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GENERAL NOTICE

NOTICE 1336 OF 1997

DEPARTMENT OF AGRICULTURE

MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996 (ACT No. 47 OF 1996)

REQUEST FOR STATUTORY MEASURES: REGISTRATION AND RECORDS AND RETURNS RELATING TO MAIZE

It is hereby made known in terms of section 11 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), that the Minister of Agriculture has received a request for statutory measures in terms of section 10 of the said Act as set out in the Schedule hereto.

Directly affected groups are hereby invited to lodge any objection or representation regarding the proposed statutory measures with the National Agricultural Marketing Council within **14 days** of the publication hereof.

Submissions should be in writing and be addressed to:

**The Chairperson
National Agricultural Marketing Council
Private Bag X935
PRETORIA
0001
Fax No.: (012) 325-2157
Enquiries: Mr Schalk Burger
Tel.: (012) 325-2150**

W. E. KASSIER

Chairperson: National Agricultural Marketing Council

SCHEDULE

1. APPLICANTS

The applicant for the measures set out in this Schedule is the Maize Board, acting on behalf of—

- ☐ National Association of Maize Millers
- ☐ Animal Feed Manufacturers Association
- ☐ South African Grain & Produce Shippers' Association
- ☐ National Maize Producers' Organisation
- ☐ Uniegraan Co-operative Limited

2. REQUESTED STATUTORY MEASURES—REGISTRATION AND RECORDS AND RETURNS RELATING TO MAIZE

The statutory measures that are requested to be established, are that the Minister—

- 2.1 in terms of section 19 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996) ("the Act"), by notice in the *Government Gazette*, direct that, in respect of maize, the persons as specified in this Schedule shall be registered with the South African Grain Information Service; and
- 2.2 in terms of section 18 of the Act, by notice in the *Government Gazette*—
 - 1.2.1 direct that the persons specified in this Schedule shall keep records and returns with regard to maize which such person has in his or her possession or under his or her control, and direct that such records and returns be furnished to the South African Grain Information Service; and
 - 1.2.2 direct that such records and returns shall be kept for the period and furnished at the time and in the manner as set out herein.

3. INFORMATION REQUIRED IN TERMS OF SECTION 10 OF THE ACT

The particulars as required by section 10 of the Act to be included in a request for the establishment of a statutory measure, are given in the same sequence as that required by the Act. Where applicable, separate particulars are supplied in respect of registration and in respect of records and returns. Where separate particulars are not supplied, the particulars are identical for both statutory measures:

- (a) (i) The statutory measures that are proposed, would relate to white and yellow maize as being the threshed and unthreshed product of plants of *zea mays indentata* and *zea mays indurata* or one or more crossings thereof, but excluding seed maize intended for propagation purposes, green mealies for human consumption and maize utilised as silage.
- (ii) The categories of directly affected groups, which would probably be affected by the establishment of the proposed statutory measures, are:

Registration

Those groups of persons who are party to the purchase of maize from producers and those persons who process maize for the sale of the products derived therefrom.

Records and returns

Those groups of persons who are party to the purchase of maize from producers and those persons who process maize for the sale of the products derived therefrom. It needs to be noted that other persons than those defined as directly affected groups in the Act, will also be affected by the establishment of the proposed statutory measure, namely such persons who import or export maize or who stores maize, excluding producers who store their own maize.

- (iii) The proposed statutory measures should apply to the whole of the Republic of South Africa, in order to have a uniform system of registration without the discrimination that would be consequent on requiring registration in certain areas and not in others, to obtain a comprehensive and total picture of the maize market and to be able to disseminate to the industry a full report on market information within the country as a whole.

- (b) The following motivation with regard to the proposed statutory measures' relation to the objectives of the Act, was submitted by the applicants:

"Market information is essential for all roleplayers in a deregulated market, in order for them to be able to make informed decisions and for the market to operate effectively. Without proper and accurate market information that is available on a continuous and timeous manner, the market will not develop properly and roleplayers will not be able to participate on an equal footing based on the same information.

To be able to disseminate information as accurately as possible, it will be necessary to compel processors, purchasers, importers, exporters and warehouseers of maize to render monthly returns on an individual basis, so that market information for the whole of the country would be processed and disseminated to the market place. A system of compulsory registration of processors and purchasers of maize will assist the administration of the statutory measure relating to records and returns.

The establishment of the statutory measures applied for, will therefore not only increase market access for all market participants but will also promote the efficiency of the marketing of maize and maize products. Furthermore, proper market information will definitely enhance the viability of the maize industry and the agricultural sector at large, and will even, to some extent, contribute towards the optimisation of export earnings from maize and maize products.

From this it can be seen that the establishment of these statutory measures will further all the objectives of the Act as stipulated in section 2 (2) thereof.

The intended statutory measures will indirectly also enhance food security as the information on national stock levels and maize stored by owners of commercial grain storage facilities, will be available. The measures will further not be detrimental to the number of employment opportunities within the economy or to fair labour practice. Therefore the statutory measures will not prejudice any of the objectives of the Act and will not contravene section 2 (3) thereof."

- (c) To comply with the provisions of section 13 (2) (a) of the Act, it is suggested that the initial duration thereof be four years from the date of implementation in order to coincide with the financial year of the proposed company responsible for the administration. This is of course subject to an application for the continuance thereof, should it be required. The measures will, in terms of the Act, be subject to evaluation and review by the National Agricultural Marketing Council at least every two years. Furthermore the Act provides for an application to be made for the repeal of statutory measures.
- (d) It was submitted that a non-profit seeking company under section 21 of the Companies Act, which is to be formed jointly by the different grain and oilseeds sectors of the agricultural industry, is the most appropriate vehicle for implementation of the proposed statutory measures. The company shall be known as the South African Grain Information Service. Both the Department of Agriculture and the Central Statistical Service were considered as possibilities for the administration and enforcement of the proposed statutory measures. However, due to a lack of the necessary manpower and other bureaucratic constraints, both these bodies indicated their inability to do so, and the maize and other industries involved came to the conclusion that an independent structure should be formed to fulfil the task. Such a structure will be industry driven and will therefore be able to develop and to adhere to the specific needs of each industry involved. As indicated, the company will be a legal person under the Companies Act.
- (e) As the company mentioned in (e) above will be formed specifically for the purpose of administering the proposed statutory measures and similar measures that may be applied for by other agricultural sectors, it was submitted that the most appropriate way of organising the inspection and enforcement of the intervention, would be to assign that function to the company. In this regard it was envisaged that the Minister would appoint either personnel of the company or independent contractors as inspectors in terms of section 21 of the Act to inspect and enforce the proposed measures. Lists of persons obliged to register and obliged to keep and render

records and returns under the measure will be kept by the company. The company will be aware of failures to comply with the measures as those liable to register and to keep records and render returns, will mostly be included in the lists kept by the company. Furthermore, random inspections can be carried out by the inspectors from time to time to ensure the compliance with the measures.

- (f) As it is proposed that the company, in the case of maize and the particular proposed statutory measures be funded by the to be formed Maize Trust, there should be no financial implication for the fiscus. It is envisaged that there may in future be a necessity to fund the company by means of levies under section 15 of the Act, but at such time the appropriate application will be made therefor. Even then, there should be no financial implication for the fiscus.

4. BACKGROUND AND MOTIVATION SUPPLIED BY THE APPLICANTS

The applicants regard it as essential for the market to operate that generic market information should be supplied to all role-players on a continuous basis. The phasing out of the Maize Board, as prescribed by the Act, will result in a vacuum with regard to the supply of generic market information. The applicants developed a framework to address this issue.

In the development of the framework, the following important criteria were applied:

- ☐ Only generic market information is to be made available and access to individual information must be kept strictly confidential (at all cost).
- ☐ The supply of the information should be neutral, objective, credible and timely.
- ☐ The needs of the total industry in respect of information must be complied with, including the commercial and the emerging sectors.
- ☐ Costs should be kept to the minimum. It would therefore be preferable for a number of reasons that different industries should strive to work together in this regard.

The applicants have come to the conclusion that the information should be obtained and disseminated by means of statutory measures in terms of the Act. The organisational structure envisaged for the administration of the measures will also be accessible to other industries. The planning in this regard has been done with the involvement of the wheat, oats, barley, sorghum and oilseeds industries, but apparently each of these industries will lodge its own application for statutory measures and for the funding and nature of the information that their respective industries should require.

The opinion is held by the applicants that the proposed statutory measures should be implemented as soon as possible in order not to create serious problems in the maize industry due to a lack of credible market information as a result of the envisaged disbandment of the Maize Board which has rendered this service to the industry, as well as the repeal of the present Maize Marketing Scheme in the near future.

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