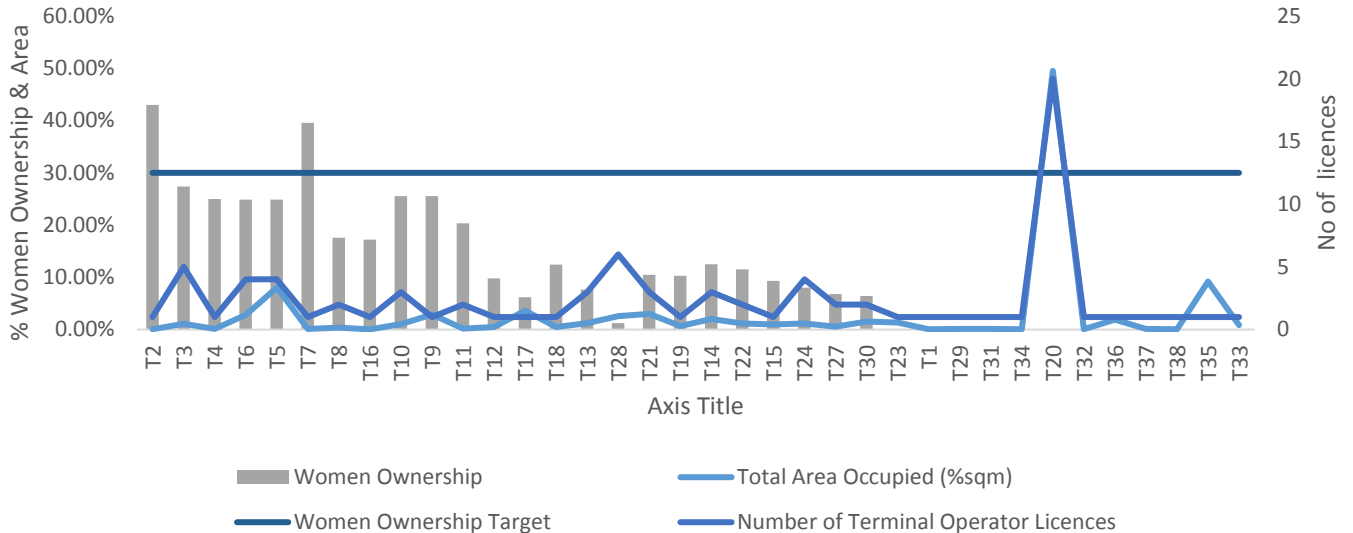


Figure 12: Women Ownership and Terminal Operations

Figure 12 shows that there were only 2 terminal operators with a women ownership that is more than 30% and these companies only operate 2 terminals between them and they occupy less than two percent of terminal area (1.55%) or 119 213m².

Four terminal operators have a women ownership that between 25% and 30% and these terminal operators operate have 10 licences in between them and occupying 5, 12% (392 764 m²). While three terminal operators have a women ownership that is between 20% and 25% and have 10 licences in between them occupying 15% (1 436 835 m²) of the terminal area.

Fifteen terminal operators have a women ownership that is below 20% but above 0% and have 32 licences occupying 17% (1 618 777.70 m²) terminal area. While the remaining terminal operators have 0% women ownership and operated 31 terminals occupying 63% (5 936 008.36 m²) of the total terminal area.

2.4. B-BBEE Analysis- Per Port

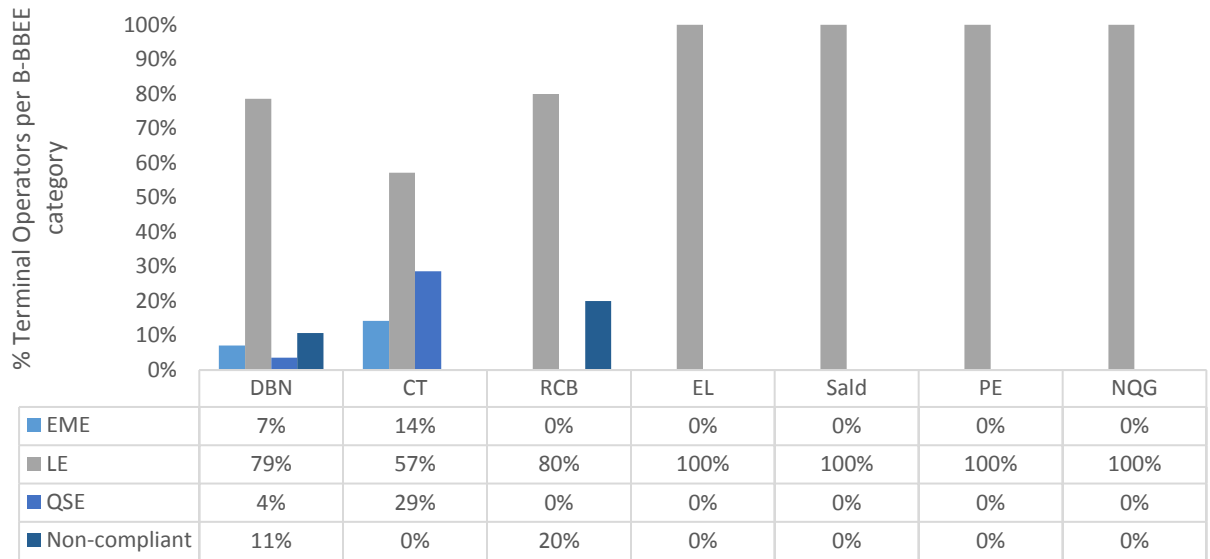


Figure 13: Terminal Operators per B-BBEE Turnover Category

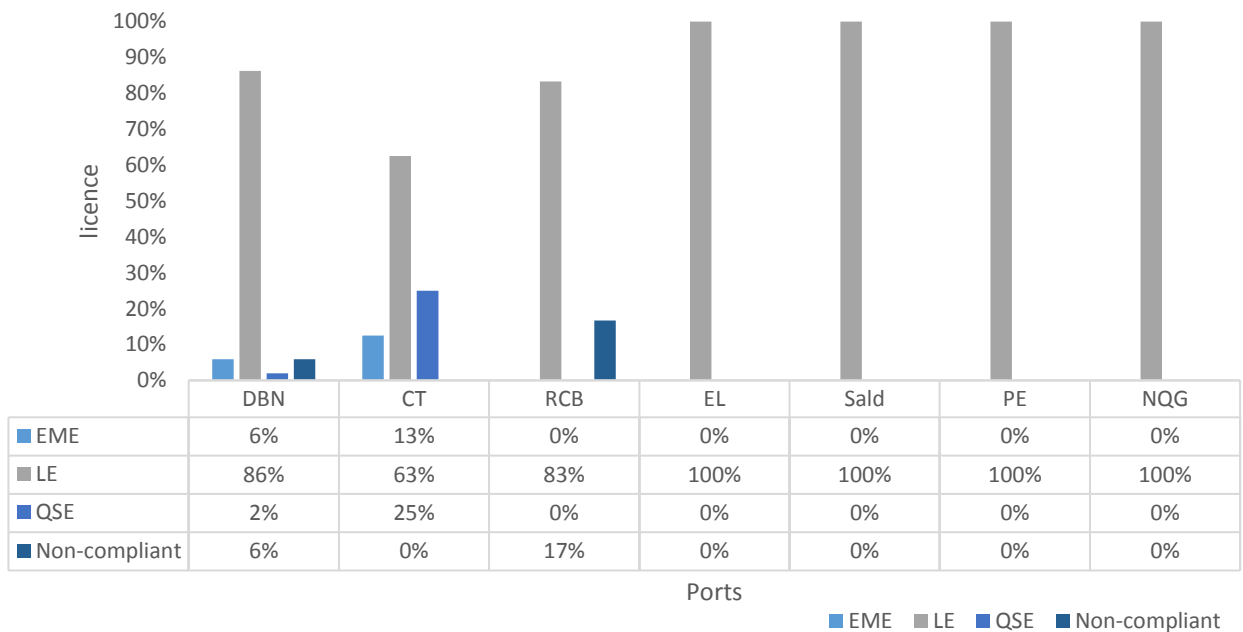


Figure 14: Percentage of terminal licences per B-BBEE turnover category

2.4.1. Terminal Operators per B-BBEE turnover category- All Ports (Figure 13)

Figure 13 shows the percentage number of terminal operators per B-BBEE turnover across all commercial ports. Figure 13 shows that only 7% (2/28) of terminal operators in were EMEs in the port of Durban, 4% (1/28) were QSEs, 11 (3/28) were B-BBEE non-compliant, and 79% of the Port of Durban terminal Operators were Large Enterprises .

Figure 13 also shows 57% of the terminal operators in the port of Cape Town were large enterprises, EMEs were 14%, 29% of the terminal operators in Cape Town were QSEs, and there were no B-BBEE non-compliant terminal operators in the port of Cape Town. In the port of Richards Bay, 80% (4 out 5) were large enterprises and 20% (1/5) were B-BBEE non-compliant, and there were no EMEs and QSEs.

The port of East London, Port of Saldanha, Port of PE, and the Port of Ngqura only had large enterprises as Figure 13 show that none of the terminal operators in the 4 ports were EMEs or QSEs and all the terminal operators in these ports were B-BBEE compliant.

2.4.2. Terminal Licences per B-BBEE turnover category- All Ports (Figure 14)

Figure 14 shows the percentage number of terminal operator licences in the hands of each B-B-BBEE category in all the ports. Figure 14 shows that 86% of the terminal licences were in the hands of large enterprises in the port of Durban, 6% were in the hands of EMEs, only 2% were in the hands of QSEs, and the remaining 6% was in the hands of B-BBEE non-compliant terminal operators.

Figure 14 shows that in the port of Cape Town, 63% of the terminal licences were in the hands of large enterprises were in the hands of large enterprises, only 13% was in the hands of EMEs, and the remaining 25% was in the hands of QSEs. In the port of Richards Bay, 83% of the terminal licences were in the hands of Large Enterprises, and the remaining 17% of the terminal licences were in the hands of B-B-BBEE non-compliant companies.

The port of East London, Port of Saldanha, Port of PE, and the Port of Ngqura only had terminals operated by large enterprises and as a results all 100% of the terminal licences were in the hands of large enterprises.

2.4.3. Percentage terminal area per B-BBEE turnover category- All Ports

Figure 15 shows the total percentage of all terminal area that was occupied by B-BBEE turnover category per port and it shows that 96% of the terminal area was occupied by large enterprises in the port of Durban, and the remaining 4% was shared between EME, QSEs, and B-BBEE non-compliant companies.

Figure 15 shows that large enterprises occupied 98.27% of the terminal area in the port of Cape Town, EMES occupied 0.83% of the terminal area, and QSEs occupied 0.90%. 92.72% of the terminal area in the port of Richards Bay was occupied by Large Enterprises and the remaining 7.28% was occupied by B-BBEE non-compliant companies. The port of East London, Port of Saldanha, Port of PE, and the Port of Ngqura only had large enterprises and as a result all 100% of the terminal area in these ports was occupied by LEs.

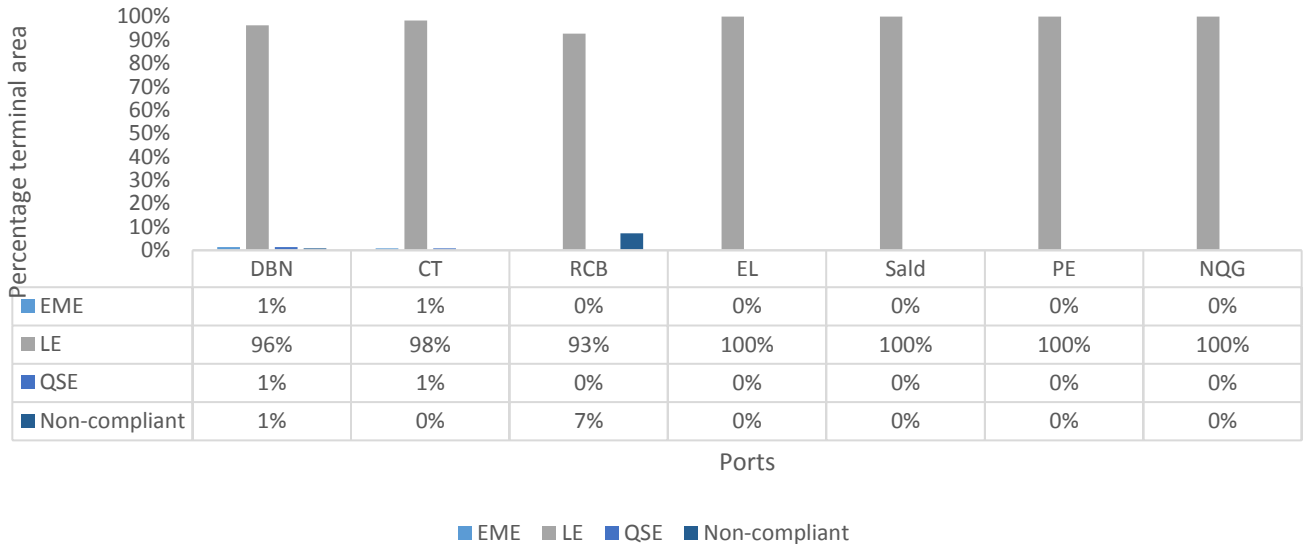


Figure 15: Percentage terminal area per B-BBEE turnover category- All Ports

2.5. Summary: Terminal Operators

The main purpose of section 2 of this document is to analyze and report on the state of transformation within terminal operations in the South African ports and this was achieved by analyzing the B-BBEE certificates of the terminal operators and reporting on the extent of involvement by each terminal operator using 2015/16 data.

The section profiled the 37 terminal operators into EMEs (turnover of below R10 million), QSEs (annual turnover more than R10 Million but below R50 million) and Large Enterprises (annual turnover more than R50 million) based on their annual turnovers. A significant number of companies (73%) with terminal operating licences were Large Enterprises. The remainder were QSEs (8%), EMEs (8%) and B-BBEE non-compliant terminal operators at 11%.

Our review of the extent of terminals operated by each category showed a bias in favour of Large Enterprises which accounted for 96.87% of the terminal area with the QSE and EMEs occupying negligible

terminal operating space at less than 1%, comparing unfavourable even to the 2.18% of port terminal area under non-Compliant operators.

Looking at the actual number of terminal licences we found that LE held 86%, QSE and EME 4% each and non-compliant operators 6%.

On ownership of terminal operators, we found that 13 of 37 had an element of foreign ownership, 19% were JSE listed companies, 38% were private unlisted companies, and 5% were state-owned enterprises. Consequently, a third (33%) of the terminal operator licences were in the hands of foreign owned companies, followed by 23% in JSE-listed companies, 20% in private unlisted companies. The two State Owned Companies held 24% of the terminal operator licences.

A majority of terminal operating companies (74%) had a level 4 or above BBBEE rating, which translate to 80% of the terminal operating licences being level 4 and above. The levels of black and women ownership in terminal operations were not significant where we found only 10 out of 37 terminal operators with black ownership of 50% or more. The role played by such companies in the port space was found to be even more limited as on average they held one licence and/or less than 3% of the terminal operator area.

Only two terminal operators have a women ownership that is more than 30% and these two companies operate two terminals. Four terminal operators have a women ownership that between 25% and 30% and these terminal operators operate have 10 licences in between them. Fifteen terminal operators have a women ownership that is below 20% but above 0% and have 32 licences and the remaining terminal operators have 0% women ownership and operated 31.

3. B-BBEE Analysis - Commercial and Terminal Leases

This section presents an analysis of the B-BBEE in commercial and terminal leases that were entered into by the Authority during the 2015/16 period. Terminal leases are those leases that are as a result of a section 56 terminal agreement while commercial leases are any other leases other than terminal leases that the authority enters into.

3.1. Measured Enterprises

Figure 16 shows that of the 37 2015/16 new commercial and terminal leases, 49% (18 out of 37) were Exempt Micro Enterprises (EMEs), 32% (12) were Large Enterprises (LEs), and 19% (7) were Qualifying Small Enterprises (QSE).

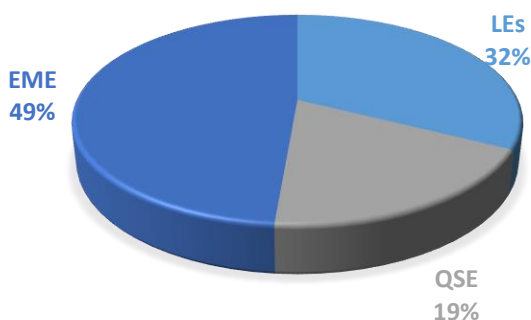


Figure 16: Category of Measured Enterprises holding Leases agreements with Authority.

Secondly, due to lack of information when it comes to variables such as the size of leased area, type of lease, and the duration of lease, we could not conduct an analysis on the extent of these company's participation in the lease holding space of the port system.

3.2. Scorecards used for commercial and terminal leases

Figure 17 shows that the majority of the companies in this section submitted affidavits declaring their black ownership, women ownership, and that their turnover was below R10 Million, and as a result, they do not fall under any scorecard as they need not have B-BBEE certificates. Because of the dominance of EMEs in this sector, a significant proportion (42%) of the 37 lessees used affidavits. A third (33%) used the generic scorecards and only 5% (2 out of 37) used the Maritime Industry and Services Industry (MI& SI) scorecards. Interestingly, 5% used ITC sector scorecards and a similar proportion used the Tourism sector code, with 11% falling in the "other" category.

What is glaring is the low utilization of Maritime Transport and Service Industry codes and the use of other scorecards may be attributed to the lack of homogeneity in the services for which lease holders would lease space in South African ports which is an indication that their revenue is generated from activities outside of core port businesses. This is especially so when we take into account that companies use scorecards in the sector where they draw more than 50% of their revenue.

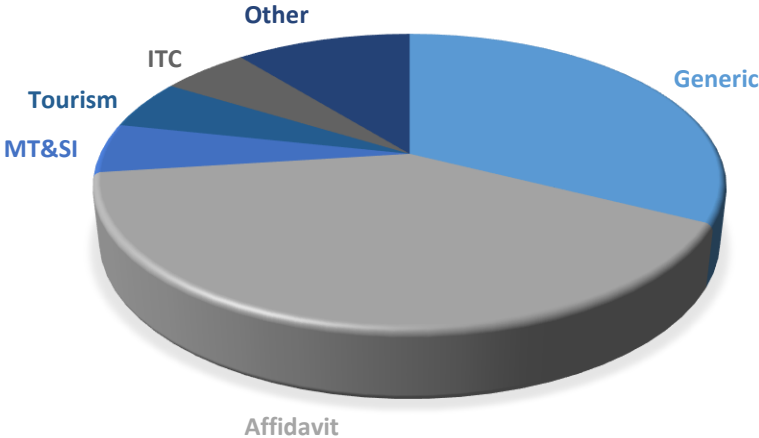


Figure 17: Scorecards Used- Commercial and Terminal Leases

3.3. B-BBEE Levels- commercial and terminal Leases

In this section we looked at the percentage of the Authority’s lease holders per B-BBEE levels and the percentage of lease agreements per B-BBEE levels across all South African commercial ports. Figure 18 shows that the majority (38%) of lease holders were rated level 4 and more, (41%) of lease agreements were awarded to companies rated level 4. Notably 89% of companies in this section have a B-BBEE rating of level 4 and higher.

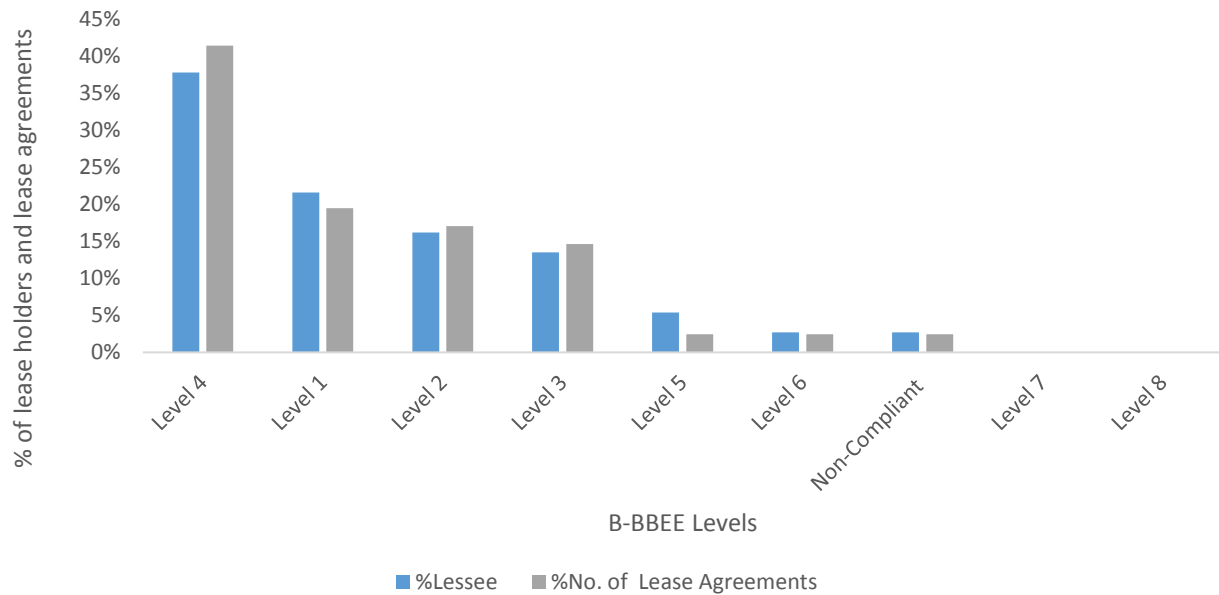


Figure 18: B-BBEE Levels- Commercial and Terminal Leases

3.4. B-BBEE Verification Agencies- commercial and terminal leases

Figure 19 summarises the rating agency used by companies with commercial and terminal lease agreements. Notably, most companies did not use common agencies with almost half (43%) being ratings by different agencies, this is followed by the use of affidavits and the reported agencies minimally.

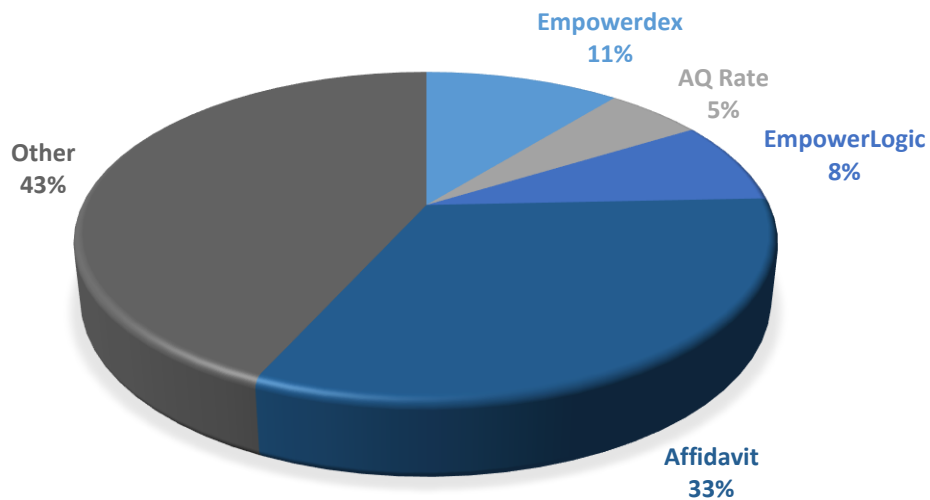


Figure 19: B-BBEE Verification Agencies- 2015/16 Commercial and Terminal Leases

3.5. Black Ownership: Commercial and Terminal Leases

Analysis of the black ownership amongst lease holder’s relative to number of leases held shows that most lease holders held one lease and they account for a level of black ownership. Notably, this is the one category where 10 licence holders individually have 100% Black Ownership, notwithstanding that they individually hold one licence. The Regulator’s reporting requirements on the Authority has been adjusted to ensure that a breakdown of commercial leasing activities is provided. This will be covered in the future reports.

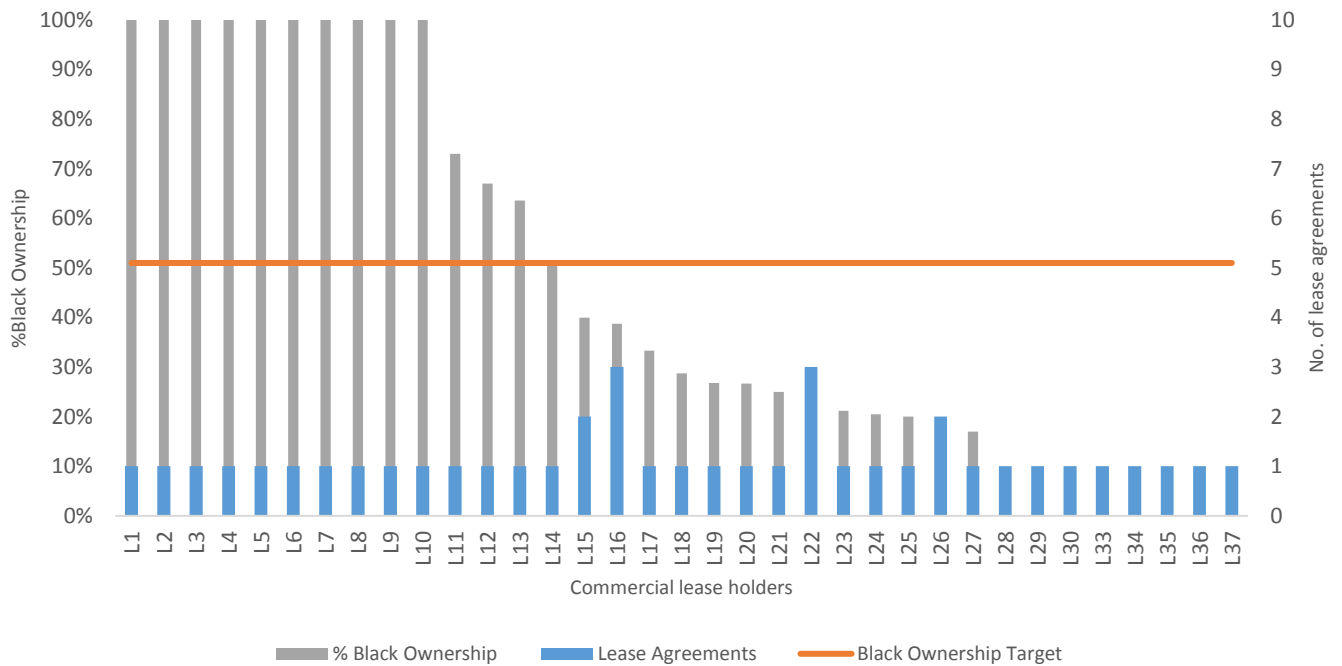


Figure 20: Black Ownership and No. of lease agreements

Figure 21 shows that there were only 5 lease holders with women ownership that is higher or equal to the 30% targeted women ownership who each held one lease agreement.

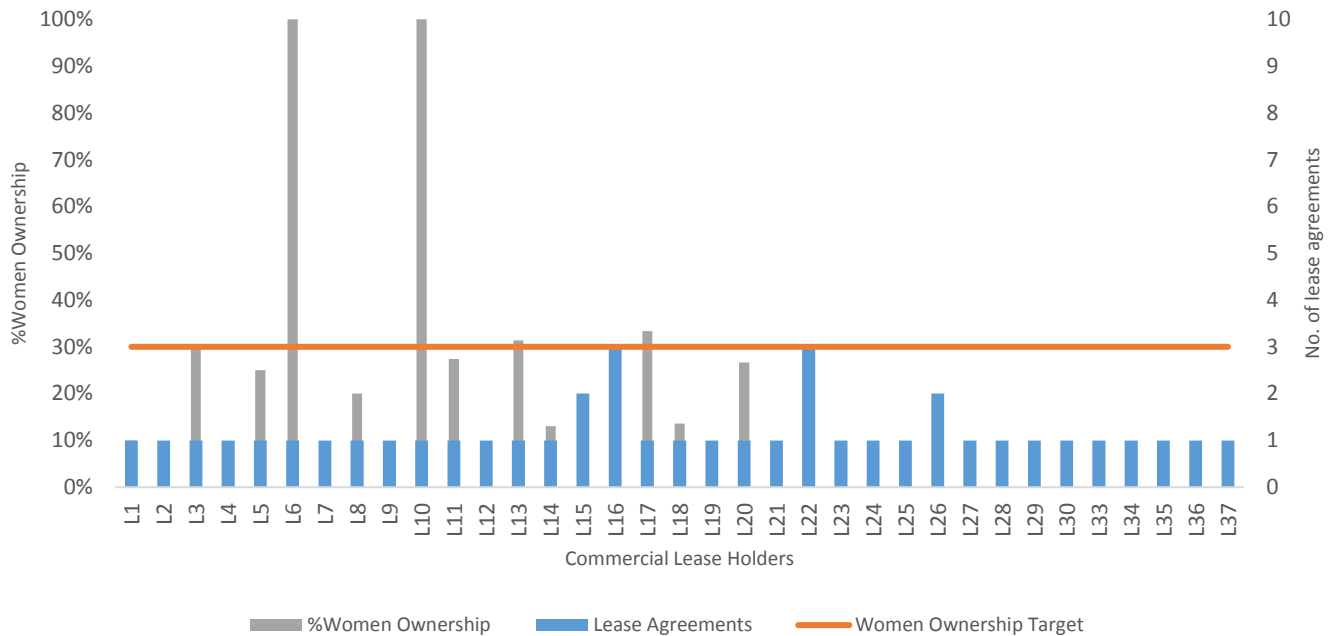


Figure 21: Women ownership and No. of lease agreements

3.6. Summary: Commercial and terminal leases

- EMEs were dominant in the commercial and terminal leases section at 49%, LEs were 32%, and QSEs were 19%.
- A small percentage of companies with commercial and terminal leases (5%) used the Maritime Transport and Services Industry codes and a third (33%) used the Generic Codes and majority of the of the lease holders were using affidavits and this was expected since 49% of companies in this section were EMEs.
- The B-BBEE levels of lease holders relative to the number of lease agreements held showed that 38% of the 2015/16 lease holders were rated level 4 and held 41% of the lease agreements. One in five (20%) of lease holders were rated at level 1 and also held a fifth of the lease agreements.
- Lease holders with a black ownership above the targeted 51% black ownership each held one lease agreement whereas lease holders with more than 1 lease agreement were found to have percentage black ownership below 51%.
- A majority of the lease holders had below 30% women ownership.

4. B-BBEE Analysis –Port Activity Licences

The previous sections analysed section 56 activities of the National Port Authority i.e. terminal operators and commercial and lease holders. This section will focus on the same for section 57 Licences. These are Licences issued in terms of those services for which the NPA defines port rules and requirements, as well as where service providers are required to be registered or issued with permits. As was the case with terminal operators, the licences are analysed together as a category and then separately by type of licence issued to the different categories of Measured Entities.

Port activity licences that are issued by the Authority in line with section 57 of the Act are for the following:

- Stevedore
- Diving
- Waste Disposal
- Bunkering
- Vessel Registration Agents

4.3. Scorecards Used: Section 57 Licences

In total 150 companies were issued with section 57 licences. Figure 22 shows that 17% of these companies submitted affidavits declaring their black ownership, women ownership and that their turnover was below R10million, and as a result, they do not fall under any scorecard as they do not have B-BBEE certificates.

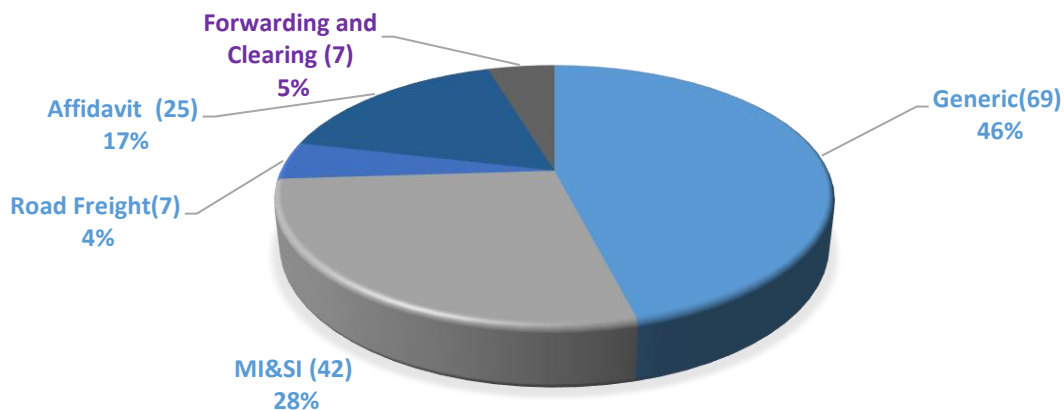


Figure 22: Scorecards used: Section 57 Licences

A majority of companies 46% or 69 out of 150 used the generic scorecards, while 28% (42) used the Maritime Transport and Services Industry and the remaining 9% or 14 companies used the Road Freight

and the Forwarding and Clearing scorecards. The use of the Maritime Transport and Services Industry score card is the highest in this sector with only 16% of terminal operator reported to have used MT&SI score card.

4.1. Measured Enterprises categories - port activity licences

Companies were categorised according to their measured entity status and assessed for each licenced activity i.e. bunkering, diving, stevedoring, waste disposal, to registered vessel agents. Figure 23 shows port activity licences were dominated by EMEs (39%) and LEs (36%) with a quarter (25%) being QSE.

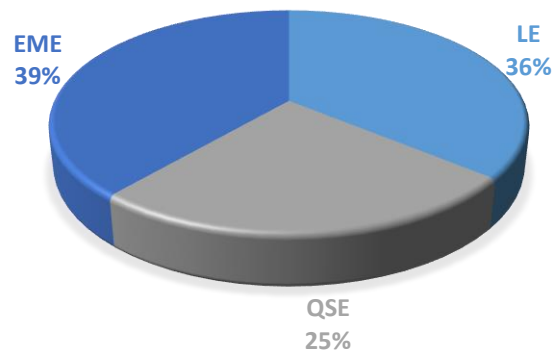


Figure 23: Measured Enterprises (Category) - Section 57 Licences

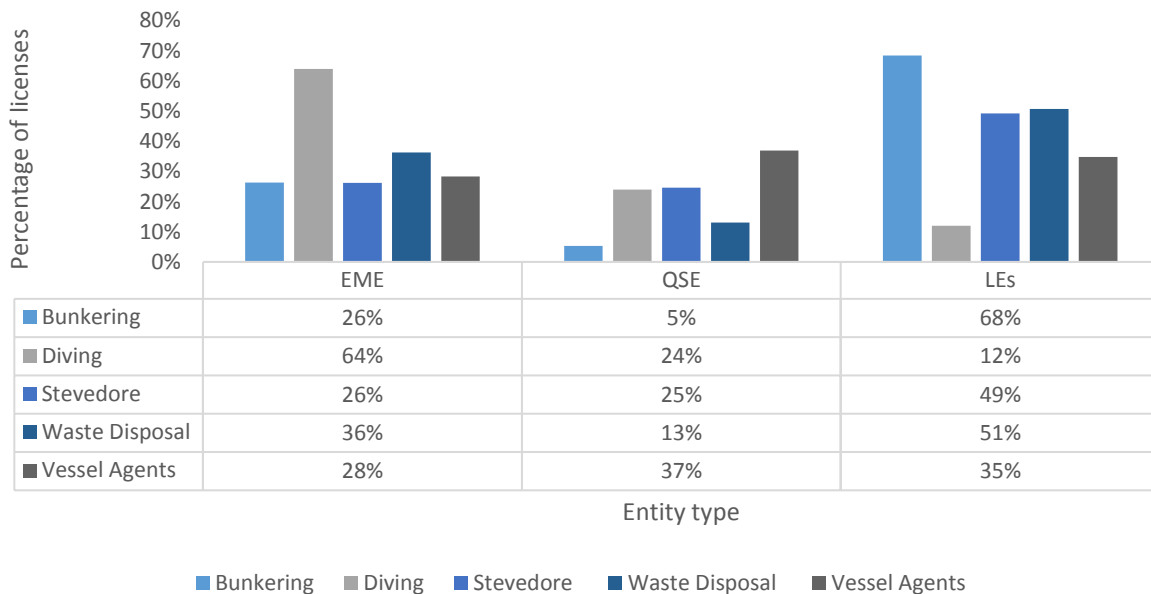


Figure 24: Section 57 Licences per B-BBEE measured entity category

Figure 24 shows that the majority of section 57 licences were in the hands of large enterprises except for diving which was dominated by Exempt-Micro Enterprises, with EMEs holding 64% of diving licences, QSEs holding 24% of the diving licences, and large enterprises holding 12% of the diving licences.

EMEs held 26% of the bunkering licences, QSEs held 5% of the bunkering licences, and large enterprises held 68% of the bunkering licences. EMEs held only 26% of the stevedoring licences, QSEs held 25%, and the large enterprises held 49% of the stevedoring licences. EMEs held 36% of the waste disposal, while QSEs held only 13%, and large enterprises held 51% of the waste disposal licences. Registered Vessel agents licences were evenly distributed between QSEs holding 37% of the licences, large enterprises holding 35% of the registered vessel agents licences, and EMEs held slightly less at 28% of the licences.

4.4. B-BBEE Levels- Section 57 port activity licences

Figure 25 shows that 19% of the Section 57 licence holders achieved the highest B-BBEE rating of Level 1, with 23% achieving the second highest rating of Level 2, 14% attaining Level 3, and the majority (31%) achieving Level 4. 4% and 3% achieved Level 5 and Level 6, respectively, while another 4% attained Level 7, there were 1% who achieved B-BBEE Level 8, which is the lowest level denoting the least transformed companies, and there were 2 (1%) B-BBEE non-compliant companies. Also well over the prescribed 75% of companies i.e. 87% had a B-BBEE rating of level 4 and higher.

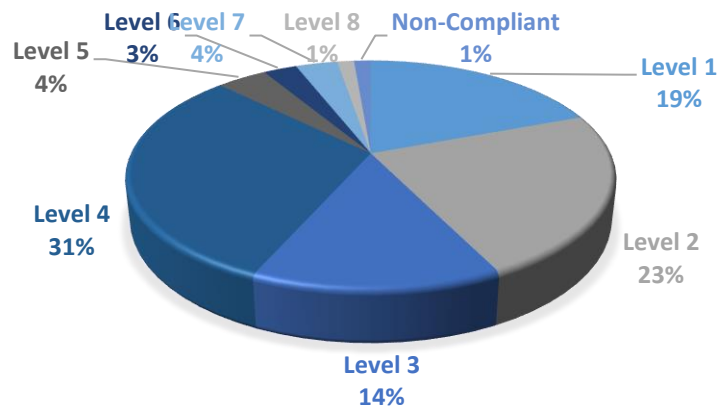


Figure 25: B-BBEE Levels- Section 57 Licences

4.5. Port Activity Licences per B-BBEE Levels

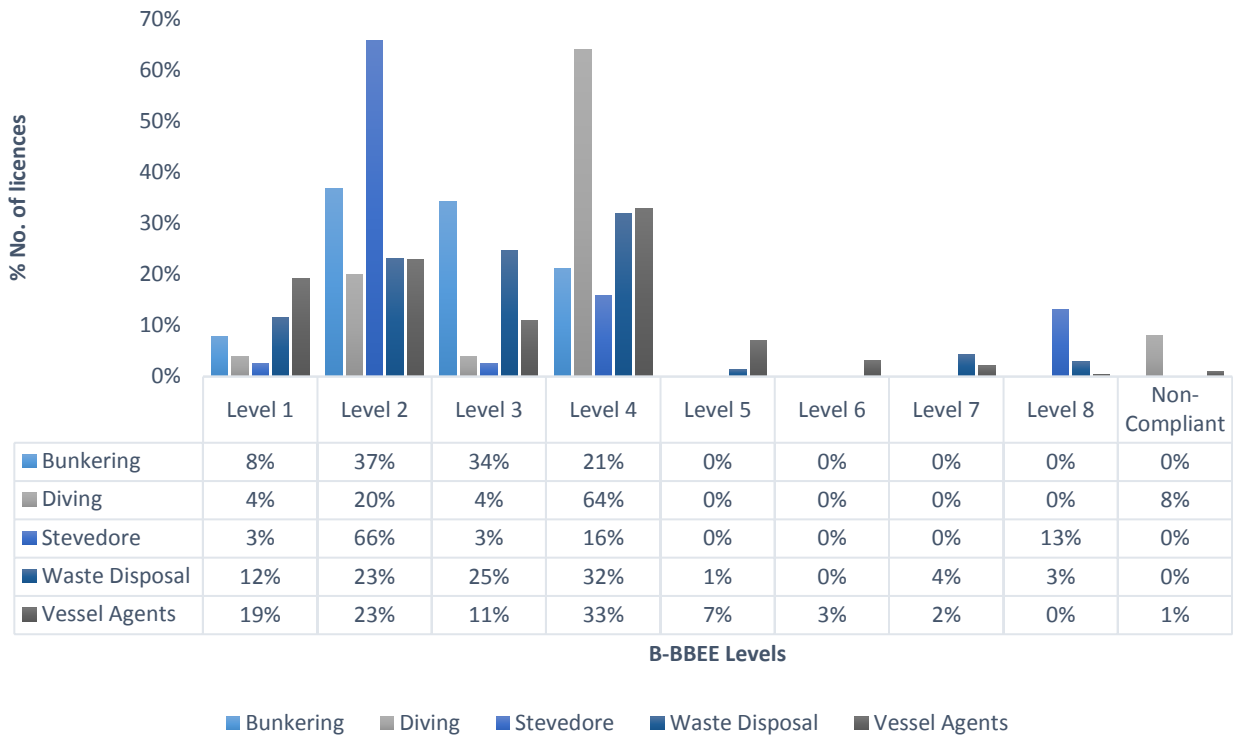


Figure 26: Section 57 Licences per B-BBEE Levels

As shown in Figure 26, the majority of licences for all sections were awarded to companies with B-BBEE ratings of level 4 or higher. The majority of the stevedoring licences were in the hands of companies with B-BBEE level 2 and the majority of diving licences were issued to companies with B-BBEE level 4 rating.

4.6. Assessment per port activity: Bunkering Licences

4.6.1. Bunkering Companies per B-BBEE Turnover Category

Figure 27 shows that 63% of the bunkering companies were large enterprises, 8% were QSEs, while 29% were EMEs.

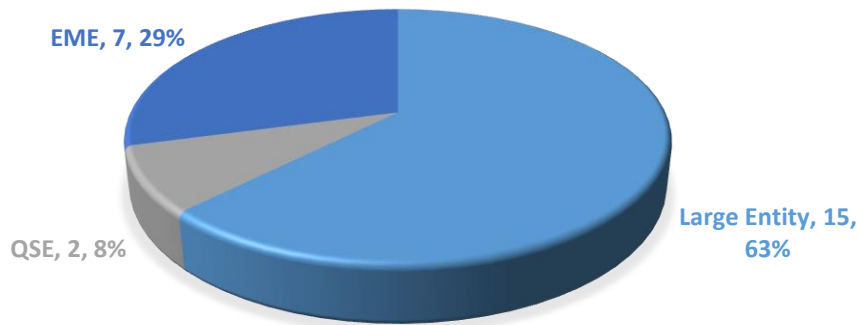


Figure 27: Bunkering Companies per B-BBEE Turnover Category

4.6.2. Bunkering Companies per B-BBEE Levels

Figure 28 shows the number and percentage of bunkering companies and the B-BBEE levels they achieved and that a majority of the bunkering companies had B-BBEE ratings of Level 2. There were no companies licenced to provide bunkering services that were rated below Level 4 with 12% of the companies rated level 1, 46% rated level 2, 21% rated level 3, and another 21% achieved a B-BBEE rating of level 4.

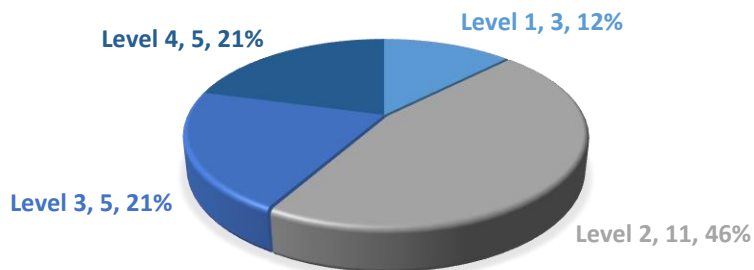


Figure 28: Bunkering B-BBEE Levels

The composition of these companies in terms of ownership and women/youth participation will be reported on in a later section to provide a much clearer picture of the level of transformation in the sector.

4.6.3. Bunkering Licences per B-BBEE Levels

This section reports on the number of bunkering licences in different B-BBEE levels. There were 38 bunkering licences awarded to 24 bunkering companies and Figure 29 shows the percentage of bunkering licences under different B-BBEE levels. Only 7.89% of bunkering licences were in the hands of companies with the B-BBEE rating of level 1, 36.84% were in the hands of B-BBEE level 2 companies, 34% were in the hands of level 3 companies, and 21% were in the hands of companies with B-BBEE rating of level 4. This implies that 100% of the bunkering companies were rated level 4 and higher and there were no B-BBEE non-compliant companies.

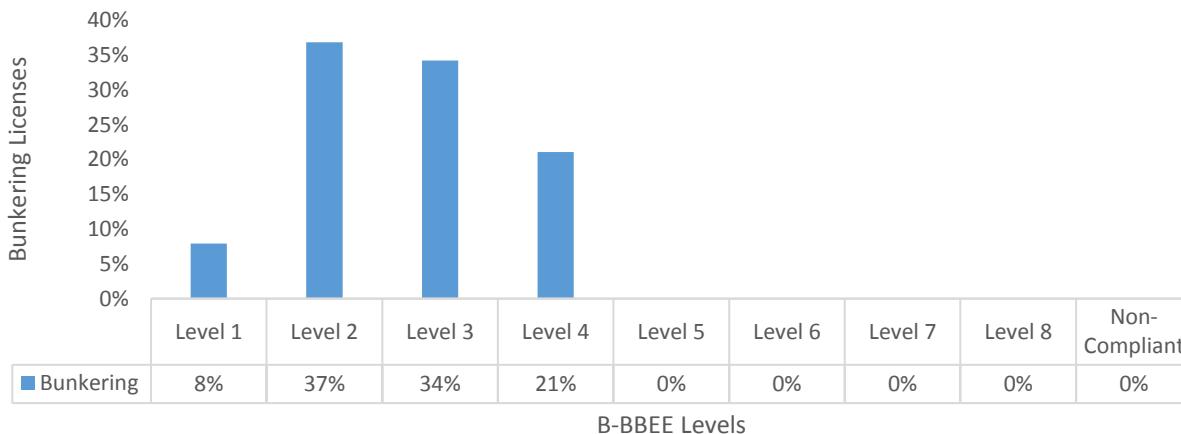


Figure 29: Bunkering Licences per B-BBEE Levels

4.7. Assessment per activity: Diving Licences

4.7.1. Diving companies per B-BBEE Turnover Category

Figure 30 reports on the diving companies that were awarded diving licences by the Authority. Figure 30 shows that 17% of the diving companies were large enterprises, while 25% were QSEs, and 58% of the companies were EMEs.

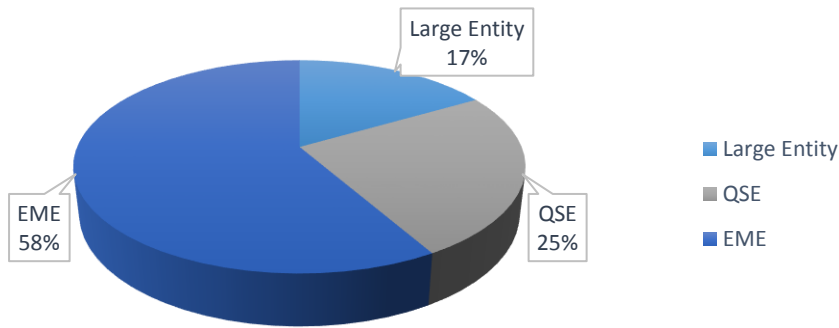


Figure 30: Diving Companies per B-BBEE Turnover Category

4.7.2. B-BBEE Levels of diving companies

Figure 31 shows the B-BBEE levels of the diving companies and it shows that 92% of the diving companies achieved a B-BBEE rating of level 4 or higher. Only 8% achieved a rating below level 4 and they were B-BBEE non-compliant.

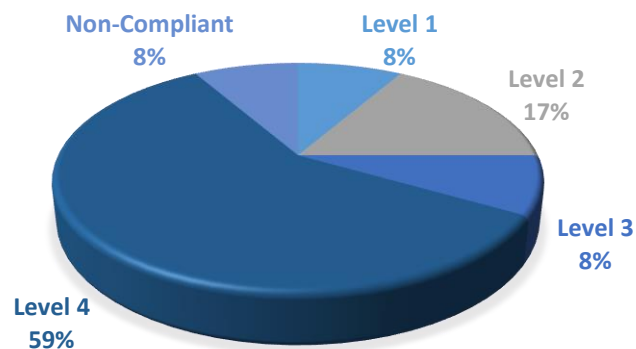


Figure 31: B-BBEE Levels of diving companies

4.7.3. Diving licences per B-BBEE Levels

Figure 32 reports on the diving licences that were awarded to each B-BBEE level. Figure 32 shows that only 8% of the diving licences were in the hands of companies with B-BBEE ratings below level 4. Figure 32 shows that 64% of the diving licences were in the hands of companies rated level 4, 4% were in the hands of level 3 companies, 20% were in the hands of level 2 companies, and only 4% were in the hands of companies rated level 1.

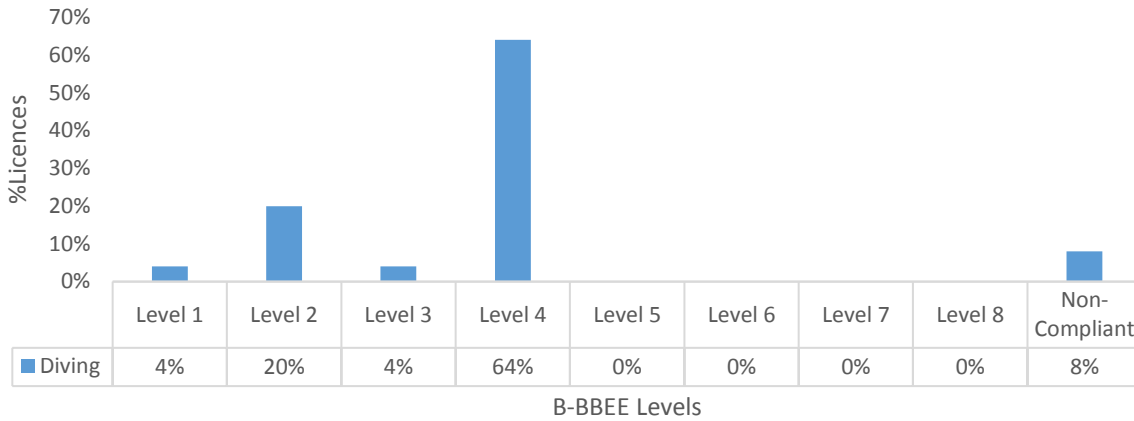


Figure 32: Diving licences per B-BBEE levels

4.8. Assessment per activity: Stevedoring Licences

4.8.1. Stevedoring companies per B-BBEE turnover category

Figure 33 reports on the companies that were awarded stevedoring licences by the Authority between 2013 and 2016. Figure 33 shows that 28% of the stevedoring companies were large enterprises, while 28% were QSEs, and 44% of the companies were EMEs.

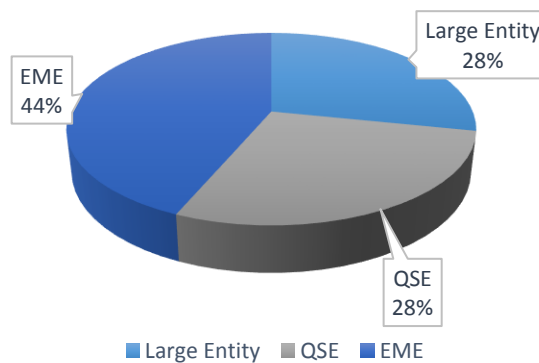


Figure 33: Stevedoring companies per B-BBEE Category

4.8.2. Stevedoring companies per B-BBEE levels

Figure 34 shows the B-BBEE levels of the stevedoring companies and it shows that only 3% of the stevedoring companies attained a rating below level 4 and the other 97% of the stevedoring companies were rated level 4 and higher.

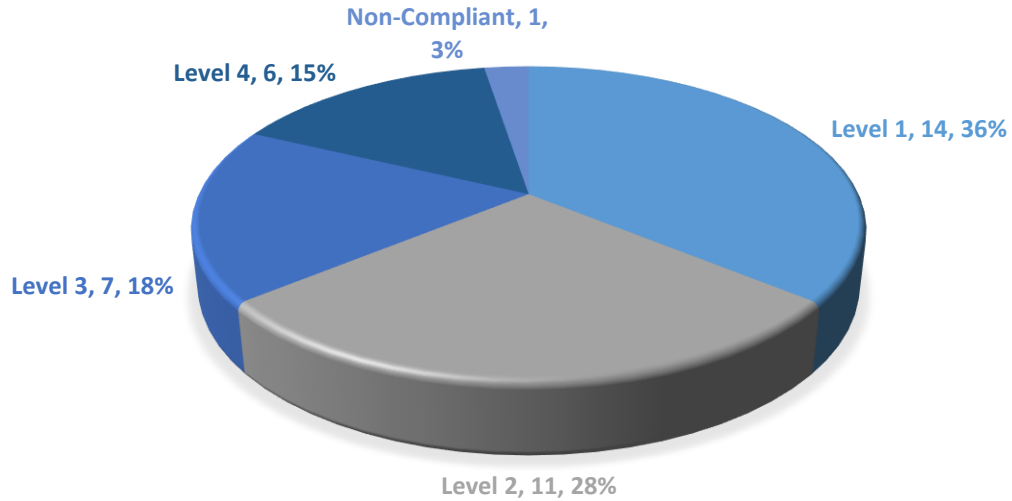


Figure 34: Stevedoring companies per B-BBEE levels

4.8.3. Stevedoring licences per B-BBEE Levels

Figure 35 shows the stevedoring licences that were awarded to each B-BBEE level. Figure 35 shows that only 13% and the remaining 87% of the licences were awarded to stevedoring companies who had B-BBEE ratings of Level 4 or higher. Over 65% of the stevedoring licences were in the hands of companies who were rated level 2, 15.79% were with companies rated level 4, and 2.63% were with companies rated level 1.

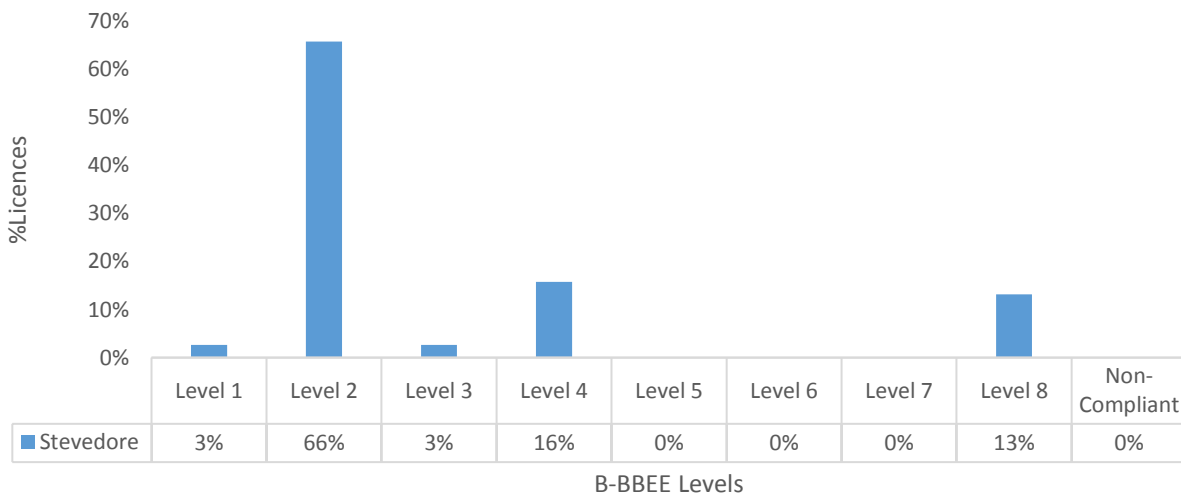


Figure 35: Stevedoring licences per B-BBEE Levels

4.9. Assessment per activity: Waste Disposal Licences

4.9.1. Waste Disposal companies per B-BBEE category

Figure 36 shows the percentage number waste disposal companies per B-BBEE category for the 2013 to 2016 period. Figure 36 shows that 37% of the waste disposal companies were large enterprises, 17% were QSEs, and 46% were EMEs.

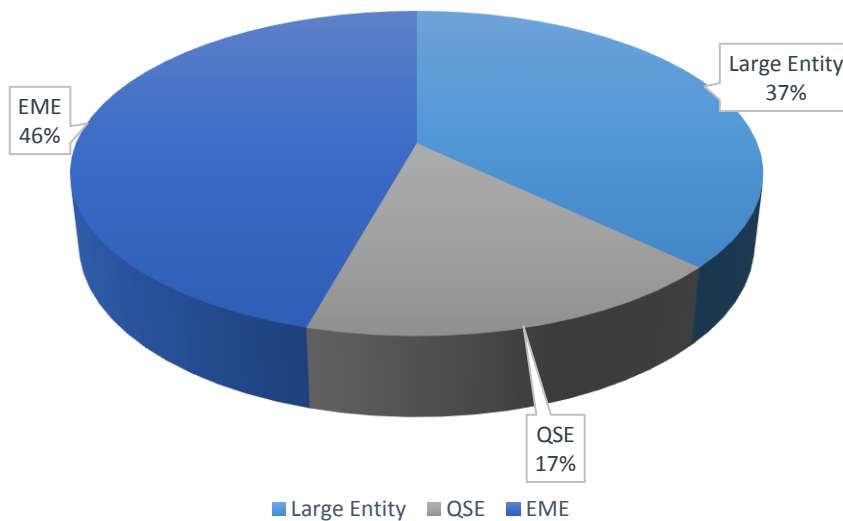


Figure 36: Waste Disposal companies per B-BBEE Category

4.9.2. B-BBEE levels of waste disposal companies

Figure 37 reports on the B-BBEE levels of waste disposal companies and it shows that 85% of the waste disposal companies had B-BBEE ratings of level 4 or above. Figure 37 shows 17% of the waste disposal companies had ratings of level 1, while another 17% of waste disposal companies were rated level 2, 23% were rated level 3, 28% were rated level 4, 3% were level 5, 6% were level 7, and 6% had the lowest rating of level 8.

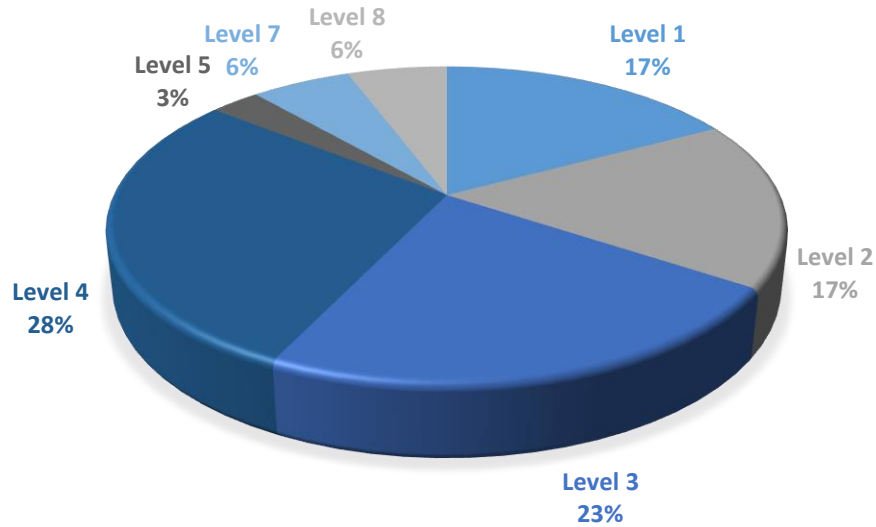


Figure 37: B-BBEE Levels of waste disposal companies

4.9.3. Waste Disposal licences per B-BBEE levels

Figure 38 shows the percentage number of waste disposal that were awarded to each B-BBEE level and it shows that 91.3% of the waste disposal licences were in the hands of companies who were rated level 4 or higher.

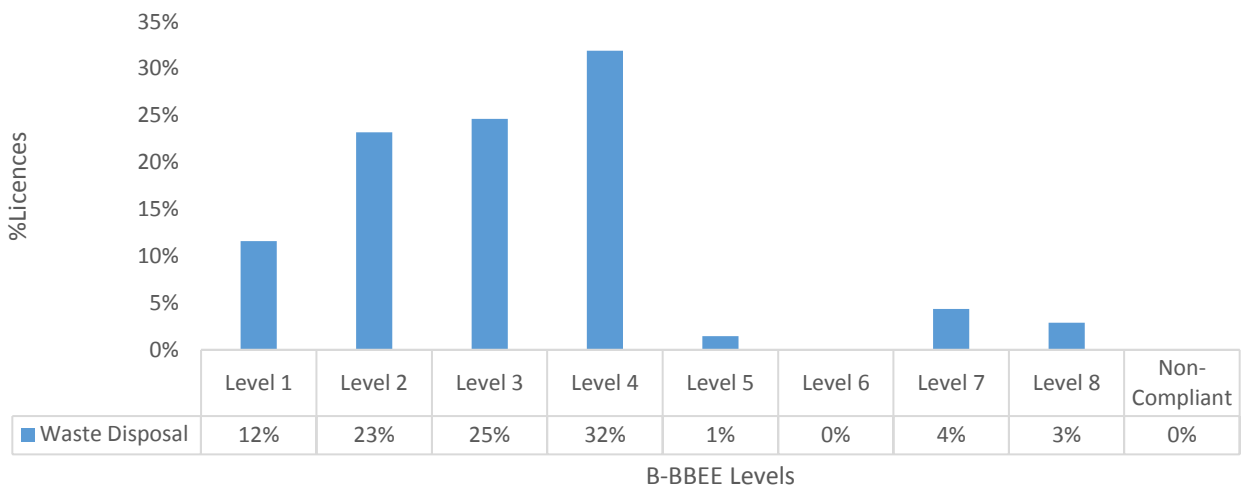


Figure 38: Waste Disposal licences per B-BBEE levels

4.10. Assessment per activity: Registered Vessel Agents

4.10.1. Vessel Agents per B-BBEE category

Figure 39 shows the percentage of registered vessel agents per B-BBEE category and it shows that 29% were large enterprises, while 29% were QSEs, and 42% were EMEs.

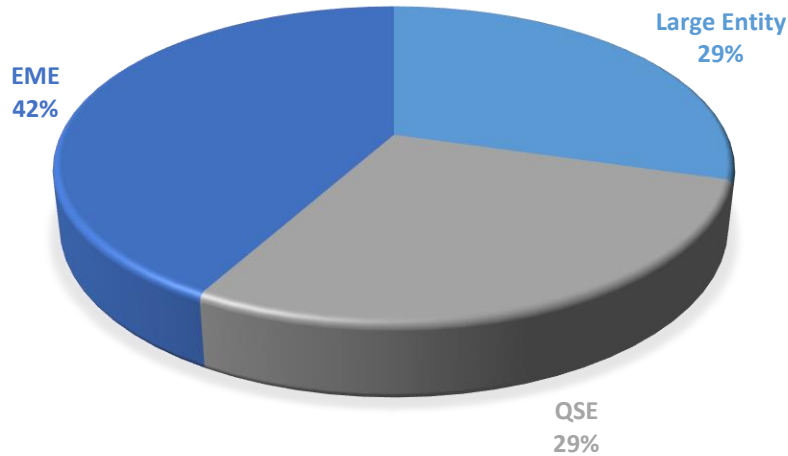


Figure 39: Vessel Agents per B-BBEE category

4.10.2. Vessel Agents companies per B-BBEE Levels

Figure 40 shows the percentage number of registered vessel agents per B-BBEE levels and it shows that 90% of the companies had B-BBEE ratings of level 4 or higher. 18% of the vessel registered agents achieved the best rating of level 1, 22% were rated level 2, 16% were rated level 3, 34% were rated level 4, 4% were level 5, 2% were level 6 and level 7, and 1% were rated level 8 and B-BBEE non-compliant.

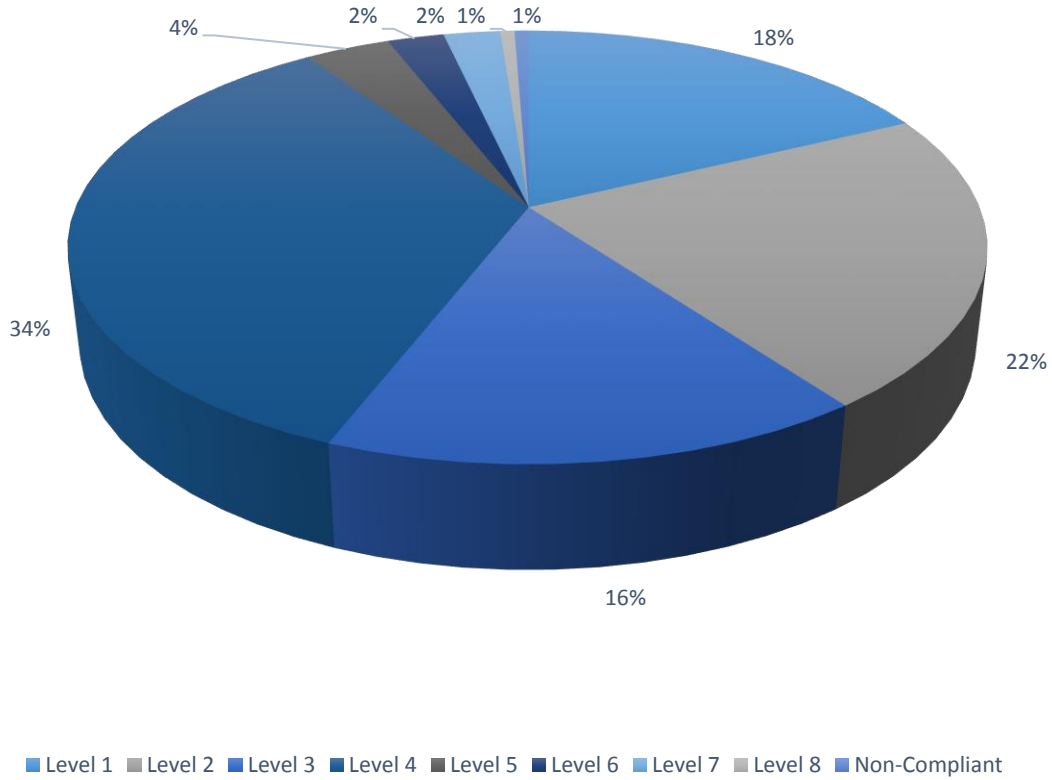


Figure 40: Vessel Agents per B-BBEE Levels

4.10.3. Vessel Agents Agreements per B-BBEE Levels

Figure 41 reports on the percentage number vessel agents licences that awarded to each B-BBEE levels and it shows that 86% of the licences were awarded to companies who attained a B-BBEE rating of Level 4 or higher. Figure 41 shows that 19% of the licences were in the hands of companies with a B-BBEE rating of level 1, 22.86% were in the hands of level 2 companies, 11% were in the hands of level 3 companies, and 32.86% were in the hands of companies rated level 4. 7% were in the hands of level 5 companies, 3% were in the hands of level 6 companies, and 1.07% were in the hands of B-BBEE non-compliant companies.

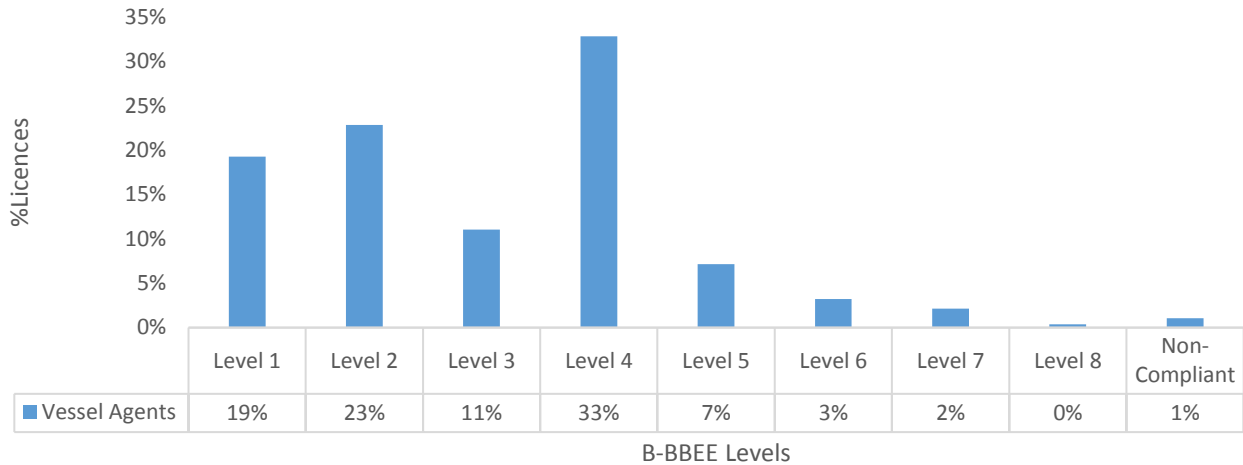


Figure 41: Vessel Agents per B-BBEE Levels

4.11. Summary: Section 57 Licences

- The purpose of this section was to analyse and report on the B-BBEE certificates of the Authority's section 57 Licence and permit holders and Figure 23 showed 39% of companies in this section were EMEs, 36% were LEs, and 25% were QSEs.
- EMEs were only dominant in the diving section as 64% of diving Licences were in their hands and the EMES held between 26% and 36% of Licences in other Section-57 Licences and permits sections. LEs were dominant in all other Licences in this section as they held between 35% and 68% of Licences in this section except on bunkering as LEs only held 12% of bunkering Licences. QSEs held between 5% and 37% of the Licences in this section.
- The report showed that 46% of the companies in this section used the generic scorecards, 28% used the MI&SI scorecards, 17% submitted affidavits, and the remaining 9% used the road freights scorecards and the forwarding and clearing scorecards.
- The report showed 87% of the companies in this section were rated level 4 or higher and 1% of the companies were B-BBEE non-compliant.
- Majority of Licences were in the hands of companies who were rated Level 4 or higher across all Licences. It also showed that 64% of diving Licences were in the hands of B-BBEE level 4 companies and 66% of stevedoring Licences were in the hands of level 2 companies.

5. Summary Tables: Terminal Operators, Leases, and Section 57 Licences.

Table 1: B-BBEE Levels Summary: Terminal Operators

Terminal Operator Agreements						
B-BBEE Levels	Large Enterprises		Qualified Small Enterprises		Exempt Micro Enterprises	
	Number	%	Number	%	Number	%
Level 1	0	0%	1	33%	0	0%
Level 2	10	37%	2	67%	3	100%
Level 3	7	26%	0	0%	0	0%
Level 4	4	15%	0	0%	0	0%
Level 5	0	0%	0	0%	0	0%
Level 6	2	7%	0	0%	0	0%
Level 7	2	7%	0	0%	0	0%
Level 8	2	7%	0	0%	0	0%
Totals	27		3		3	
Non-compliant	4		100%			

Table 2: B-BBEE Levels summary- Commercial and terminal leases

Commercial and Terminal Leases						
B-BBEE Levels	Large Enterprises		Qualified Small Enterprises		Exempt Micro Enterprises	
	Number	%	Number	%	Number	%
Level 1	0	0%	3	50%	5	28%
Level 2	3	25%	2	33%	1	6%
Level 3	2	17%	1	17%	2	11%
Level 4	4	33%	0	0%	10	56%
Level 5	2	17%	0	0%	0	0%
Level 6	1	8%	0	0%	0	0%
Level 7	0	0%	0	0%	0	0%
Level 8	0	0%	0	0%	0	0%
Totals	12		6		18	
Non-compliant	1		100%			

Table 3: B-BBEE Levels summary- Section 57 Licences

Section 57: Port Activities						
B-BBEE Levels	Large Enterprises		Qualified Small Enterprises		Exempt Micro Enterprises	
	Number	%	Number	%	Number	%
Level 1	1	2%	18	46%	11	19%
Level 2	22	42%	10	26%	3	5%
Level 3	10	19%	3	8%	8	14%
Level 4	5	9%	5	13%	36	62%
Level 5	6	11%		0%		0%
Level 6	3	6%	1	3%		0%
Level 7	5	9%		0%		0%
Level 8	1	2%	2	5%		0%
Totals	53		39		58	
Non-compliant	1		100%			

6. B-BBEE average scores: Applying new and old scorecards.

The promulgation of new score cards by DTI and the pending promulgation of a new score card by the department of Transport means that there is a transition period where companies can comply based on old score card of the Department of Transport or the DTI's new generic score card. This is reflected in the use of generic and old score cards as reported in previous section.

In this section the B-BBEE average scores attained by companies using old and new score cards are compared for Terminal Operating Agreements as well as commercial and terminal Licences; section 57 port activity Licences, based on the DTI's Generic Scorecards.

As reported in the background section of the report, Large Enterprises have different B-BBEE Elements requirements/target to Qualifying Small Enterprises which also differs between old scorecards and new B-BBEE scorecards. The old B-BBEE codes in terms of the B-BBEE Act of 2007 code of good practice had 7 elements; Equity Ownership; Management Control; Employment Equity; Skills Development; Preferential Procurement; Enterprise Development; and Socio-economic Development, and Large Enterprises were rated on all 7 elements whereas Qualifying Small Enterprises had an option to choose any 4 from the 7 B-BBEE elements.

Table 4: B-BBEE Elements- Old 2007 Codes vs New 2013 Codes (DTI)

B-BBEE Element	2007 B-BBEE Codes	2013 B-BBEE Codes
Equity Ownership	20	25
Management Control	10	15
Employment Equity	15	
Skills Development	15	20
Preferential Procurement	20	
Enterprise Development and Supplier Development	15	40
Socio-economic Development	5	5

Whereas in the new 2013 B-BBEE codes, there are only five elements; Ownership, Management Control, Socio-economic Development, Skills Development, and Enterprise and Supplier Development, with Ownership, Skills Development, and Enterprise and Supplier Development as priority elements.

Large Enterprises are required to comply with all five elements whereas a QSE is required to comply with ownership as a compulsory element and either Skills Development or Enterprise and Supplier Development.

The target and weighting on the elements were changed and the attainment of certain levels was changed. Attainment of level 2 increased by 10 points from 85 to 95 points and the minimum threshold for level 3 increased from 75 to 90 points whilst the attainment of level 4 increased from 65 to 80 points. The minimum threshold for level 8 was also increased from 30 points to 40 points. This summarised in Table 5 .

Table 5: B-BBEE Levels Scores (New vs Old Codes)

B-BBEE Status (Level)	2007 B-BBEE Codes	2013 B-BBEE Codes
1	100+	100+
2	85-100	95-100
3	75-85	90-95
4	65-75	80-90
5	55-65	75-80
6	45-55	70-75
7	40-55	55-70
8	30-40	40-55

The result in Table 5 is that measured entities that are still using the 2007 codes will have to achieve higher scorecard points when using the 2013 codes to maintain their current B-BBEE levels.

6.3. B-BBEE Scores Terminal Operators

6.3.1. Terminal Operators scores on old and new score card

Of the 37 terminal operators, 20 used old score cards. This section will report B-BBEE average scores for those terminal operating companies still using the old B-BBEE scorecards. The average scores scored by LEs is reported in Table 6 and it shows that LEs were doing well on all elements achieving between 60% and 114.80% against the targets. They achieved 81.60% against the target for Equity Ownership, 68.70% against the target for Management Control, 59.53% against the target for Employment Equity, 76% against the target for Skills Development, 91% for Enterprise Development, and 114% for socio-economic development.

Table 6: Terminal Operator B-BBEE Scores- Large Enterprises - Old Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	16.32	20	81.60%
Management Control	6.87	10	68.70%
Employment Equity	8.93	15	59.53%
Skills Development	11.4	15	76.00%
Preferential Procurement	17.31	20	86.55%
Enterprise Development	13.71	15	91.40%
Socio-economic Development	5.74	5	114.80%

Table 7 shows that, when the applying the new B-BBEE Codes, the terminal operators that reported using the new scorecards achieved high averages between 74% and 100% against the targets and they scored 74% against the target on equity ownership, 89.73% against the target on management control, 82.6% for skills development, 89% against the target for enterprise and supplier development, with 100% against the targets for social-economic development.

Table 7: Terminal Operator B-BBEE Scores- Large Enterprises- New Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	18.5	25	74.00
Management Control	13.46	15	89.73
Skills Development	16.52	20	82.60
Enterprise and Supplier Development	35.6	40	89.00
Socio-economic Development	5	5	100.00

From Figure 42 it is clear that Employment equity and preferential procurement no longer feature prominently. It also suggests that, at this stage, the effects of increased score and therefore requirements for Equity Ownership, Enterprise Development and Socio-economic development implies the reduction in the average scores on most elements. The new scorecards however results in higher scores on management control and skills development.

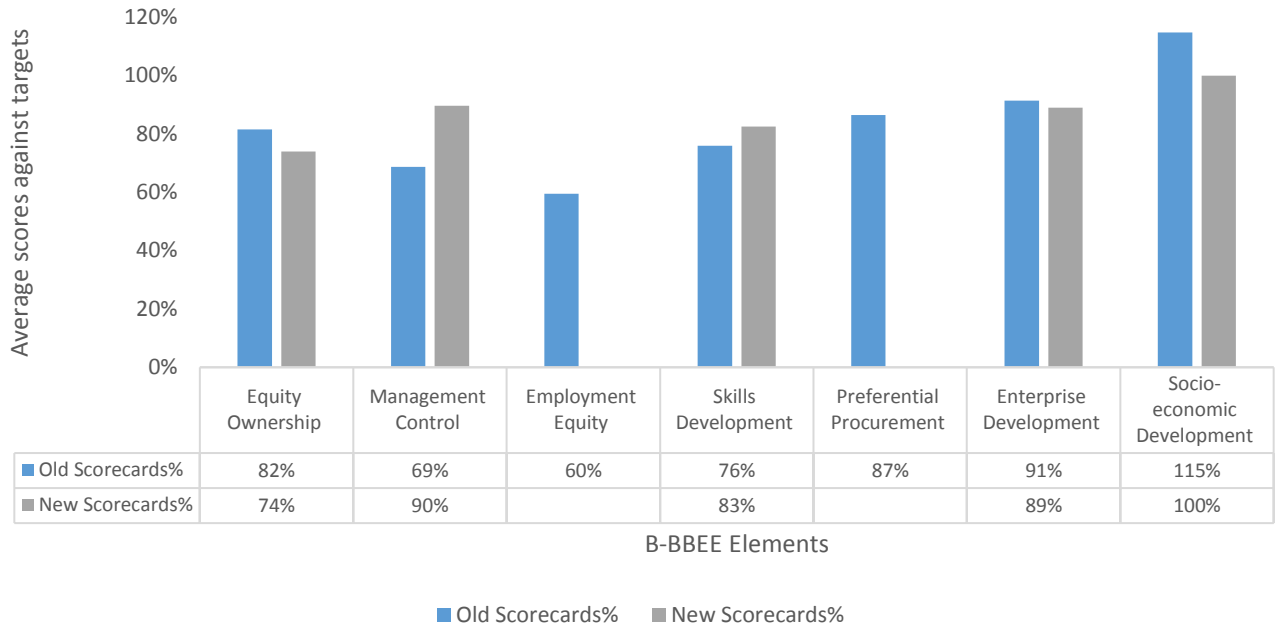


Figure 42: Comparing Large Enterprise targets on old and new score card

6.3.2. QSEs: Average B-BBEE Scores- Terminal Operators- Using Old Scorecards

In the 2007 B-BBEE codes, QSEs were only required to comply and report only on 4 out of 7 elements and as a result, their scores were only biased towards their best four elements, which resulted in elements such as Management Control and Skills Development being neglected. Table 8 shows that QSEs achieved average scores between 0% and 90%. Notable is the 90% for Enterprise Development and the 87% for preferential procurement. These elements hold the most potential in driving a transformation agenda.

Table 8: Terminal Operator B-BBEE Scores- QSE - Old Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	17.89	25	71.56%
Management Control	0	25	0.00%
Employment Equity	14.49	25	57.96%
Skills Development	0	25	0.00%
Preferential Procurement	21.72	25	86.88%
Enterprise Development	22.5	25	90.00%
Socio-economic Development	13.75	25	55.00%

Companies scoring high on these element are actively contracting with B-BBEE empowered companies (on procurement) and empowering emerging contractors in terms of their enterprise development initiatives. It is however not clear what type of procurement and enterprise development these companies are engaged in and whether these, in turn would lead to other enterprises emerging and conducting business any of the aspects of terminal operations in South African ports.

There were no Qualifying Small Enterprises that reported using the new scorecards under the terminal operator section.

6.4. Average B-BBEE scores for commercial and terminal leases- old and new scorecards

6.4.1. Large Enterprises average B-BBEE Scores- old scorecard

When using the old 2007 B-BBEE codes, Table 9 shows that the Large Enterprises under the commercial and terminal leases section were scoring fairly high in Management Control, Enterprise Development, and Socio-economic Development. However, the Large Entities achieved poor results on Employment Equity and Skills Development.

These enterprises scored an average of 61.30% against the target for Equity Ownership, 72.40% for Preferential Procurement, 72.60% enterprise development, achieving a higher average of 89.60% against targets for Management Control, and even higher 126.80% against the target for Socio-economic development.

It seems that large enterprises in the commercial and terminal leasing space struggled to implement employment equity and skills development as they achieved very low averages of 39% and 38%, respectively.

Table 9: Large Enterprises: Average B-BBEE Scores- Commercial and Terminal Leases- Old Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	12.26	20	61.30%
Management Control	8.96	10	89.60%
Employment Equity	5.9	15	39.33%
Skills Development	5.79	15	38.60%
Preferential Procurement	14.48	20	72.40%

Enterprise Development	10.89	15	72.60%
Socio-economic Development	6.34	5	126.80%

6.4.2. Large Enterprises average B-BBEE scores- new scorecards

Table 10 and Figure 45 shows that, when applying the new 2013 B-BBEE Codes, the companies in this section achieved moderate results on all B-BBEE elements, with the exception of Socio-economic development in which they scored an average of 77.80% against the target. Large Enterprises scored between 34% and 49% against the target on all other elements. They achieved 49.92% against the target for Equity Ownership, 37.63% against the target for Management Control, 42.80% against the target for Skills Development, and they achieved 34.28% against the supplier development target.

Table 10: Large Entities: Average B-BBEE Scores- Commercial and Terminal Leases- New Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	12.48	25	49.92%
Management Control	7.15	19	37.63%
Skills Development	8.56	20	42.80%
Enterprise and Supplier Development	13.71	40	34.28%
Socio-economic Development	3.89	5	77.80%

The picture with regards to Large Enterprise commercial and terminal leases highlights a reduction in scores between the old and new scorecards almost across all elements as reflected in Figure 45.

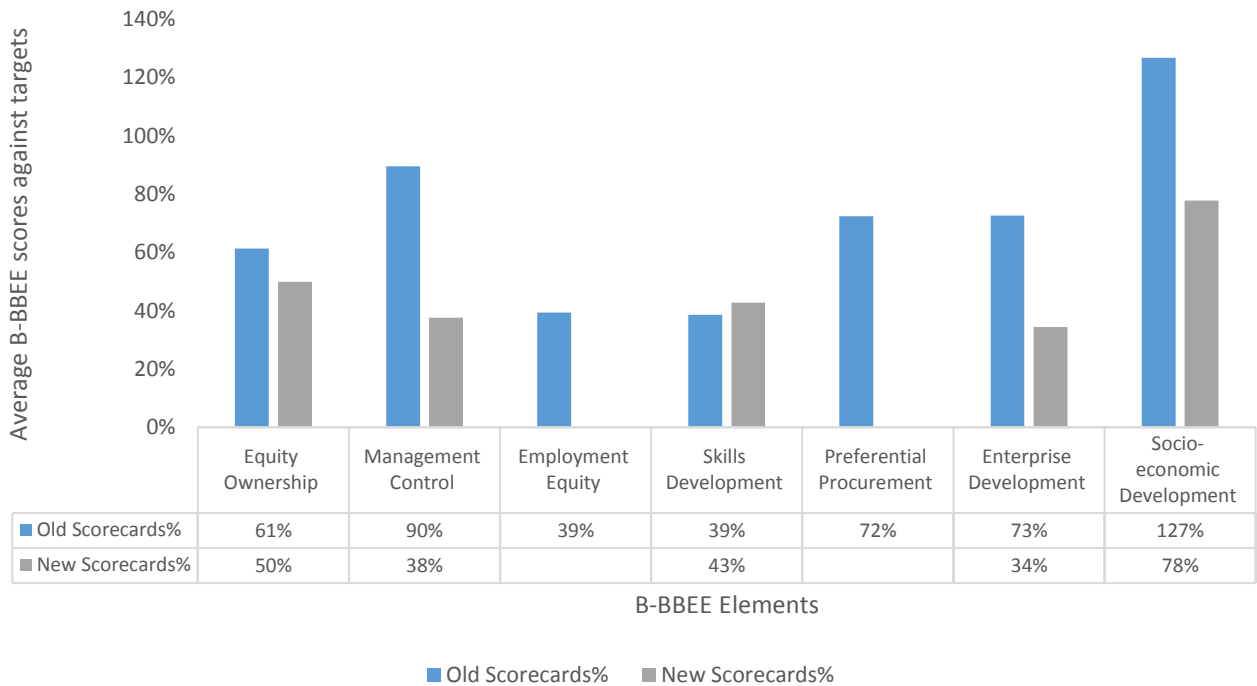


Figure 43: Comparison of B-BBEE scores amongst Large Enterprise lease holders: old and new scorecards

These average scores show that large enterprises perform poorly on Management Control and Enterprise and Supplier Development as they scored below 40% against the target on these two elements. Even the 49.92% and 42.8% achieved against targets for Equity Ownership and Skills Development are not commendable results. The only increase is in skills development.

Leases provide the means by which others players can gain access to the port system and the reduction demonstrated suggests that more attention must be paid to the lease regimes of the Authority with focus on the elements concerned.

6.4.3. QSE average B-BBEE scores commercial and terminal lease-old scorecard

When using the old 2007 B-BBEE codes, Table 11 shows that the QSEs under the commercial and terminal leases section scored very high averages on most elements except employment equity and skills development. Scoring an average of 87% against the targets for equity ownership, average of 108% for Management Control, average of 90% for preferential procurement, average of 95% for enterprise development, and average of 80% against the target for socio-economic development. In contrast they achieved a very low average of 43.96% against the target for employment equity and even more concerning, QSEs under this section scored 0% against the target on Skills Development. This is largely because of the flexibilities of the old B-BBEE codes that allowed the QSEs to only comply with Ownership

as a compulsory element and then choose between Skills Development and Enterprise Development where they have achieved an average of 95%.

There was not a single company out of the 7 Qualifying Small Enterprises that reported on the Skills Development element, suggesting that QSES may find it difficult to implement this B-BBEE element.

Table 11: Qualifying Small Enterprises: Average B-BBEE Scores- Commercial and Terminal Leases- Old Scorecard

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	21.75	25	87.00%
Management Control	27	25	108.00%
Employment Equity	10.99	25	43.96%
Skills Development	0	25	0.00%
Preferential Procurement	22.6	25	90.40%
Enterprise Development	23.75	25	95.00%
Socio-economic Development	20	25	80.00%

6.4.4. QSE average B-BBEE scores- commercial and terminal leases-new scorecard

Table 12 shows that QSEs scored poorly on most elements. They scored 58.68% against the target for Equity Ownership, 67.94% against the target for Management Control, 50% against the target for enterprise and supplier development. They scored very poorly on skills development and socio-economic development, scoring 0% against the targets on both elements as there was not a single QSE that reported on these elements.

Table 12: Qualifying Small Enterprises: Average B-BBEE Scores- Commercial and Terminal Leases- New Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	14.67	25	58.68%
Management Control	10.19	15	67.93%
Skills Development	0	25	0.00%
Enterprise and Supplier Development	15.06	30	50.20%
Socio-economic Development	0	5	0.00%

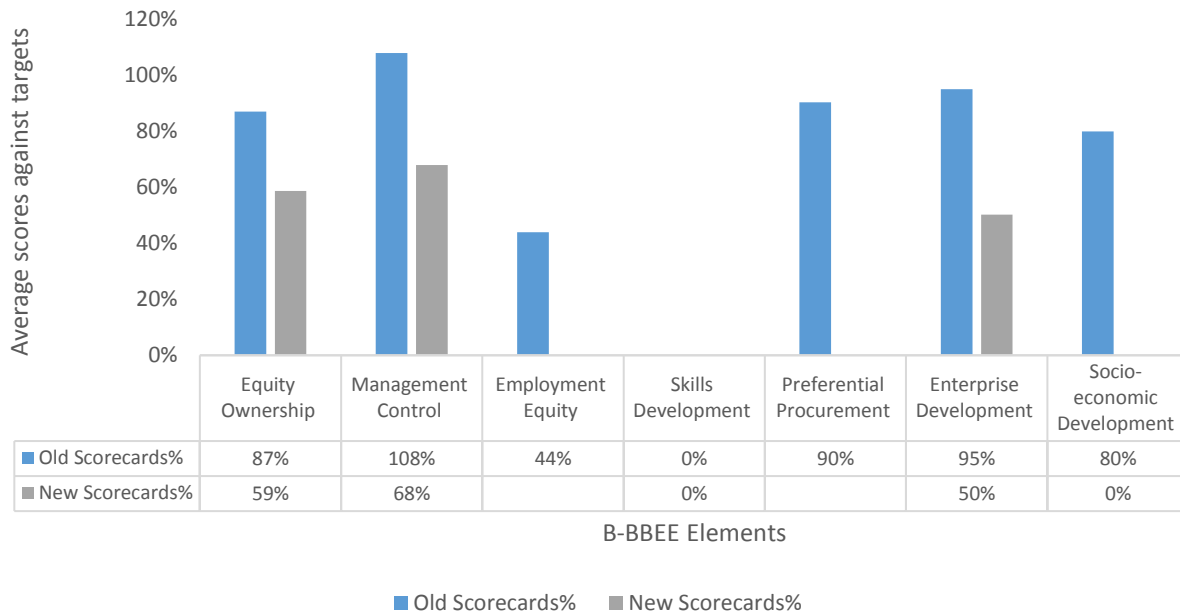


Figure 44: Leases- QSEs (Old scorecards vs New Scorecards)

QSE Lease holders also shows significant reductions in scores between old and new score cards. To start with, where previously none were measured on skills development, the new score card sees most QSE companies holding leases for terminals dropping socio economic development and preferential procurement, both elements had averages score of 80% and above. On the new score card, the average scores do not go above 70% which again shows that compliance with this requirement of the score card is significantly reduced.

6.5. B-BBEE average scores- Section 57 Licences

6.5.1. Large Enterprises: Section 57- port activities- old and new scorecards

When using the old B-BBEE codes, Table 13 shows that Large Entities under this section were scoring fairly high on all B-BBEE elements except Employment Equity and management control where they achieved an average of 59.5% and 56% against the targets on these two elements. They scored between 63% and 90% for the other elements.

They achieved 66.40% against the target for Equity Ownership, they achieved 63% against the target for Skills Development, 89.50% against the target for Preferential Procurement, they achieved an impressive average score of 90% against the target for Enterprise Development, and they achieved 88% against the target for Socio-economic Development.

Table 13: Large Entities: Average B-BBEE Scores- Port Activities- Old Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	13.28	20	66.40%
Management Control	5.95	10	59.50%
Employment Equity	8.45	15	56.33%
Skills Development	9.45	15	63.00%
Preferential Procurement	17.9	20	89.50%
Enterprise Development	13.54	15	90.27%
Socio-economic Development	4.4	5	88.00%

6.5.2. Large Enterprises average B-BBEE scores- Section 57-port activities new scorecards

Table 14 shows that large enterprises in this section achieved acceptable averages against the targets as they scored between 63% and 83% on all 5 elements. Large enterprises achieved 71% against the target for equity ownership, 63.67% against the target for management control, 69.70% against the target for skills development, 62.8% against the target for enterprise and supplier development, and they achieved a high of 83.40% against the target for socio-economic development.

Table 14 Large Entities: Average B-BBEE Scores- Section 57 Licences- New Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	17.82	25	71.28%
Management Control	9.55	15	63.67%
Skills Development	13.94	20	69.70%
Enterprise and Supplier Development	25.12	40	62.80%
Socio-economic Development	4.17	5	83.40%

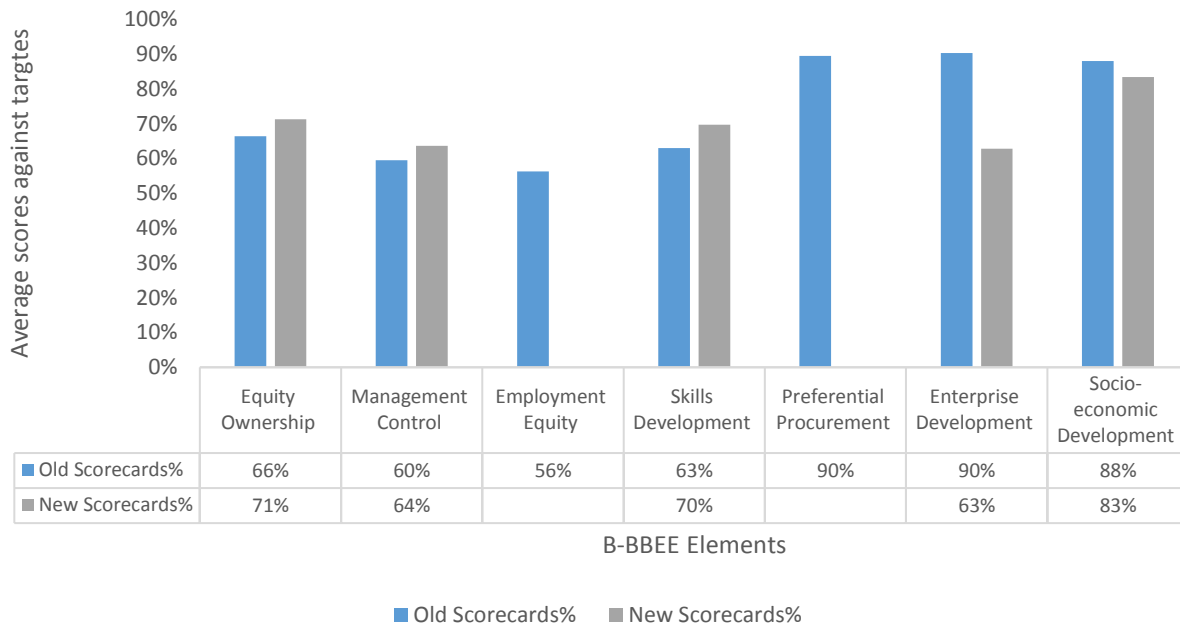


Figure 45: Comparison of B-BBEE scores amongst Large Enterprise section 57 Licence holders: old and new scorecards

A reverse trend emerges for large entries holders of section 57 Licences. The new scorecards has resulted in slightly higher averages on Equity Ownership, management control and skill development. Enterprise development averages reduce from 90% to 63% which is of concern.

6.5.3. QSE average B-BBEE scores Section 57 port activity licences- old scorecard

When applying the old codes, Table 15 shows that QSEs were achieving very impressive results as they scored 100% against the targets for all the 4 elements that they report on. They achieved 100% against the target on Equity Ownership, Management Control, Enterprise Development, and socio-economic development. None of the QSEs reported on Management Control, Employment Equity, and Preferential Procurement, as a result they scored 0% against the targets for these 3 elements. This indicates that QSEs in this section may have found it difficult to implement these elements.

Table 15: QSE-Average B-BBEE Scores- Section 57 Licences- Old Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	25	25	100.00%
Management Control	25	25	100.00%
Employment Equity	0	25	0.00%
Skills Development	0	25	0.00%
Preferential Procurement	0	25	0.00%
Enterprise Development	25	25	100.00%
Socio-economic Development	25	25	100.00%

6.5.4. QSE: Average B-BBEE Scores- Section 57 port activities Licence new scorecards

Table 16 shows that, when applying the new 2013 B-BBEE Codes, the companies Section 57 Licences achieved impressive average scores on all B-BBEE elements, scoring between 83% and 100% on most elements. They achieved maximum points of 100% against the targets on equity ownership and socio-economic development, 87% against the target for management control, and 83.77% against the target for enterprise and supplier development. Companies under this section may have found it difficult to implement skills development as they scored 55% against the target for this element.

Table 16 QSEs: Average B-BBEE Scores- Section 57 Licences- New Scorecards

Element	Average Score	Target Score	Average Score as % of target score
Equity Ownership	25	25	100.00%
Management Control	13.08	15	87.20%
Skills Development	13.76	25	55.04%
Enterprise and Supplier Development	25.13	30	83.77%
Socio-economic Development	5	5	100.00%

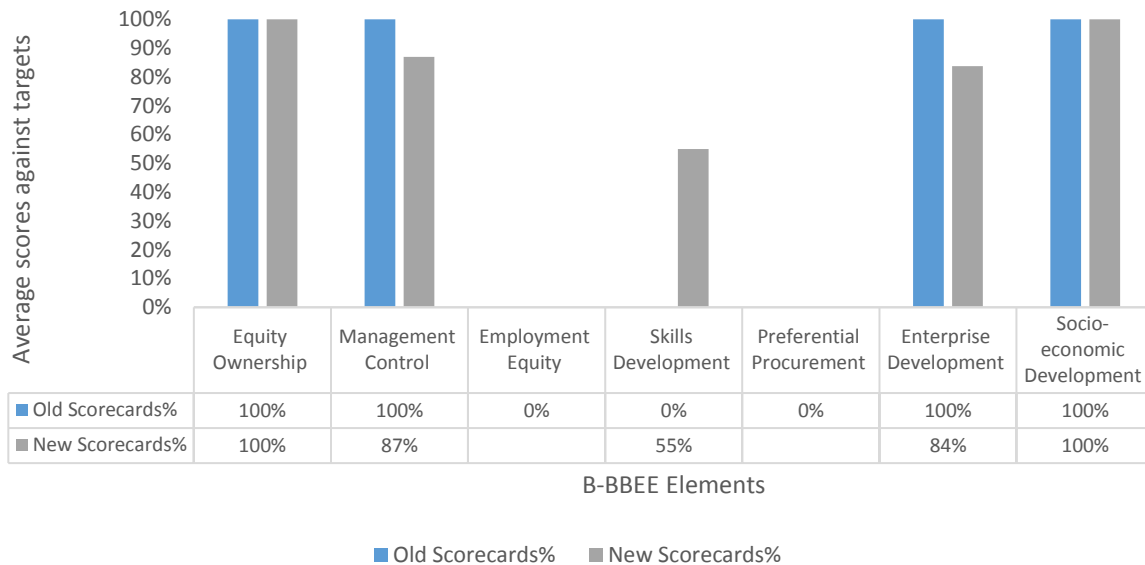


Figure 46: Comparison of B-BBEE scores amongst QSE section 57 Licence holders: old and new scorecards

Last are the comparisons of old and new score cards for QSEs in section 57 port activities as shown in Figure 46. Where averages on equity ownership and socio economic development have not changed, management control and enterprise development reduces just as in the other categories.

7. Sections where B-BBEE can be enforced

This section will look at sections of the report where transformation (B-BBEE) can be accelerated and where the Regulator’s next port transformation strategy can focus on. The recommendations and analysis will be in line with the recommendations of the Department of Transport’s Public Sector Participation of 2015 and the recommendations of the Economic Review of participation in ports operations and services in South Africa report commissioned by the Ports Regulator of South Africa (2010, p. 116; URBAN-ECON: Development Economists Consortium, 2010).

The purpose of this section is to report on the current state of transformation in those port activities that were reported as being suitable for private sector participation. Once the analysis has been done, sections where B-BBEE can be enforced, will be distilled.

This report has analysed the following sections:

- a. Section 56 & 65: Terminal Operations
- b. Commercial and Terminal Leases
- c. Section 57 Licences and Permits

- Bunkering Licences
- Diving Licences
- Stevedoring Licences
- Waste Disposal Licences
- Vessel Registration Agent

7.1. Categories where Private Participation is suitable as specified on the Regulator's Economic Review

With respect to port services, the economic review report listed the following services as all suitable for participation by private entities, public entities or participation. (URBAN-ECON: Development Economists Consortium, 2010)

- Terminal operations
- Stevedoring
- Waste Disposal
- Cargo Storage
- Ship repair facilities
- Bunkering
- Diving
- Pest control

7.2. Current status of the categories eligible for Private Sector Participation as recommended in the Regulator's Economic Review.

Terminal Operations

Figure 5 of this report has shown that Terminal operations were still dominated by large enterprises and that 73% of the terminal operators being large enterprises, 8% being QSEs, only 8% of the terminal operators being EMEs, and 11% of the terminal operators being B-BBEE non-compliant. Figure 5 also reported on the extent of involvement of each B-BBEE turnover category in terminal operations by reporting on the number of licences held by each category and the extent of terminal area occupied by each B-BBEE category. It showed that 86% of the terminal licences were in the hands of large enterprises, 4% with QSEs, and the remaining 6% were in the hands of B-BBEE non-compliant companies. Figure 5 further showed that 97% of the ports' available terminal area was occupied by large enterprises, 2.18% were occupied by non-compliant companies, and less than 1% was occupied by QSEs and EMEs.

Stevedoring

Figure 33 showed that majority of the stevedoring company in this section were EMEs at 44% and that both LEs and QSEs were at 28% each but Figure 24 showed that LEs held 49% of the stevedoring licences, while EMEs only held 26% and QSEs held the remaining 26%. Figure 35 reported on number of stevedoring licences that was awarded to each B-BBEE levels and it showed that the majority (65.79%) of the licences were in the hands of B-BBEE level 2 companies and that an amazing 87% of the licences were in the hands of companies who were rated Level 4 or higher.

Waste Disposal

Figure 36 showed that 46% of the waste disposal companies were EMEs, 37% were LEs, and 17% of the waste disposal companies were QSEs. Figure 24 showed that LEs held 51% of the waste disposal licences, EMEs held 36%, and QSEs held 13% of the waste disposal licences. Figure 38 reported on the number of licences that was held by each B-BBEE level category and it shows that 91% of the waste disposal licences were in the hands of companies that were rated Level 4 or higher.

Bunkering

Figure 27 showed that 63% of the companies under this section were LEs, while 29% were EMEs, and 8% were QSEs. Figure 28 showed that 46% of the companies achieved B-BBEE ratings of level 2 and that all companies were rated level 4 or higher. Figure 29 showed that all bunkering licences were awarded to companies who were rated level 4 or higher as no company in this section was rated below level 4.

Diving Licences

Figure 30 showed that this section was dominated by EMEs, with 58% of the companies in this section being EMEs, with 25% being QSEs, and only 17% were LEs. Figure 24 showed that 64% of the diving licences were in the EMEs, 24% were in the hands of QSEs, and only 12% were with large enterprises. Figure 32 showed that 82% of the diving licences were in the hands of companies with B-BBEE rating of level 4 or higher.

8. Average Black and Women Ownership (%)

a) Percentage average black ownership in South African ports

This section reports on the percentage average black ownership and women ownership for terminal operators, section 57 Licences and permits, and commercial and terminal leases.

Figure 47 shows the percentage black ownership across all Licences and agreements by the Authority across all South African commercial ports. Figure 47 shows that the only large enterprises (LEs) that have a percentage average black ownership above the target black ownership of 51% were the large enterprises in the bunkering business. Large terminal operators had an average black ownership 32%, LEs in the commercial and terminal lease section have an average black ownership of 41%, LEs in the diving section

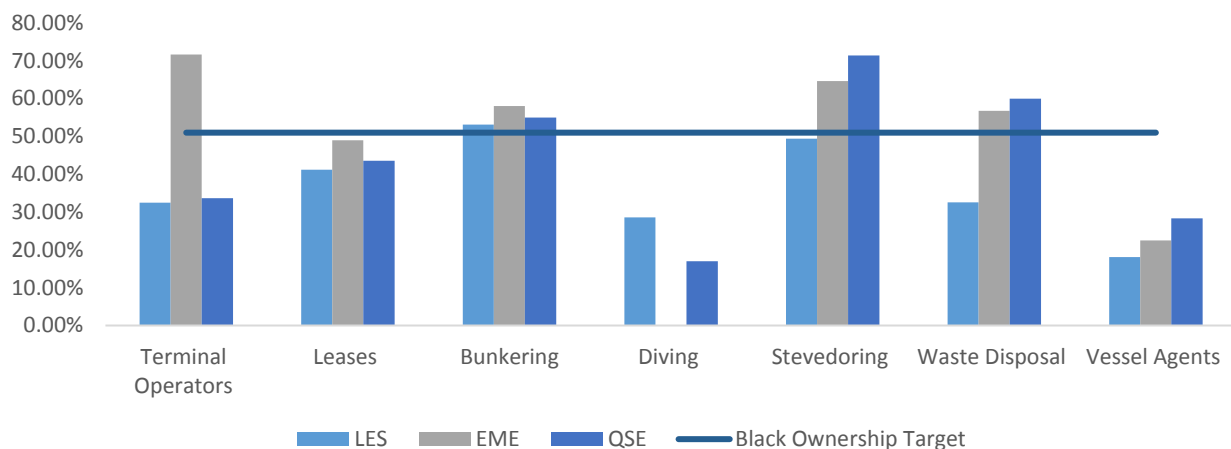


Figure 47: Percentage Black Ownership in the South African Ports

have an average black ownership of 38.57%, (LEs) in the stevedoring section have an average black ownership of 49% which is closer to the black ownership target of 51%, LEs in the waste disposal section have an average black ownership of 32.52%, and the LEs in the registered vessel agents section had the lowest black ownership of 18.07%.

Figure 47 shows that EMEs have higher average black ownership across all section except in the diving section where the EMEs in the section achieved an average black ownership of 0% and in the registered vessel agents section where the EMEs have an average black ownership of 22%. EME terminal operators have an average black ownership of 71.69% which is the highest average black ownership across all sections, the EMEs in the leases section have an average black ownership of 49% which was just below the targeted black ownership of 51%, and the EMEs in other sections all have an average black ownership that is above the black ownership target.

Figure 47 also shows that QSEs in terminal operation have an average black ownership of 33%, QSEs in commercial and terminal leases section have an average black ownership of 43%, QSEs in diving have a black ownership of 17%, and QSEs in the registered vessel agents section have an average black ownership of 28.31%. QSEs in bunkering, stevedoring, and waste disposal all have an average black ownership that is above the 51% targeted black ownership.

b) Percentage average women ownership in South African ports

Figure 48 shows the percentage average women ownership in the South African port system and it shows that the type of enterprises that achieved an average women ownership that is greater than the 30% targeted women ownership were LEs in the commercial and terminal lease sections and the EMEs and QSEs in the waste disposal section.

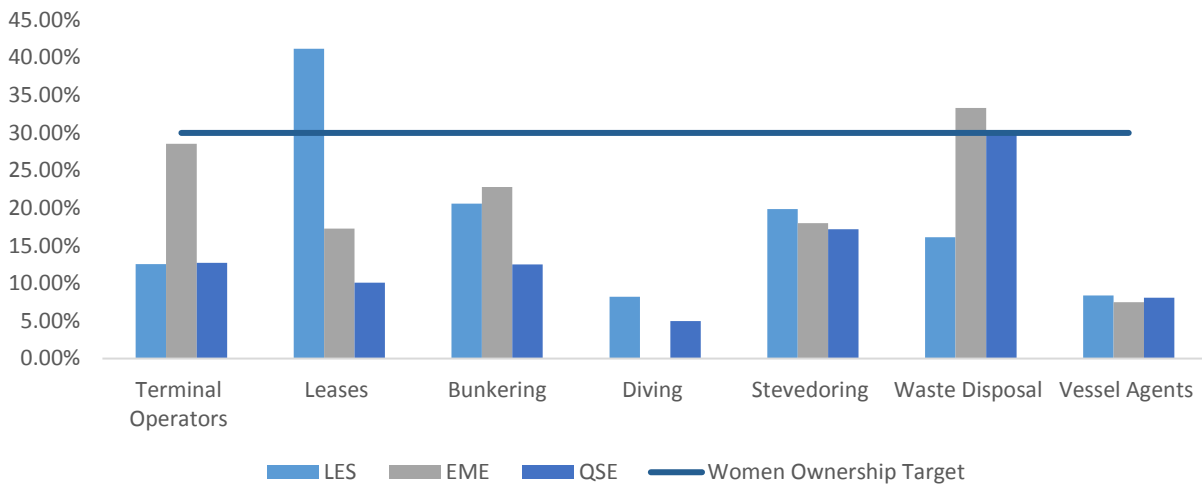


Figure 48: Percentage Average Women Ownership in the South African Ports

c) Percentage average black ownership per port

Table 17 shows average black ownership for different service provider in the port for a period (2015/16 and 2016/17). The results indicate that over the two-year period there are improvement on black ownership per port but very marginal. The last column on the table shows the overall average for each period. For example, the terminal operators' average performance has increased from 18.92% to 27.30%. The diving services also shows impressive improvement as it has increased from 5.98% to 24.91%. The other remaining services showed marginal improvements.

Table 17: %Black Ownership per port: 2015/16 vs 2016/17

Port	Terminal Operators		Stevedoring		Waste Disposal		Diving		Bunkering		Vessel Registrations	
	2015/16	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16	2016/17	2015/16	2016/17
DBN	30.86%	40.28%	69.57%	69.74	47.54%	59%	0.00%	32%	54.69%	62.34%	25.50%	28.61%
CT	36.95%	37.12%	60.56%	62.77	32.25%	32.37%	11.43%	24	41.51%	48.68%	20.62%	24.19%
MSB	SOE	0	0.00%	0	24.00%	24%	0.00%	34.64%	39.32%	51.34%	31.65%	34.69%
SLD	SOE	SOE	51.29%	43.59%	41.77%	36.38%	0.00%	18%	62.55%	51.42	14.73%	20.80%
EL	26.39%	34.63%	49.67%	44%	32.91%	51%	0.00%	26%	0.00%	0	21.55%	19%
RBV	30.77%	30.51%	67.20%	56.19%	47.37%	55%	9.62%	10.60%	39.28%	40.63%	25.97%	22.60%
NGQ	0.00%	48%	33.50%	33.50%	44.00%	44%	26.80%	26.80%	29.59%	29.59%	13.51%	13.51%
PE	26.39%	27.84%	42.14%	47%	47.54%	48.63%	0.00%	27.26%	59.19%	59.19%	21.70%	23.64%
Average	18.92%	27.30%	46.74%	44.60%	39.67%	43.80%	5.98%	24.91%	40.77%	42.90%	21.90%	23.38%

9. Conclusions and recommendations

9.1. Coverage

- a) The Regulator's access to information on transformation in the port sector is through the B-BBEE certificates submitted by the Authority as part of the legal compliance programme. The framework that was developed is evolving and addresses compliance on agreements entered into by/on behalf of the Authority as per various enabling section of the National Ports Act 12 of 2005 i.e. section 56, 57, 65 and 79.
- b) The Authority also spends in excess of R2.5 Billion per annum on capex projects and maintenance of infrastructure both of which represent a significant lever in creating and enhancing access in the provision of port facilities and services by designated groups. Procurement spend of the NPA on the delivery of CAPEX, outsourced services which are not part of the section the report focused on, may well represent a significant area for achieving transformation in the port sector which is not covered in this report.
- c) It is recommended that the Authority also report on B-BBEE or transformation projects related to the infrastructure and maintenance spend. A framework and/or template should be developed and agreed on with the Authority in this regard.
- d) The reported prevalent use of B-BBEE score cards outside of the Maritime Transport Scorecard by companies contracting on port raises concerns about the ability of the National Ports Authority to effect transformation through the Maritime Transport Scorecard.

9.2. Ownership and management in terminal operator licence

- a) There are 90 terminal operator licences held by 37 companies. Of these the sample for this report was 85 licences with four licences reported as inactive.
- b) Overall, 81% of terminal operator licences agreements are with companies with a Level 4 B-BEE rating or better. The Ports of Durban and Port of Cape Town were the only ports which had EMEs and QSEs in terminal operations and all other terminals in other ports were operated by LEs. However, the extent to which EMEs and QSEs are participating in the port operations is very limited as evidenced by the small percentage of the terminal area they manage in the system which is less than 2%.
- c) Section 2 of the report has shown that a number of terminal licences are in the hands of foreign enterprises, with 33% belonging to foreign owned terminal operators. Their Black ownership collectively is below 30%. It is recommended that measures be put in place to

ensure foreign owned enterprises compliance with B-BBEE including black people in the value chain, and that black ownership is increased.

- d) Section 67 of the Act empowers the Authority to take measures necessary to restructure and reform ports in relation to long-leases and the use thereof to ensure that historically disadvantaged groups are included in the economic activities of the ports. Terminal Licences of those terminal operators that are non-compliant on black/woman ownership and management may be reviewed under this provision. In the meantime, the expiry and renewal of terminal Licences presents an opportunity for inclusion of new scorecard requirements from potential terminal operators that will address ownership and management in line with the transformation objectives.

9.3. Commercial and Terminal Leases in the port

- a) There were 37 commercial lease holders of which 49% were EMEs, 32% LEs and 19% were QSEs. Even though commercial and terminal lease and the port activities sections are dominated by EMEs, majority of these EMEs had no black ownership as they were rated level 4 based on the annual turnover criteria. Measures should be taken by the Authority to ensure that black and woman ownership and management elements of B-BBEE is enforced. To this extent the current regulations would accordingly require a review and amendments to include appropriate targets for the Authority to comply with and the Regulator to monitor.
- b) Most lease holders were awarded 1 lease with the exception of four who held more than 1 lease agreement in the 2015/16 period.
- c) All lease holders with black ownership above the 51% targeted black ownership held one lease. Measures should be taken to ensure that majority of the new leases are awarded to companies who are B-BBEE compliant and to comply with defined ownership targets (e.g. at least 51% black owned).

9.4. Key recommendations

- a) It is recommended that the Authority, with oversight by the Department of Transport, ensures that the participation of EMEs and QSEs in all South African commercial ports and activities is improved.
- b) Measures to improve black and women ownership, management and participation in the country's ports must be addressed through a review, finalisation and promulgation of the new B-BBEE Maritime Transport Scorecards. Based on the findings, the scorecards should make provision for or set requirements for percentage black and woman ownership and management.

- c) Accordingly, the current regulations should be revised to align with score card requirements on Ownership and Management to enable the Authority to comply.
- d) A strategy through which the Authority can translate Enterprise Development into empowered companies that can access and participate in port operations or elements thereof is necessary.
- e) The department of Transport is encouraged to, as soon as is practicable, promulgate the new score card in a manner that will address gaps identified (e.g. lack of management and ownership) and ensure consistency of application of the MT&IS score card in the maritime sector whilst complying with the 50% turn-over requirement.
- f) There must also be consideration of areas of alignment with scorecards in those sectors where there is concurrency e.g. Scorecard of the Department of Energy in relation to petroleum sector.
- g) The compliance framework with the National Ports Authority must also be revised to include B-BBEE reporting on the capex and maintenance program.
- h) The legal framework for increasing the participation of private sector, including SMMEs is provided for in section 80 of the National Ports Act which empowers the Minister of Transport to make regulations in respect of (a) a framework for the economic participation and empowerment of historically disadvantaged groups in port operations and (f) a framework for economic participation in port operations and services by public entities, private entities and public-private partnerships. The finalisation and implementation of the Private Sector Participation Framework as per section 80 of the Act will assist in defining which sectors in the port system transformation can be pursued and monitored more rigorously.
- i) Lastly, to further enhance and assure the independence of the information the Regulator relies on with regards B-BBEE compliance and related information, it is recommended that the Regulator enters into a Memorandum of Understanding with the B-BBEE Commission that will allow information sharing including B-BBEE certificates and related information, among others.

Glossary and Definitions

Acronym	Full word / Definition
B-BBEE	Broad-Based Black Economic Empowerment
BEE	Black Economic Empowerment
DoT	Department of Transport
DTI	Department of Trade and Industry
E&SD	Enterprise and Supplier Development
ED	Enterprise Development
EE	Employment Equity
EME	Exempt-Micro Enterprise
JSE	Johannesburg Stock Exchange
LE	Large Enterprise
MT&SI	Maritime Transport & Services Industry sector codes
New MC	New Management Control (As per the new 2013 codes)
NPA/TNPA/ The Authority	National Ports Authority
Old MC	Old Management Control (As per the old 2007 codes)
PP	Preferential Procurement
PRSA/The Regulator	Ports Regulator of South Africa
QSE	Qualifying Small Enterprises
SD	Skills Development
SOE	State Owned Enterprises

Bunkering	The transfer of "any hydrocarbon mineral" by any means, including but not limited to, MOD (Marine Diesel Oil), MFO (Marine Fuel Oil), MGO (Marine Gas Oil), MGO (Marine Gas Oil, AGO (Automotive Gas Oil), LNG (Liquefied Natural Gas) or lubricating oil used or intended to be used for the operation or propulsion of a vessel, and any residues of such oils
Diving	Diving refers to commercial diving activities , within port limits, that may impact on the maintenance of safety, security and good order in the port, pre-authorized in terms of the Harbour Master Diving Permit system
Stevedoring	Stevedoring work refers to working of cargo in the holds or on the deck of a vessel when such vessel is being loaded or unloaded in a port
Waste Disposal	Waste disposal refers to the temporary storage, collection, pick-up, transfer including ship to shore transfer and transportation of waste, (including scrap metal) as defined in the National Environment Management: Waste Act 59 of 2008, within or through port limits, amongst other things, for treatment, re-use, recycling, trading in waste or disposal at an appropriate and licenced waste disposal facility.
Registered Vessel agents	in terms of the Port Rules- "vessel agent" refers to the agent of the owner of the vessel

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