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Submission to the Portfolio Committee on Home Affairs

SUBJECT: THE BORDER MANAGEMENT AUTHORITY BILL 2016 (BMA)

PREAMBLE:

Fruit South Africa (FSA) is the overarching South African fruit industry body established by five industry representative bodies; the Citrus Growers Association of Southern Africa (CGA); HORTGRO (representing pome and stone fruit); South African Table Grape Industry (SATI); SUBTROP (representing the avocado, litchi, mango and macadamia industries) and the Fresh Produce Exporters' Forum (FPEF).

The fruit industry is the largest contributor, by value, to South African agricultural exports. The industry has a high job-multiplier effect and creates in excess of 400 000 jobs throughout the value chain. The industry is also an important generator of foreign currency inflows – about 90% of income derived from fruit earnings is from foreign exchange, with a total annual export value of approximately twenty two billion rand. (Source daff.gov.za/ farmers weekly June 2016)



As the collective for South Africa's fruit industry FSA's mandate is to address common matters impacting on all aspects of the fruit industry. Among the six Strategic Objectives of FSA is the following:

“Engage constructively with government and other public institutions on policy, legislation and other fruit industry matters”

This submission stems from that objective and addresses issues in the Border Management Authority Bill 2016 which FSA believes, if enacted, may impact negatively on the export of perishable products such as fruit.

SUBMISSION:

Perishable Products Export Control Board (PPECB):

The PPECB is assigned by the Department of Agriculture Forestry and Fisheries (DAFF) to be the provider of product quality certification and cold chain management services for producers and exporters of perishable food products. As a partner in the fruit export industry it supplies critical services to FSA members in ensuring that South African fruit meets with the required standards in export client countries and that South African quality certification is recognized as credible globally.

The PPECB is responsible for managing the export cold chain, it ensures that refrigerated perishable products leaving the country are handled, stored and transported at specific temperatures and optimum conditions. The PPECB provides a comprehensive service to fruit exporters that includes the inspection and approval of cold stores; refrigerated containers, specialized reefer vessels, the monitoring of loading processes and the on-route temperature management of produce.

The PPECB provides third party assurance that the container, vehicle or vessel used to transport perishable products intended for export meets technical and hygienic



standards. PPECB assessors ensure that the mode of transport is technically sound and inspect the cleanliness thereof.

The PPECB provides assurance to foreign import customers that they are receiving products of sound quality which adhere to the technical equipment specifications, hygiene standards, product conformity and temperature requirements of their country. This involvement from product quality control at source through to final loading on export carriers means that PPECB officials undertake quality inspection tasks in ports and at border law enforcement areas as defined in the Bill as well as at farms, cold stores and pack houses throughout South Africa.

The FSA submits that the activities of the PPECB will not fall within the ambit of the BMA, that the Boards interventions are “quality control” and not “border control” and that a substantial proportion of the work of Board officials is conducted inland, away from ports and borders.

It further submits that the work undertaken by Board officials is of technical nature and requires specific knowledge relating, inter alia to fruit quality, cold chain requirements and plant diseases. It will be completely inappropriate and self-defeating to place this area of cold chain management and quality control under the direction or oversight of the Authority.

The FSA submits that the PPECB must continue as an independent organ of state mandated by and responsible to the DAFF.

The Department of Agriculture Forestry and Fisheries (DAFF):

The Department of Agriculture, Forestry and Fisheries is the governing body that legislates and implements laws regarding the production and export of all agricultural products in South Africa. The Department delegates certain tasks to independent agencies, such as the PPECB, who are the assignee of DAFF for conducting the inspections on product quality of fresh produce destined for overseas markets as noted above.



Certain countries or groups of countries apply import conditions on exporters which require phytosanitary certificates issued by the appropriate state organ in the exporting country. In South Africa this requirement is the responsibility of the DAFF and is not assigned to the PPECB or other independent agency.

As a result of this requirement inspections concerning phytosanitary requirements that products and producers must adhere to, are performed by the Department's own inspectors.

As is the case with the PPECB this element of DAFF responsibilities is a critical quality control requirement and is exercised both in the laboratory environment and through field inspections at source by specialized Department officials and technicians.

As is the case with the activities of the PPECB the FSA submits that this area of DAFF responsibility is not a border control function and should continue under the control and oversight of DAFF.

Committees and Implementation Protocols:

FSA notes that the Bill requires that three separate committees be established with oversight and "technical" responsibility, they are "*The Inter-Ministerial Consultative Committee*", the "*Border Technical Committee*" both of which will be made up of state officials only.

Clause 27 provides for the Minister to appoint "*Advisory Committees*" to advise the Minister or Commissioner on border management issues and the functioning of the Authority.

The Minister is not obliged to appoint or consult with non-state parties directly affected by border controls. FSA believes that it is important that industry bodies such as FSA and others are able to provide input on regulations or other legislation which might impact on border efficiency and international trade or travel.

The FSA submits that Clause 27 should be reviewed and a mandatory requirement for industry representative bodies to be appointed to Advisory Committees inserted.

