

CFU Calling

24 JUNE 2011

EXECUTIVE NEWS (from the desk of Mike Clark)

"I have come to collect my cheque – I believe they are ready now?"

"Have you got some good news for me? What is happening at the moment?"

"When can I go back to my farm?"

These are a sample of the questions which we are asked, daily, from farmers visiting our offices, and although said jovially, it does express the anxiety of a prolonged situation which has taken a seemingly 'forever' to resolve since the fast-track acquisition of our farms commenced in 2000.

Where are we, and have we moved anywhere on the issue? Well, although there is nothing hard and fast, or tangible at the moment, which is what so many so desperately need, we are definitely making good and significant progress on this extremely sensitive issue. Although the ultimate resolution of the problems probably lies in the political realms, and hence out of our jurisdiction, we have recently seen significant headlines in the press indicating that there is an intention to approach Western countries to assist in a resolution of the crisis and particularly on the mandatory compensation which is due.

So too do we see at the recent G20 meeting held in Paris, which President Deon Theron recently attended, where the main theme was World food security and production, which of course, in this country, needs to be seriously addressed and in particular with regard to the encouragement of commercial production through the security of property rights.

There have been some other encouraging events recently recorded in the press, one of which was the encouraging debate in our Parliament over proposed changes to the Indigenisation Regulations, which were rejected outright in the chambers. As farmers we have had our own horrid experience of the takeover of our own businesses without compensation and the consequent total destruction of the vital agricultural industry. So it is therefore encouraging to see some opposition by our legislators to prevent a similar destruction.

What we find even more encouraging this week was the tone and result of the SADC Heads of State Summit held in Pretoria, two weeks ago, in which several good points pertaining to our own situation came out.

Firstly, we are encouraged to see the recognition that JOMIC (Joint Monitoring and Implementation Committee) was to be 'reinforced' by 3 facilitators appointed by SADC. We do have confidence in working with this particular group as we are convinced that they are the impartial medium through which we feel that we can make some meaningful headway.

From our own point of view there are several other points covered by the GPA (Global Political Agreement) which were proposed to stabilise our industry but which have never been addressed. These have been recognised in the SADC Sandton Summit Communiqué (which is on our website www.cfuzim.org)

Below, are extracts from the report by President Jacob Zuma to the summit, the full report of which is also available on our website:

"The Human Rights Commission was also established, however, the absence of enabling legislation is also undermining the effectiveness of Human Rights Commission.

The Commission also suffers from inadequate resources, human and material, including funding.

In addition to these, there are also other important commissions that have not been established yet; these include the Land Audit Commission and the Anti- Corruption Commission.

The challenges we have highlighted are admitted by the Zimbabweans themselves as can be seen in the report of the Joint Monitoring and Implementation Committee (JOMIC), which is attached for your information as Annexure B.

Given the fact that SADC is a key guarantor of the GPA, the Troika should recommend that SADC should appoint a team to work together with the Facilitation Team in order to engage directly and dynamically with JOMIC for purposes of monitoring and ensuring that implementation of all matters that flow from the GPA, including the full implementation of the Matrix.”

Another encouraging document which we received, and placed on our website this week, was a letter written by the former SADC Tribunal judges, who expressed the following opinion on the decisions taken by the Council of Ministers, and endorsed by the Extraordinary Summit of Heads of State and Government, of SADC, which was addressed to the SADC Secretariat.

It addresses the issue of the SADC Summit’s alleged illegal, arbitrary and mala fide termination of the Tribunal and the terms of office of its justices instead of giving effect to its judgments against Zimbabwe (or indeed, in retaliation of the judgments against Zimbabwe; and perhaps even to send a message to other future judges/courts/tribunals?).

The letter is a powerful denunciation of the Summit’s conduct and an important contemporary piece in the rule-of-law jigsaw puzzle of southern Africa.

Below are extracts from the letter:

“The Council of Ministers (Council) of the Southern African Development Community (SADC) at its meeting of 19 May 2011 took in effect the following decisions which were subsequently endorsed by the Summit of Heads of State and Government (Summit) at its extraordinary meeting of 20 May 2011, in Windhoek, Namibia:

- (1) the non-reappointment of members of the SADC Tribunal (Tribunal) whose term of office expires on August 31, 2010;
- (2) the non-replacement of members of the Tribunal whose term of office will expire on October 31, 2011;
- (3) the dissolution of the tribunal in its present form which is expressly barred from hearing any new or pending cases; and
- (4) the establishment of a new Tribunal with a different jurisdiction and a new membership after the Ministers of Justice/Attorney Generals have amended the relevant SADC legal instruments e.g the SADC Treaty and the Protocol on Tribunal (Protocol) and submitted a progress report to Summit in August 2011 and the final report to Summit in August 2012.

.... The decision of Summit at (3) above is clearly illegal and ultra vires. Summit has no power to restrict the jurisdiction of the tribunal, not least because it is itself subject to the Tribunal’s jurisdiction. By the same token, Summit cannot overrule the provisions of Article 8(4) of the Protocol which state as follows:

“Notwithstanding the expiration of his or her term of office, a Member shall continue to hear and complete those cases partially heard by him or her”.

Summit does have, of course, the power to amend the SADC Treaty and the Protocol but the proper procedures have not yet been followed. They will no doubt be followed later, pursuant to the decision of Summit at (4) above.

The decision of Summit at (1) and (2) above are also illegal and ultra vires in that they have been taken to make sure that the Tribunal is completely paralysed in its core activities, namely the hearing of any new or pending cases until well after August 2012. It is significant that, even the hearing of new or pending cases were not prohibited, the Tribunal would still be paralysed since the tribunal must at least be constituted by three members to hear any cases – vide Article 3(3) of the Protocol. The fundamental principles of access to justice is violated in this regard – vide, for instance, **Mike Campbell (Pvt) Ltd and Others v Republic of Zimbabwe (2/2007) [2008] SADCT (28 November 2008).**

We consider that these three decisions of Council endorsed by Summit are not only extraordinary in the circumstances but are also illegal and ultra vires and in contravention of Article 4(c) of the SADC Treaty i.e. the principle of “human rights, democracy and the rule of law”. They have also been made in bad faith, as will be amply demonstrated below.

After all, what is the point of commissioning an independent review, as SADC did, having extensive consultations with all relevant stakeholders, including Tribunal members, both before and after its findings are published; having its preliminary recommendations discussed at a workshop of Senior legal Officials in Swakopmund, Namibia, which was also attended by members of the Tribunal who took an active part in the proceedings, amended and finally translated into final recommendations; having those recommendations thoroughly examined anew in lengthy discussions with both Senior Legal Officers and members of the tribunal, amended anew and unanimously approved by Senior Law Officials at their meeting held in April in Swakopmund, Namibia which preceded that of Ministers of Justice/Attorneys

General, before the review itself is questioned anew in its fundamental elements by the Ministers of Justice/Attorneys General who are now mandated by Summit to conduct their own partisan review?

If the tribunal was legally constituted and did not lack jurisdiction, and its decisions are binding on all SADC Member States, as the Ministers of Justice/Attorneys General acknowledged, why did the latter reopen anew the debate and express serious concern about the scope of jurisdiction of, and the law applied by, the tribunal instead of deciding about appropriate action to take against Zimbabwe for non-compliance with the judgments of the Tribunal in 2008 and 2010 respectively, an important issue which has always been ducked and postponed since 2009 for reasons best known to themselves and has not yet been decided – vide Mike Campbell (Pvt) Ltd and Others v Republic of Zimbabwe (2/2007) [2008] SADCT (5 June 2009) and Fick and Another v Republic of Zimbabwe (SADC (T) 10/2010 [2010] SADCT 8 (16 July 2010).

Surely, if the Ministers of Justice/Attorneys General had serious reservations about those two issues mentioned above, what was the point of the exercise in the first place i.e. the review of the independent consultant, chosen by the Ministers of Justice/Attorneys General themselves, relating to the role, responsibilities and terms of references of the Tribunal, the organisation of the workshop and meetings of Senior Law Officials and Ministers of Justice/Attorneys General held in Swakopmund, Namibia, which, all require a mobilisation of scarce resources, energy and money?

Moreover, if the Ministers of Justice/Attorneys General know better, as recently decided by Summit, why did they not carry out their own review in 2010? Is it because at that time they did not appreciate the full implications relating to the scope of jurisdiction of, and the law applied by, the tribunal but after the final report of the independent consultant was published, the scales suddenly fell from their eyes?

.... One final observation. We never expected, in spite of the various alternatives proposed by the independent consultant in his final report, the Ministers of Justice/Attorneys General or the Council or Summit in 2011 to take, at long last, appropriate action against Zimbabwe for non-compliance with the judgments of the tribunal of 2008 and 2010 for the simple reason that, every time the issue has been discussed, a stratagem has always been devised to defer consideration of the matter. But still, we did not expect or foresee this time the new drastic action taken on political grounds which at a stroke does away with the intractable problem of taking action against Zimbabwe: the complete dissolution of the Tribunal in its present form, with its current jurisdiction and membership, as rightly pointed out by the Minister of Foreign Affairs of Zimbabwe at the close of the Summit meeting.

So this extraordinary deed was done at the expense of the tribunal and its judges who are both easily expendable, in breach of the principles of human rights, democracy and the rule of law, as a result of which no action needs to be taken against Zimbabwe! After all, what is the point of enforcing two judgments of a defunct Tribunal? So the argument goes. It is to be noted, however, that the two judgments have not become defunct although the Tribunal itself has, since it is now accepted by everyone, including Ministers of Justice/Attorneys General, that the tribunal was legally constituted and did not lack jurisdiction when it handed down those judgments.”

As can clearly be seen from all the above, we are definitely not on our own in our efforts to achieve a significant breakthrough and continue tirelessly to achieve what is rightfully deserved and to get Zimbabwean agriculture back on track and into productive again.

Whilst the compensation due is constantly being worked on we also have our business section also working tirelessly to seek the necessary financial requirements and support for those who are able to continue farming, and hopefully, for those who will be given back the opportunity to get back into practicing their skills and trade in agriculture, in Zimbabwe, in the not too distant future.

Whilst we do admit that we have experienced difficulties in getting out and about to the districts due to work related constraints, we cannot over stress the importance of keeping your Union fully updated with what is happening on the ground. Please therefore keep reporting so we are in a position to address rumours and to get out the truth. Reports should be sent directly to mashc@cfuzim.org or verbally to Mike Clark at the Union.

When considering making reports, please remember that they are kept strictly confidential and will only be released in a sanitised format, to protect you, unless otherwise authorised by you.

Most of the reports coming in this week are with reference to the ongoing prosecutions of farmers under the Gazetted Land (Consequential Provisions) Act, of which there have been many. Although, in some cases, the trials have commenced, all have been remanded to further dates.

One of those in Court this week was our own CFU President Deon Theron in his ongoing battle to secure his movable assets on his mother's property from which she was previously evicted by the courts. Although he

is quite within his rights in terms of the law it seems other people involved have a differing interpretation or perceptions of the law itself.

We do note with concern though the plight of some of our elephants in one conservancy, which have generated from hand reared calves, which are being shot merely to appease the powers that be in their individual constituencies to the detriment of that particular herd.

There is a lot going on both at the Union and with the powers that be, both of which are crafting your future at the moment, so it is in your best interest to take note of the date of our next meeting here in Harare, as it will be well worth attending for an update. The next **Open Farmers' Meeting** will be held at the Union at **2.30 pm** on **Wednesday 6 July 2011**.

In just over a month we will be holding our Annual Congress. See below the Agenda:

AGENDA

MONDAY 25 JULY 2011

Pre Congress Council meeting to be held at the Commercial Farmers' Union in the Boardroom commencing at 14:00 hours.

TUESDAY 26 JULY 2011

Closed Session Wild Geese Lodge – Harare Zimbabwe

07:30 – 08:30

Registration of Delegates

08:30 – 09:00

- (i) Director's welcome and Notice to convene
- (ii) Welcome and opening statement by CFU President

09:00 – 09:15

- (iii) Regional Chairmen's Annual Reports (tabled)
- (iv) Commodity Chairmen's Annual Reports (tabled)
- (v) Labour Report (tabled)
- (vi) AISD Report (tabled)
- (vii) Council Report (tabled)

09:15 – 09:35

- (viii) ARAC Report Presentation

09:35 – 10:00

- (ix) Legal Report Presentation

10:00 – 10:30

- (x) Recovery Program Report Presentation

10:30 – 11:00

TEA

11:00 – 11:30

- (xi) Appointment of Legal Advisors
- (xii) CFU Financial Report and Accounts for year ended 31 March 2011

11:30 – 12:30

- (xiii) Appointment of Auditors
- (xiv) Resume of Resolutions 2010
- (xv) Resolutions
 - a) of Membership Licence Fee
 - b) CFU Constitutional amendments
 - c) CFU Policy Document

12:30 – 13:00

- (xvi) Way forward and Debate

13:00 – 14:00

LUNCH

Open Session

Wild Geese Lodge – Harare Zimbabwe

14:00 – 15:00

- (xvii) Guest Speakers

15:00 – 15:30

- (xviii) Address to Congress by CFU President

15:30 – 16:00

TEA

16:00 – 17:00

- (xix) Address to Congress by VALCON
- (xx) Address to Congress by visiting Agricultural Unions
- (xxi) Debate and Questions

17:00 – 17:30

- (xxii) Thanks and Closure
- (xxiii) Post Congress Council Meeting

OFFICIAL OPENING AND COCKTAIL FUNCTION AT WILD GEESSE LODGE

18:30 – 19:00	(xxiv) Guests arrive
19:00 – 20:00	(xxv) Welcome and opening by CFU President
	(xxvi) Farming Oscar Presentation
	(xxvii) Thanks and Closure
	(xxviii) Snacks

COMMODITIES

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

REGIONAL MEETINGS

I attended Regional AGM Meetings in Beatrice for Mashonaland B and at Agriculture House for Mashonaland A on Wednesday, Matabeleland on the 23rd and Midlands on the 24th of June. These meetings were not as well supported by members, but there was some very interesting and informative discussions. I really do urge members to support and attend these meetings as this is one of the few ways NADF can hear your queries and problems and try to assist with solving them. We are also an organisation that is "member driven" and we need more direction and guidance from members as to where and what we should be doing. Once again Stoff Hawgood accompanied me to these meetings representing not only NADF as Chairman Mashonaland B, but also representing National Dairy Co-op and was able to, once again, give everyone an update on current affairs at NDC and their new contracts.

45TH ANNUAL GENERAL MEETING OF NATIONAL ASSOCIATION OF DAIRY FARMERS ON 5TH JULY 2011 ANDY MILLAR HALL, EXHIBITION PARK, SAMORA MACHEL AVENUE, HARARE.

As usual our AGM will be packed with technical talks and presentations in the morning, the AGM meetings in the afternoon, followed by the Dairy Dinner Dance in the evening. Please will everyone note that there will be Registration in the morning and the **Registration Fee will be \$10.00 per head**. This allows you access to the Technical Talks taking place in the morning, followed by lunch and then the Open Session of the AGM in the afternoon. The Dairy Dinner Dance will begin at 7.30p.m. with a splendid Buffet Dinner. As usual, it will be an event packed with business, interaction and also fun.

We have tentatively set our programme and agenda as follows :

TIME	TECHNICAL PRESENTATION MAIN HALL	TECHNICAL PRESENTATION BAR AREA
08.00 – 08.30	TEA AND COFFEE FOR GUESTS ON ARRIVAL and NADF EXECUTIVE MEETING FOR EXECUTIVE MEMBERS ONLY	
08.30 – 09.00	Forage Seed	
09.00 – 09.30	Mastitis Vaccine	
09.30 – 10.00	Labour Update and How to deal with Union Officials – Tongai Marodza CFU	
10.00 – 10.30	TEA/COFFEE AND SANDWICHES	
10.30 – 11.00	Advantages of Seasonal Calving for Small Scale and Commercial Farmers Dai Harvey Land O Lakes	De Laval DCC Cell Counter
11.00 – 11.30	Dairy Express and Easy Dairy Programmes – Dr Mario Beffa LMAC/LIT and Ian Lang	Kennan – Nutrition
11.30 – 12.00	Brazilian Company – Small Scale Farmers and Other Equipment	EMA – Update and Presentation to Farmers Regarding Regulations and Fees
12.00 – 12.30	Artificial Insemination	Tetrad – Financial Market Report
12.30 – 14.00	LUNCH	
14.00 – 16.30	NADF ANNUAL GENERAL MEETING OPEN SESSION	

	NADF Chairman's Report – Mr A Kirk
	Processors Report
	Dairy Services Report – Mrs T Marecha
	TEA/COFFEE
	ZRP Anti Stock Theft Forum – Assistant Commissioner Dumbura
	Market Report – Mr R Ormerod ~ Croplink
16.30 – 17.00	NADF Closed Session Meeting for Members Only Finances will be presented by Grant Thornton Camelsa Auditors
19.30/20.00 Until 12.00 midnight	Dairy Dinner Dance ~ flick a hoof and have some fun

CATTLE PRODUCERS ASSOCIATION

CC sales have advised that their sales are still restricted because of the foot and mouth outbreak. However, the Veterinary Department are now allowing them to have one young/breeding stock sale per month and this takes place on a Friday. NADF therefore only receives the figures after the CFU Calling report is submitted for publication so some of the prices published are already a week old.

GRADE	AVERAGE PER KG/LIVE WEIGHT PRICES			
	HARARE	GWERU	BULAWAYO	PLUMTREE
SUPER	-	-	-	-
COMMERCIAL	1.66	-	1.43	1.32
CHOICE	-	-	1.60	1.45
ECONOMY	1.48	-	1.20	1.18
COMMERCIAL ECONOMY	-	-	1.37	1.24
MANUFACTURING	1.44	-	1.05	1.02
BULLS	1.55	-	1.32	1.22
WEANER HEIFERS	1.68	-	-	-
BULLING HEIFERS	1.64	-	-	-
LONG WEANER HEIFERS	-	-	-	-
COW & CALF	-	-	-	-
WEANER STEERS	1.83	-	-	-
LONG WEANER STEERS	-	-	-	-
FEEDER STEERS	-	-	-	-
COMMERCIAL WEANER HEIFERS	1.42	-	-	-
COMMERCIAL WEANER STEERS	1.48	-	-	-
BREEDING COWS	-	-	-	-
BREEDING BULLS	-	-	-	-
STANDARD MUTTON	-	-	-	-

ZIMBABWE CROP PRODUCER'S ASSOCIATION (from the desk of Dr Clive Levy)

The 9th Annual General Meeting of the ZCPA was held in the dining room of Agriculture House this Tuesday and attracted about 20 people. Despite widespread advertising, few farmer members attended, and thus the audience was predominantly composed of the agricultural trade. We once again would like to thank Origen P/L, Tarry's P/L, PHI Commodities P/L, CropLink P/L and Omnia Nutriology P/L for their generous sponsorship of this event.

The open session comprised three speeches given by Marc Carrie-Wilson, Richard Taylor and Roy Omerod of CropLink P/L. Marc covered a wide range of current issues, which are of concern to farmers – ZIMWA, ZESA, and labour. He ended by giving an update on the moves to form a Commodities Council with ZFU and a report on the 'open space' workshop held at the Celebration Centre. It is a pity that some members, who complain of perceived inaction by the CFU to address problems, fail to attend meetings etc. when these updates are given.

Richard spoke on the Business Chamber initiatives to generate medium- and long-term financing for farmers, mining and the general business community in the hopes of 'kick-starting' the economy again. He spoke of negotiations on the procurement of agricultural equipment, the family health and crop insurance

schemes, and other benefits available/planned for CFU members. He ended his talk with an overview of the Discounters Club and its operation.

Roy gave a detailed analysis on the current marketing of maize, soyabeans and wheat, with local and international pricing trends in the last year. Local and regional stocks, and costs of importation were reviewed as a prediction as to the forthcoming market requirements.

The closed session addressed a number of issues - but focussed on the problems of the past year, representation, and the future of the Association. The Executive Committee basically remains unchanged, however, Mr. J.J. Odendaal regretted he could no longer represent Mashonaland West (South), as he is no longer farming and now has other commitments. He was sincerely thanked for his years of service to the ZCPA and its forerunners. Mr. Nic Brooke, the Director of ART Farm, was elected on the Committee and this was a popular choice. Other incumbents to represent other areas are sought.

The AGM finished with a delicious luncheon and drinks, made possible by the sponsors.

COMMENTS AND VIEWS

Please let us know your comments and views on items contained within this issue or any other issues of CFU Calling by sending an email to us on dir@cfuzim.orgDisclaimer: This email and files transmitted with it contain confidential and privileged information and are intended solely for the use of the individual or entity to which they are addressed. If you have received this email in error please -- do not read, disseminate, distribute, copy or take action in reliance on this email and- delete it immediately and arrange for the deletion thereof on your server, and- notify the administrator immediately. Any unauthorised, use duplication or interception of this e-mail or any files transmitted with it is expressly and strictly prohibited. No representation, guarantee or undertaking (expressed or implied) is made or given- As to the confidentiality or security of the e-mail system' or as to the accuracy of the information in this email and any files transmitted with it is virus-free. No responsibility or liability is accepted for: the proper, complete transmission of the information contained in this email or any files transmitted with it or any delay in its receipt; or rising from or as a result of the use of or reliance on the content of this email or any files transmitted with it. Any views expressed in this email or any files transmitted with it are not necessarily the views of the Commercial Farmers' Union. Queries regarding this email or any files transmitted with it should be directed to dir@cfuzim.org. This disclaimer forms part of the content of this e-mail for purposes of section 11 of the Electronic Communications and Transactions Act 2002 (Act No. 25 of 2002).