

CFU Calling

05 NOVEMBER 2010

EXECUTIVE NEWS

Reflecting back on the above date, this is the date when we traditionally celebrated Guy Faulkes' night with bonfires and fireworks displays, but this has now faded into insignificance.

Probably the only bangs that we should hear at the moment though will be those of thunder – which will, hopefully be accompanied by some welcome rain. After all it is that time of year and we sincerely hope that that you have received at least some precipitation to settle the dust. Whether you are farming or not there is still nothing like some good rain to lift one's spirits as the new season begins.

Whilst, at the beginning of the week farmers and friends gathered in Chegutu so say farewell to the late Kobus Joubert we are once again very disappointed that the Police have not yet found any leads or made any arrests for his murder. We therefore urge all our farmers still out there to remain very vigilant and to report any incidents to us at the office here.

As far as we are aware, this week has been relatively quiet, unless further incidents have occurred have not yet been reported to us.

Your team has once again been extremely active this week in trying to resolve a number of issues as well as constantly lobbying on your behalf. Unfortunately in this line of activity one seldom sees any instant results but they are useful in keeping our allies well informed as well as chipping away to garner as much support as possible in other areas.

A lot of work has been done behind the scenes too on our Compensation Case which is currently with the High Court of Zimbabwe and without revealing our strategy on this open means, we can say that some extremely useful precedents have already been set and more should follow as the case progresses. Currently arguments are being held outside the court on the representations made over compensation amounts.

We are also involved in several other very important land mark cases, another of which has been filed with the Supreme Court this week. Unfortunately some of the issues being brought up are currently also too sensitive for these open means. We eagerly await the outcome of the Supreme Court application for a moratorium on the ongoing prosecution and eviction of farmers.

More work has also been done on the survey and recommendations gathered from Rob Ward's country tour and the final document will be presented to Council when it sits next week on **Thursday 11 November 2010**.

Please remember also that our **Open Farmers' Meeting** will be held at **3pm** on **Tuesday 9 November**.

Although the full document of the survey will soon be revealed the survey contains a few of the, below, quotable quotes:

"Like DSTV, the CFU should offer a bouquet of services, from which members can choose, on a pay-for-what-you-get basis."

"In the land of the blind, one eye is king."

"Hold on to the anthills, defend the Deeds offices, and make a space for our grand children."

"Remember the Alamo."

"What ever happens, make sure the tobacco floors and the Commercial Farmers' Union are not destroyed."

With regard to the results of some 100-plus questionnaires, below is a summary of a few of the results:

- 32% of the sample are still farming, 64% of which want to continue farming.
- Of those 80% have their properties registered with Valcon.
- 50% has not had their expectations met by CFU.
- 39% had their current expectations addressed by the Union.
- 44% feel that CFU have the right goals, policies, strategies and structures.
- 31% suggested they have no idea of these goals, policies and strategies.
- More than half support the notion that the CFU leadership is accountable and has the right managers running the operation.
- 50% agreed that the membership fee is good value for money.
- The respondents were split in terms of reducing overhead costs to match the declining membership revenues.
- 70% felt that CFU could resolve the compensation issue.
- Less than half felt that CFU could do anything about conflict resolution.
- Most didn't believe CFU could do anything to provide a livelihood safety net for them.
- 57% supported the concept of one Union.
- In terms of rebranding to change the image of the Union was split 35% said Yes; 42% said No; 23% did not know.
- 57% said they would rejoin the Union in 2012.

These results have obviously stimulated a lot of interesting discussion and debate at Council as we tried to analyse the results and suggest the necessary arrangements to overcome the weaknesses as well as improve our strengths to enable your Union to adapt to the current requirements of our membership.

We would like to sincerely thank those of you who took the time and trouble to participate in the survey, which has really helped us in our policy formulation exercise as well as assess the approval of the direction which we are currently taking.

We feel that with regard to communication, we are doing our best via the distribution of this weekly bulletin but wish to point out that there are certain issues which are not safe to discuss or divulge on these means, which does unfortunately limit our coverage. The same goes for information covered in our exciting new magazine AgriZim – the latest issue of which can already be found on our website www.cfuzim.org.

We therefore urge you to attend any meetings which we do call either around the country or else our open monthly meeting here in Harare where we are in a better position to answer your questions and inform you more openly. Your Regional Chairman is also always well briefed so you should also seek updates from him. Our doors at the Union are also open for you to communicate one-on-one with us up here too.

The official notice has been sent out to inform everyone about the **Emergency General Meeting** which will be held here at the Union on **30th November 2010**.

Please be advised of a "Special Congress" to be held at Agriculture House commencing at **09:00 hours**.

The Agenda is as follows:

08:00 – 09:00 Registration of Delegates

09:00 – 09:15	Opening of Special Congress with scripture reading and prayer
09:15 – 09:30	i) Directors welcome and notice to convene ii) Welcome and opening statement by CFU President
09:30 – 13:00	In house discussion points i) CFU Strategic planning and restructuring ii) CFU Policy document iii) CFU Constitution iv) Way forward and debate v) Closure
13:00 -	Lunch

It is also very important that any delegates who wish to attend should inform our offices before the 19 November 2010. This is particularly important with regard to registering official (voting) delegates which represent farmers associations and regional committees.

We thank all of those who have so promptly sent in their subscription fees and we encourage each member to locate at least one non-paying member and encourage him to renew his membership with your Union.

The Union has received payments for licence fees in its Standard Chartered account. However, there is no record from either the depositor or in respect of which farmer, company etc the amount is for.

May we kindly request that if anybody has made any deposits into the Unions account for the months of September and October 2010 to please do the following:

1. Send proof of payment via fax to the Accounts department on 309828 and if you battle on that number send it to 309810 or via email to cfuaccounts@cfuzim.org
2. Send an email to cfuaccounts@cfuzim.org stating date of payment, amount and in respect of whom payment was made

Your urgent attention to the above will be appreciated.

The proposed meeting with the South African Ambassador and his team which was due to come up from South Africa and which was scheduled to take place in Bulawayo, Gweru, Beit Bridge and Bubybe unfortunately did not take place.

Unfortunately the Ambassador's sister had passed away and he went down to SA to attend her funeral. Mr Imran Simmins assured us that the proposed meetings will take place as soon as the ambassador is back from SA, hopefully in the next two weeks.

Head office insists that the ambassador should be part of this initiative and has cancelled the delegation to visit us from Pretoria, until the ambassador is personally available.

We apologise for any inconvenience caused by the late cancellation of the trip. We will do everything in our power to ensure that the trip does take place as we feel that it is extremely important for the outgoing Ambassador and his team to have personal experience and evidence of exactly what losses and hardships the South African (and Zimbabwean) farmers are enduring on a daily basis.

Last week we included in our bulletin extracts taken from **General Laws Amendment Bill**, which we view as a particularly damaging and dangerous piece of legislation, in which certain aspects which have been included may affect us all. We thank the **Veritas** team for adding their insight following their in-depth analysis of the Bill.

Below, is taken directly from their latest bulletin:

General Laws Amendment Bill : Proposed Amendment to Copyright Law

In the recently gazetted General Laws Amendment Bill there is a clause to amend the Copyright and Neighbouring Rights Act which has serious implications for the rights of citizens to freely access and distribute legislation, notices and other material in the Government *Gazette*, court judgments and certain public registers. The amendment proposes to subject such information to copyright protection. It is important that such information should remain in the public domain [i.e. openly available to everyone and not subject to copyright protection].

At present, under section 10 of the Copyright and Neighbouring Rights Act, certain public documents are not subject to copyright. These documents are:

- official texts of statutes;
- official texts of judicial proceedings and decisions (i.e. judgments);
- notices and material published in the Government *Gazette*;
- the contents of official registers.

Clause 16 of the General Laws Amendment Bill proposes to subject all these documents to copyright.

What this means is that copyright in all these documents will vest in the Government. The Government, as copyright holder, will have a complete discretion in deciding whether or not the documents should be published and disseminated, after their initial publication in the *Gazette*; and the Government will be able to dictate the terms and conditions under which the documents are published and disseminated. So for example:

- if a private organisation wants to publicise electoral laws prior to an election it will have to get permission from the Government, in addition to any permission it may require from the Zimbabwe Electoral Commission;
- if a human rights organisation wants to disseminate a court judgment it will have to get permission from the Minister of Justice — who may himself have been a party to the case;
- if an organisation wants to print and issue a statutory form enabling women to apply for maintenance, the organisation will have to get permission from the Government before doing so — and it may have to pay the Government a royalty for each form printed and distributed.

The amendment embodied in clause 16 is unconstitutional and inimical to the ideals of good governance and respect for the rule of law.

Furthermore, it is contrary to best practice in the southern African region.

Constitutionality of Clause 16

Section 20 of the Constitution guarantees freedom of expression, that is to say freedom to “receive and impart ideas and information without interference”. The proposed amendment will certainly hinder this freedom because no one will be able to publish laws and court proceedings without permission from the Government. The amendment will be unconstitutional, therefore, unless it falls within one of the permissible restrictions on freedom of expression that are allowed by section 20 of the Constitution.

Section 20 permits restrictions to be imposed:

In the interests of defence, public safety, public order, the economic interests of the State, public morality or public health. The amendment cannot be regarded as protecting any of these interests except — marginally — the State’s economic interests in so far as the State may get some royalty payments from people who reproduce statutes and judgments. But does the Government seriously anticipate making a profit from the publication of legislation and judgments?

To protect the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings. But those interests are already protected — and more appropriately protected — by legislation such as the Courts and Adjudicating Authorities (Publicity Restriction) Act.

To maintain the authority and independence of the courts or tribunals or the Senate or the House of Assembly. If one assumes that laws enacted by Parliament are generally good, and that the judgments of our courts are generally sound, the publication of laws and judgments can only enhance the reputation of our legislative and judicial institutions. And if bad laws are passed, or bad judgments delivered, then they must be published if they are ever to be corrected.

The amendment cannot therefore be regarded as falling within any of the permissible restrictions on freedom of expression.

The amendment may be intended to prevent the inaccurate publication of statutes and judgments. Even if that is the reason, it is still unconstitutional:

Firstly, the prevention of inaccuracy is not one of the permissible grounds for restricting freedom of expression under section 20 of the Constitution.

Secondly, the amendment covers both accurate and inaccurate publications without distinction. All require permission from the Government, and permission may be granted or withheld entirely at the Government's discretion, regardless of accuracy. In short, the amendment goes far too far.

Our Supreme Court has laid down a three-fold test to decide whether or not a statute which limits a fundamental right such as freedom of expression is constitutional. The court must ask itself:

Is the legislative objective sufficiently important to justify limiting the fundamental right? In this case, if the objective of the proposed amendment is indeed to prevent the publication of inaccurate versions of laws and judgments, then the answer to the question is: Well, maybe. If the object is to collect revenue for the Government the answer is: Certainly not.

Are the measures designed to meet the objective rationally connected to it? Here the answer is, Certainly not. To give the Government the rights of a copyright-holder in all public documents has little or no connection with the prevention of inaccuracy. Copyright is a property right akin to ownership. It is an economic right. It has no rational connection to the publication of inaccurate information.

Do the means used to achieve the objective impair the fundamental right more than is necessary to accomplish the objective? Here the answer is: Clearly yes. The amendment will impose a broad and serious restriction on freedom of expression. Preventing inaccuracy can be achieved by other means, for example by penalising the publication of inaccurate versions of statutes and other public documents. Indeed, existing laws may well be adequate to achieve that purpose.

Clause 16 of the General Laws Amendment Bill, therefore, will violate section 20 of the Constitution.

Clause 16 and the Rule of Law

In the Inter-party Political Agreement of September 2008, the parties emphasised their commitment to “reorient our attitudes towards respect for the Constitution and ... the rule of law”, and in clause 11.1 of the Agreement they agreed that it was the duty of all political parties and individuals to adhere to the principles of the rule of law.

One of the essential elements of the rule of law is that the law must be readily available to the public. Clearly so: if people don't know what the law is, they will not be able to obey it. So statutes and judgments which embody the law must be disseminated as widely as possible to everyone who may need or want to read them.

If the Government is granted copyright in statutes and judgments, then the Government will control how they are disseminated. No Government can be relied on to always respect the ideals of openness and transparency which are essential to good governance. And even if an ideal government were in place, any freedom of expression following the proposed amendment would be subject to the continuing goodwill and capacity of the Government — which in itself would be a negation of the rule of law.

Clause 16 and Regional Practice

The proposed amendment will also be contrary to best practice in the southern African region.

In South Africa, section 12(8) of the Copyright Act No. 98 of 1978 states that no copyright subsists in official texts of a legislative, administrative or legal nature. So statutes and judgments are not subject to copyright.

In Zambia, section 8(2) of the Copyright and Performance Rights Act 1994 states that there is no copyright in Bills or Acts of Parliament.

In Botswana, section 6(2)(b) of the Copyright and Neighbouring Rights Act No. 8 of 2000 states that no copyright protection under the Act extends to any official text of a legislative, administrative or legal nature. So, as in South Africa, statutes and judgments are not subject to copyright.

Conclusion

The amendment proposed by clause 16 of the Bill will violate section 20 of the Constitution, will be inimical to transparent government, human rights and the rule of law, and will be contrary to best practice in the southern African region.

Veritas makes every effort to ensure reliable information, but cannot take legal responsibility for information supplied

The other area which would possibly affect us is from the below proposed legislation:

The only way we can prevent the offensive parts of the proposed legislation entering the statutes is to lobby through our Members of Parliament and other interested parties.

LABOUR AFFAIRS UPDATE (from the desk of Marc Carrie-Wilson and Tongai Marodza)

Members please note the following statement from the HPC concerning a misrepresentation in the press by the NEC and the status of the Labour Court case in which they are disputing the validity of the purported Collective Bargaining Agreement of June 2010 which sought to increase minimum wages in the Agro and Horticulture sectors to US \$70 per month:

PUBLIC NOTICE TO ALL MEMBERS

Purported CBA agreement of 4 June 2010

We have seen an advertisement in the Herald of today 1 November 2010 from NEC Agriculture purporting that matter ALC/REV/H/64/10 was concluded by a withdrawal with court.

We place on record that the matter that was considered academic now is that of urgency but the main matter ALC/REV/H/64/10 remains ceased with the court to determine the merits of the purported CBA agreement of 4 June 2010.

Accordingly, please note that the matter has not been concluded yet as intimated in the advertisement, so nothing has changed until the Labour Court so decides.

Those who are in doubt are free to consult the Labour Court at Mashonganyika building. The case number once again is ALC/REV/H/64/10.

Horticultural Promotion Council

Further to this we are currently following up on strong rumours with regard to a possible wage increase and one month's back-pay being pushed through the NEC. Please be advised that, neither ALB nor CFU, have not been part of any wage increase negotiations or collective bargaining agreements. Furthermore we are not aware of any legally signed agreement.

It is our advice that members should continue to pay the current wage and as soon as we have clarified the position we will put out a special bulletin to advise our members accordingly.

ARAC (from the desk of Ben Purcell -Gilpin)

It seems the rains are at last truly here and I am sure for many of us off the land, the familiar smells of rain on earth evoke particular memories of past farming seasons. I have recently read a bit of information on identity and often reflect just how difficult it has been for many of us to make the adjustment from actively farming. On a trip to the UK a couple of years ago I was required to fill in a form on entry that needed details of occupation. I filled out FARMER and then put a line through it.... I was indeed just a *crossed out farmer!* However the critical factor in the crossing out was another trait of my identity...whiteness!

I am sure there are many who felt the loss of occupation as a damaging loss of much more... our identity no less... Losing livelihood at the same time has been a real challenge and it amazes me how resilient people have been. What is extremely difficult is to speak with farmers whose rights have been so maliciously violated and be able to offer so little immediate hope of recovery and compensation. Nonetheless it is essential that you are aware that no opportunity to advance the issue is left unvisited. We are constantly meeting people and doing our best to articulate the urgent need that exists to unlock the debt owed to farmers and remove the blockage to opportunity of the current exclusion.

Today I received the transcript of the judgment in the case of Zimbabwean woman who sought refugee status in the UK. She has lost her appeal and will now have to face the consequences as is apparent from the following extracts from the court record:

This case concerns crimes against humanity. Article 7 of the ICC Statute provides:

“1. For the purpose of this Statute “crime against humanity” means any of the following acts when committed as part of a widespread systematic attack directed against any civilian population, with knowledge of the attack:.....

k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

This case is concerned with the responsibility of someone who, on her own evidence, used violence herself on black farm workers to help to drive them from their homes during two farm invasions, which were intended to remove those workers as well as the white farmer, so that his land could be taken by others, usually regime acolytes or its marauding supporters. She was not a ring leader, nor one of the hard core of the Zanu-PF youth militia, but she was one of the large group of militia members, one of the mob, who were taken to the farms to drive out the workers, burn their homes and ensure that they were too intimidated ever to return. Of course, we accept that it is necessary to look at what she personally actually did, and with what intent. But we reject what seemed to be her defense suggestion that her personal acts and intent are the end of the matter, as if there were no context to what she did, as if she were not doing what she did as part of an invading mob which had a clear and violent purpose. This has to be examined to judge whether she was part of this joint enterprise.

The Appellant was not merely present. She was on each occasion a voluntary, even if reluctant, actual and active participant in beatings; even taking her evidence at face value, beating many people hard as part of the aim of driving them away. She specifically tried to demonstrate her loyalty to Zanu-PF in her actions.

She is plainly criminally liable on a joint enterprise domestic law basis.

If there is an additional requirement that, in these circumstances, there be a substantial contribution to the crime, we consider that she provided it. That expression is not intended to exclude all but ringleaders and major participants. Each of those who guard extermination camps, for example, make a substantial contribution to genocide.

Active participation in mob violence which itself falls within sub-paragraph (k) makes a substantial contribution to that crime against humanity, and is a sufficient basis for exclusion from refugee status of those who actively and intentionally participated in the violence, seeking to achieve its purpose.

This appeal is dismissed.”

What is of interest to us is that the group dynamics used to mobilize and evict the farmers and workers concerned were clearly judged to be “crimes against humanity.” For those who participated intent was sufficient to deduce responsibility... clearly a ‘choice’ had been made and thus there was no basis for the appeal. Justice in this case has been done and indeed establishes precedent for the examination of so many other violations experienced by farmers and their employees.

The ‘choice’ to classify and exclude or include a sector of society has driven the land acquisition process and left our country morally and economically destitute. Only when the definition of identity becomes inclusive and seeks to draw all into the full enjoyment of the rights of citizenship will Zimbabwe recover. We may not become an *African Tiger*; perhaps we can become a *Leopard Economy* where there is room for diversity! In that there is great hope.

COMMODITY UPDATE

ZIMBABWE CROP PRODUCERS ASSOCIATION (from the desk of Richard Taylor)

Looking for a home, if anyone is interested please contact me on 04 309862 or e mail rtaylor@cfuzim.org

2 x Claas Dominator 485 Combine Harvesters
Wheat Blades
One has done 2901 hours and the other has done 1875 hours.
Very good condition.
Both have recently been serviced.

We are looking for a price of US\$ 25,000 per machine but we are willing to negotiate

We are also happy to discuss lenient payment terms and soft monthly re-payments.

One SAME 90 4WD: Very good condition not sure of the year, price approx 20K

R6.80 to the \$
Local as at 5th November 2010 US\$

Commodity	GMB	Agrifoods	Intergrain	Staywell	Croplink
White Maize	275	260	220	250	260
Yellow Maize	275	260	190	250	250
Maize Bran	150	165		160	160
Soyabeans	300	500	400	450	450
Soyabean Meal		620			585
Wheat	466		440	440	440
					(imported)
Wheat Bran		165		(selling)	165
Groundnuts	450 (unshelled)		(shelled)	700 (shelled)	650 (shelled)

South African Foreign Exchange (SAFEX) as at 5 November 2010

Commodity	Rand/Tonne	US\$/Tonne	Import Parity Rand/Tonne	Import Parity US\$/Tonne
White Maize	1312	193	1442	216
Yellow Maize	1430	210	1590	234
Wheat	2656	391	2816	414
Soyabeans	3267	480	3427	504
Sunflowers	5002	736	5162	759

International Gulf

Commodity	US\$/Tonne			Import Parity US\$/Tonne
Wheat	305			455
Maize	259			409
Soyabeans	485			635

Source: South African Grain Information Service (SAGIS)

Soyabeans seem to be holding their price at present and the outlook for this coming season's crop looks good as in price next year. The consensus is that it will remain at \$400/ton plus. So for grain producers this may be a good option.

Traders are importing Soyabean meal now and into the next year, until the new crop comes in as it is cheaper than importing the grain.

NATIONAL ASSOCIATION OF DAIRY FARMERS (from the desk of Rob Van Vuuren)

Unfortunately, for reasons beyond our control, the Dairy Forums in Mutare and Mashonaland 'B' are being postponed to a later date. The Forums will take place in Chipinge, Gweru and Bulawayo.

USAID have kindly and generously sponsored Ajs Kirk and Rob van Vuuren to attend the I.D.F. World Day Summit in Auckland, New Zealand.

Ajs departs Harare on 6th November returning 13th November whilst Rob departs on 4th November 2010 and returns on either the 13th November 2010 or 15th November 2010, depending on flight availability. All costs are being covered by USAID and we acknowledge and commend them for their sponsorship.

STABEX '95 MARKETING PROGRAMME

A very successful Small Scale Dairy Farmer of the Year Winners Field Day was held at Mr E. Chiweshe's Farm in Gokwe on Tuesday 2nd November. With the help of Stabex and Land O Lakes we were able to assist approx 40 of our small scale farmer members from the 7 Stabex Projects to attend the field day. We had very positive feedback from the participants who were able to share and learn throughout the morning. Once again, a big thank you to all of our sponsors and in particular the supporters who managed to attend the Field Day.

Next week we will be hosting an Administrators Workshop in Harare at the Courtney Hotel.

STABEX 95 VACCINATION PROGRAMME

As mentioned last week, we anticipate the next order from O.B.P., Pretoria will arrive in Harare mid November.

We do have a substantial stock of Brucella S19 (contagious abortion) available. Just a reminder that it is a legal requirement to vaccinate all heifers between the ages of 6 – 8 months of age against contagious abortion.

CATTLE PRODUCERS ASSOCIATION

WEEKLY CATTLE PRICES

GRADE	AVERAGES PER KG/LIVE WEIGHT PRICES		
	HARARE	GWERU	BULAWAYO
SUPER	1.99		-
COMMERCIAL	1.76		-
CHOICE	1.93	1.77	-
ECONOMY	1.44	1.39	-
COMMERCIAL ECONOMY		1.69	-
MANUFACTURING	1.38	0.88	-
BULLS	1.59		-
WEANER HEIFERS	1.61	2.05	-
BULLING HEIFERS	1.58	1.69	-
LONG WEANER HEIFERS	1.66		
COW & CALF	1.31	1.50	-
WEANER STEERS	1.74	1.73	-
LONG WEANER STEERS	1.64	1.53	-
FEEDER STEERS	1.86	1.61	-
COMMERCIAL WEANER STEERS			-
COMMERCIAL WEANER HEIFERS			-

COMMENTS AND VIEWS

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