

15 June 2010

MEMORANDUM TO: All members and affiliates of Kwanalu

AGRI SA AND ITS AFFILIATES MAKE PREPARATIONS FOR NEW LAND POLICY

In the run-up to and since the 2005 summit held at NASREC which dealt with access to and ownership of land, there had and continues to be, increasing pressure within government to move away from the “willing buyer, willing seller” policy. It is said that this approach is time-consuming and gives rise to unnecessarily high land prices. In light of this it was suggested, among other things, that the Expropriation Act be amended and that it be used more extensively than at present to acquire land for redistribution; that land ownership per individual be limited (one farmer, one farm); that an overarching land tax be levied on agricultural land, and that the tenure rights of farm dwellers (not only workers) be strengthened through legislation. To date very little has come of these suggestions except that a new Expropriation Bill was drafted and withdrawn from the parliamentary process due to unconstitutional elements contained therein. (We now know that a revised Expropriation Bill will become before Parliament in January 2011)

Since 2005 Agri SA and its affiliates have been extensively involved with the development of acceptable land policies as contained in documents approved by the Agri SA congress in 2007, 2008 and 2009. Underlying points of departure of Agri SA’s policy on the land question are as follows:

- The need for land reform given the imbalance caused by racially based legislation, accepting that addressing such imbalances is a national responsibility that may not be to the selective disadvantage of existing land owners. A second phase of injustice is not in the interest of a sustainable dispensation. This argument also figured very prominently in the Modderklip case.
- Changes regarding access to and ownership or use of land must be effected in a transparent manner within an acceptable legal framework, supported by adequate funding and other forms of assistance. In this regard Agri SA relies strongly on the provisions of the Constitution which protect property rights, with the point of departure being that market considerations should be the determining factor for fair compensation. In addition, a more user-friendly funding dispensation was proposed.
- Given the importance of uninterrupted agricultural production for the sake of food security, employment and broad-based economic development – especially in rural areas – partnership arrangements must be in place between the public and private sectors to manage the transformation process as seamlessly as possible. For this purpose, it was suggested that liaison forums be established at national, provincial and local level; mentorships were encouraged; selection criteria for the identification of suitable candidates were developed and programmes to support new entrants were launched by Agri SA’s affiliates. The programmes and models were presented to the public and government representatives during a farmer development conference held in February 2010.
- Serious deficiencies in the government’s administrative capacity, as well as in the processes to manage land reform, were revealed and raised with the relevant departments. These included a lack of transparency with the listing and de-listing of land for restitution purposes, red tape hampering the finalisation of claims, absurdities with certain transactions which are not in line with market trends and which resulted in a distortion of land prices, reduced offers to land owners in other cases, a lack of investigation into allegations regarding gross

negligence and corruption, confusing conduct relating to the prioritisation of transfers and an unacceptable delay on the part of the state to pay for land already acquired and transferred. Frustration over unsatisfactory feedback in this regard compelled Agri SA to raise certain aspects with the Human Rights Commission and to consider legal action.

At its Polokwane congress, the ANC adopted resolutions demanding accelerated land reform and an end to the “willing buyer, willing seller” approach. The Minister of Rural Development and Land reform, Mr Gugile Nkwinti, said in Parliament in 2009 that he would liaise with Agri SA regarding the implementation of this policy brief. Thereafter this was repeated in Parliament, but unfortunately he and some of his other Cabinet colleagues have also stated in public that if land owners fail to co-operate, it could result in a situation similar to the land grab in Zimbabwe.

Despite the above, proposals were submitted to government with a request for early consultation with Agri SA - as representative of land owners - regarding possible changes in the policy approach. This request has been repeated on various occasions. To date, however, the ruling party has stated that it deems policy formulation to be an internal process.

In the Department of Rural Development and Land Reform’s Strategic Planning document tabled in Parliament in March 2010, drastic changes in land policy were envisaged which were also confirmed by Minister Nkwinti in his budget speech. He envisaged that a Green Paper (i.e. a draft policy document to be released for commentary) would see the light before end April 2010. This has not materialised. Analysis of the utterances of various government spokespersons reveals that they have at different occasions highlighted elements of the expected policy changes which confirms that the government intends playing a far stronger regulatory role in the land market than is currently the case. To date, however, it is not known when the Green Paper will be in the public domain and what the time scales will be for consultation and finalisation thereof.

Agri SA confirms that it has a clear mandate from its affiliates as to what represents an acceptable policy dispensation in respect of land and that, as a civic organisation, it has and continues to be willing to use negotiation and, with its local and international networking relationships, will exert pressure to promote its views. Agri SA and Kwanalu has and is still prepared to use legal action for this purpose.

Given where the government process already stands in this regard, Agri SA and Kwanalu is seeking advice on how it might optimise its influence to ensure that the interests of the industry and the economy in general can best be served.

In order to reaffirm Agri SA’s mandate in this regard and to co-ordinate actions with its members, separate consultations will take place with commodity organisations and provincial agricultural unions in the near future. Preparations are under way to give sufficient substance to these meetings.

Kwanalu’s management committee is of the opinion that responsible handling of this challenge, namely to retain certainty and confidence regarding property rights, is critical for agriculture, in particular, but also for the economy in general and for food security. For this reason we will continue to participate in close consultation with Agri SA, our members and affiliates to give continued effect to our collectively determined policy positions.

Yours in Agriculture

Robin

Robin Barnsley
President

Sandy La Marque
CEO