



IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH GAUTENG HIGH COURT, PRETORIA)

PRETORIA 29 JANUARY 2010 CASE NO: 4909/2010  
BEFORE THE HONOURABLE MR JUSTICE BERTELSMANN

In the matter between

THE RED MEAT INDUSTRY FORUM

APPLICANT

AND

THE MINISTER OF AGRICULTURE, FORESTRY  
AND FISHERIES  
THE DIRECTOR OF THE DIRECTORATE OF  
ANIMAL HEALTH  
C A VISSER  
SWANVEST 234 (PTY) LTD  
A P VAN WYK  
MATOPI WILD CC  
MATOPI GAME ENTERPRISES (PTY) LTD  
EDDY KADZOMBE  
SOUTH AFRICAN VETERINARY COUNCIL  
WILDLIFE RANCHING SOUTH AFRICA  
AGRI SOUTH AFRICA (AGRI-SA)  
SOUTH AFRICAN OSTRICH BUSINESS CHAMBERS

REGISTER OF THE NORTH GAUTENG  
HIGH COURT, PRETORIA  
PRIVATE BANCOPRIVAATSAK X87  
2010-02-12  
PRETORIA 0001  
GRIFPER VAN DIE NOORO GAUTENG  
HOG. HOE. PRETORIA

1<sup>ST</sup> RESPONDENT  
RESPONDENT  
3<sup>RD</sup> RESPONDENT  
4<sup>TH</sup> RESPONDENT  
5<sup>TH</sup> RESPONDENT  
6<sup>TH</sup> RESPONDENT  
7<sup>TH</sup> RESPONDENT  
8<sup>TH</sup> RESPONDENT  
9<sup>TH</sup> RESPONDENT  
10<sup>TH</sup> RESPONDENT  
11<sup>TH</sup> RESPONDENT  
12<sup>TH</sup> RESPONDENT

HAVING HEARD counsel(s) for the party(ies) and having read the documents filed of record

IT IS ORDERED

1. THAT the second respondent undertakes:
  - 1.1 Not to issue any import permits for the importation of live Sable Antelope (Hippotragus Miger Kirkil or Niger Niger) in terms of Section 6 of the Animal Diseases Act, 35 of 1984, until such time as the steps described in paragraphs 1.2, 1.3, 1.4 and 1.5 below have been completed;
  - 1.2 To conduct an import risk analysis in terms of Chapter 2.1 of the OIE Code (2009);

- 1.3 To publish, for final comment, her proposed policy regarding the Zambian sable antelope referred to in paragraph 1.1 above;
  - 1.4 To permit, a reasonable time from date of publication as contemplated in paragraph 1.3 above, for comments by interested parties;
  - 1.5 To consider all comments received in terms of paragraph 1.4 and thereafter to publish her decision regarding the policy on importation of the Zambrian sable antelope referred to in paragraph 1.1 above.
2. THAT all parties to pay their own costs of this application.

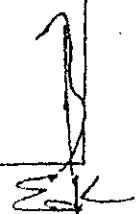
REGISTRAR



BY THE COURT

At: LOUIS GARB  
HIGH COURT TYPIST: H POTGIETER

REGISTRAR OF THE NORTH GAUTENG  
HIGH COURT, PRETORIA  
PRIVATE BAG/PRIVAATSAK X67  
2010-02-12  
PRETORIA 0001  
GRIFPIER VAN DIE NOORD GAUTENG  
HOË HOF, PRETORIA



BALJU PRETORIA-OOS  
714 PRETORIA 0001  
2010 -12- 29  
012 342 7240/11/4/38  
SHERIFF PRETORIA EAST

2010 12 29

/ff  
NOORD-KAAP HOË HOF, KIMBERLEY  
REPUBLIEK VAN SUID-AFRIKA

Saak nr. *2173/10*

In die saak tussen:

SWANVEST 234 (EDMS) BEPERK

Applikant

en

*Received  
at Equestria  
on 4/01/2011*

DIE DIREKTEUR VAN DIE DIREKTORAAT  
DIEREGESONDHEID

1e Respondent

MINISTER VAN LANDBOU, BOSBOU EN VISSERY

2e Respondent

LID VAN DIE UITVOERENDE RAAD: LANDBOU,  
GRONDHERVORMING EN LANDELIKE ONTWIKKELING  
: PROVINSIE NOORD-KAAP

3e Respondent

LID VAN DIE UITVOERENDE RAAD: TOERISME, DIE  
OMGEWING EN BEWARING: PROVINSIE NOORD-KAAP

4e Respondent

DIE ROOIVLEIS NYWERHEIDS FORUM VAN SUID-  
AFRIKA

5e Respondent

LID VAN DIE UITVOERENDE RAAD: LANDBOU:  
PROVINSIE VRYSTAAT

6e Respondent

LID VAN DIE UITVOERENDE RAAD: LANDBOU:  
PROVINSIE MPUMALANGA

7e Respondent

<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU: PROVINSIE LIMPOPO</u>	8e Respondent
<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU EN LANDELIKE ONTWIKKELING: PROVINSIE GAUTENG</u>	9e Respondent
<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU, BEWARING, OMGEWING EN LANDELIKE ONTWIKKELING: NOORDWES</u>	10e Respondent
<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU, OMGEWING SAKE EN LANDELIKE ONTWIKKELING: KWAZULU NATAL</u>	11e Respondent
<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU LANDELIKE ONTWIKKELING: PROVINSIE WES-KAAP</u>	12e Respondent
<u>LID VAN DIE UITVOERENDE RAAD: LANDBOU EN LANDELIKE ONTWIKKELING: PROVINSIE OOS-KAAP</u>	13e Respondent
<u>DIE SUID-AFRIKAANSE VETERINÊRE RAAD</u>	14e Respondent
<u>AGRI SUID-AFRIKA</u>	15e Respondent
<u>WILD LIFE RANCHING VERENIGING VAN SUID-AFRIKA</u>	16e Respondent
<u>DIE SUID-AFRIKAANSE VOLSTRUIS BESIGHEIDSKAMER</u>	17e Respondent

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## KENNISGEWING VAN MOSIE

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**GELIEWE KENNIS TE NEEM** dat die bogemelde applikant voornemens is om aansoek te doen by hierdie Hof om 'n bevel met die volgende bepalings:

1. Dat eerste respondent se versuim om binne 'n redelike tyd 'n besluit te neem met betrekking tot die applikant se aansoek om 'n invoerpermit uit hoofde van die bepalings van artikel 6 van die Wet op Dieresyktes, Wet 35 van 1984 hersien word ingevolge artikel 6(2)(g) saamgelees met artikel 6(3)(a) van die Wet op Bevordering van Administratiewe Geregtigheid, Wet 3 van 2000 en dat eerste respondent gelas word om sodanige besluit te neem binne veertien dae vanaf datum van hierdie bevel;
2. Dat eerste respondent se versuim om binne 'n redelike tyd 'n besluit te neem met betrekking tot die applikant se aansoek om 'n invoerpermit uit hoofde van die bepalings van artikel 5 van die Wet op Dieresyktes, Wet 35 van 1984 om die kwarantynstasie op die plaas Wolvefontein goed te keur as 'n kwarantynstasie en om dit tot 'n kwarantynstasie te verklaar, hersien word ingevolge artikel 6(2)(g) saamgelees met artikel 6(3)(a) van die Wet op Bevordering van Administratiewe Geregtigheid, Wet 3 van

2000 en dat eerste respondent gelas word om sodanige besluit te neem binne veertien dae vanaf datum van hierdie bevel;

3. Dat die besluit van die derde respondent geneem op **1 Desember 2010** om die applikant se aansoek waarna in smeekbede 2 verwys word, af te keur, hersien en tersyde gestel word;
4. Dat eerste en tweede respondente gesamentlik en afsonderlik gelas word om die koste van hierdie aansoek te betaal en dat sodanige ander respondente wat die aansoek mag bestry, gelas word om die koste van hierdie aansoek gesamentlik en afsonderlik met eerste en tweede respondente te betaal.
5. Verdere en/of alternatiewe regshulp.

**GELIEWE KENNIS TE NEEM** dat die meegaande beëdigde verklaring van **Christiaan Andreas Visser** met bylaes daartoe gebruik sal word ter ondersteuning van die aansoek.

**NEEM VERDER KENNIS** dat die applikant die ondergemelde adres van sy prokureur aangewys het waar hy kennisgewings en die betekening van alle prosesstukke in hierdie verrigtinge sal aanvaar.

**NEEM VERDER KENNIS** dat indien u voornemens is om hierdie aansoek te bestry, u:

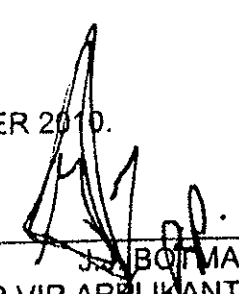
- (a) die applikant se prokureur op of voor **25 FEBRUARIE 2011** skriftelik daarvan in kennis moet stel; en
- (b) u antwoordende beëdigde verklarings, as u het, moet indien voor of op **18 MAART 2011**;

en verder dat u in die kennisgewing in (a) vermeld 'n adres soos in reël 6(5)(b) bedoel moet aangee waar u kennisgewings en die betekening van alle dokumente in hierdie verrigtinge sal aanvaar.

**GELIEWE KENNIS TE NEEM** dat hierdie aansoek op die rol geplaas word om verhoor te word op **4 MAART 2011** indien geen Kennisgewing van Opponering teen hierdie aansoek ontvang word voor **25 FEBRUARIE 2011** nie.

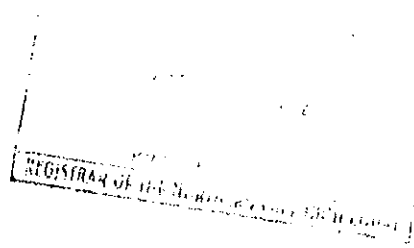
**GELIEWE DIE AANSOEK DIENOOREENKOMSTIG TER ROLLE TE PLAAS.**

GETEKEN te KIMBERLEY hierdie 15 de dag van DESEMBER 2010.

  
\_\_\_\_\_  
J.J. BOTMA  
PROKUREUR VIR APPLIKANT  
VAN DE WALL & VENNOTE  
GRONDVLOER  
VAN DE WALLGEBOU  
SOUTHEYSTRAAT  
KIMBERLEY  
(VERW: JJ BOTMA/ad/C09302)

AAN:

DIE GRIFFIER  
HOË HOF  
KIMBERLEY



EN AAN:

**Direkteur van die Direkoraat van Dieregesondheid**  
Eerste Respondent  
Agriculture Place  
h/v Hamilton- en Beatrixstrate  
Pretoria

Per Balju

**Die Minister van Landbou, Bosbou en Vissery**  
Tweede Respondent  
Delpengebou  
h/v Annie Botha- en Uniestrate  
Riviera, Pretoria

Per Balju

**Lid van die Uitvoerende Raad:**  
**Landbou, Grondhervorming en Landelike Ontwikkeling:**  
**Provinsie Noord-Kaap**  
Derde Respondent  
Georgestraat 162  
Kimberley

**Lid van die Uitvoerende Raad:**  
**Toerisme, die Omgewing en Bewaring:**  
**Provinsie Noord-Kaap**  
Vierde Respondent  
Medlife Towers  
T Vloer  
Kimberley

Per Balju



**Rooivleis Nywerheids Forum van Suid-Afrika**

Vyfde Respondent  
p/a die Sekretaris  
Cederberg Equestria Estate 41  
Pretoria

Per Balju

**Lid van die Uitvoerende Raad: Landbou: Provinsie Vrystaat**

Sesde Respondent  
Landbou Instituut  
Kamer 222  
Chemistry Gebou  
Glen  
9306

Per Balju

**Lid van die Uitvoerende Raad:  
Landbou: Provinsie Mpumalanga**

Sewende Respondent  
2de Vloer, Gebou No 6  
Government Boulevard  
Riverside Park X2  
Nelspruit, 1200

Per Balju

**Lid van die Uitvoerende Raad: Landbou: Provinsie Limpopo**

Agste Respondent  
Diccardstraat  
Polokwane  
0070

Per Balju

**Lid van die Uitvoerende Raad:  
Landbou en Landelike Ontwikkeling: Gauteng Provinsie**

Negende Respondent  
Eloffstraat 68  
Diamond Corner Gebou  
Johannesburg  
2001

Per Balju

**Lid van die Uitvoerende Raad:**  
**Landbou Bewaring, Omgewing Sake en**  
**Landelike Ontwikkeling: Noordwes Provinsie**  
Tiende Respondentvan  
h/v James Moroko & Stadiumweg  
Mmabato  
2735

Per Balju

**Lid van die Uitvoerende Raad:**  
**Landbou, Omgewing Sake en**  
**Landelike Ontwikkeling: KwaZulu Natal Provinsie**  
Elfde Respondentvan  
Cedara Executive Gebou Nr 1  
Cedara Kollege  
Pietermaritzburg

Per Balju

**Lid van die Uitvoerende Raad:**  
**Landbou en Landelike Ontwikkeling:**  
**Wes-Kaap Provinsie**  
Twaalfde Respondent  
2de Vloer, Pretoria Assuransie Gebou  
Green Market Square  
Kaapstad, 8000

Per Balju

**Lid van die Uitvoerende Raad:**  
**Landbou en Landelike Ontwikkeling:**  
**Oos-Kaap Provinsie**  
Dertiende Respondent  
Dukumbana Gebou  
Independence Laan  
Bhisho, 5605

Per Balju

**Suid-Afrikaanse Veterinêre Raad**  
Veertiende Respondent  
Kerkstraat 874  
Lisdoganpark,  
Pretoria,  
Gauteng

Per Balju

**Agri Suid-Afrika**  
Vyftiende Respondent  
Inkwazi kantoorpark, Blok A  
Embankmentstraat 1249  
Centurion

Per Balju

**Wild Life Ranching Vereeniging van Suid-Afrika**  
Sestiende Respondent  
Clublaan 105  
Waterkloofhoogte  
Pretoria

Per Balju

**Die Suid-Afrikaanse Volstruis Besigheidskamer**  
Sewentiende Respondent  
h/v Rademeyerstraat en Parkweg,  
Oudtshoorn  
Wes-Kaap Provinsie

Per Balju

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**STEPS TO BE TAKEN TO REGAIN  
SOUTH AFRICA'S FOOT-AND-MOUTH DISEASE FREE ZONE STATUS**

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I. THE TERRESTRIAL CODE AND THE ACT

1. The requirements for the reinstatement of South Africa's foot-and-mouth disease ("**FMD**") free zone status, which was revoked due to an outbreak of FMD in KwaZulu-Natal, are set out hereunder.
2. As a member of the World Organisation for Animal Health ("**OIE**"), South Africa is bound to adhere to the provisions of the Terrestrial Animal Health Code ("**the Terrestrial Code**").
3. The Terrestrial Code refers to "veterinary services", as opposed to the "Directorate of Animal Health", as referred to in the Animal Diseases Act, 35 of 1984 (as amended) ("**the Act**"). The difference in terminology is not material and the reference to "veterinary services" in the Terrestrial Code should be read as a reference to the Directorate of Animal Health.

II. ANIMAL HEALTH SURVEILLANCE

4. Chapter 1.4: Animal health surveillance<sup>1</sup> of the Terrestrial Code, provides that animal health surveillance is an essential tool to facilitate the control of

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<sup>1</sup> Defined in the Terrestrial Code to mean:

disease or infection and to support claims for freedom from disease or infection.

### III. EVALUATION OF ANIMAL HEALTH STATUS

5. Prerequisites to enable an OIE Member to provide information for the evaluation of its animal health status are<sup>2</sup>:

5.1 that the Member complies with the provisions of Chapters 3.1 and 3.2 of the Terrestrial Code<sup>3</sup>;

5.2 that, where possible, surveillance data must be complemented by other sources of information (e.g. scientific publications, research data, documented field observations and other non-survey data); and

5.3 that transparency in the planning and execution of surveillance activities and the analysis and availability of data and information, must be maintained at all times and in accordance with Chapter 1.1 of the Terrestrial Code.<sup>4</sup>

6. Veterinary services must accordingly:

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““**Surveillance**” means the systematic ongoing collection, collation, and analysis of information related to animal health and the timely dissemination of information to those who need to know so that action can be taken.”

<sup>2</sup> Terrestrial Code, Article 1.4.1(3).

<sup>3</sup> Chapter 3.1 of the Terrestrial Code: Veterinary Services.

<sup>4</sup> Chapter 1.1 of the Terrestrial Code: Notification of diseases and epidemiological information

6.1 conduct surveillance for distribution and occurrence of FMD infection<sup>5</sup>;

and then, after eradication of FMD:

6.2 conduct surveillance to demonstrate freedom from disease/infection<sup>6</sup>, which surveillance must be of such a nature as to substantiate an application for recognition of South Africa's status as a FMD free zone where vaccination is not practiced<sup>7</sup>.

#### IV. APPLICATION FOR REINSTATEMENT OF STATUS

7. An application for reinstatement of South Africa's status as a FMD free zone where vaccination is not practiced, will in future be made in terms of article 1.6.3 of the Terrestrial Code, which *inter alia* requires veterinary services to:

7.1 provide documentary proof that there has been compliance with Chapters 3.1. and 3.2. of the Terrestrial Code; and

7.2 provide documentary proof that there has been compliance with Article 1.1.3. of the Terrestrial Manual<sup>8</sup>; and

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<sup>5</sup> Article 1.4.7 of the Terrestrial Code.

<sup>6</sup> Article 1.4.6 of the Terrestrial Code.

<sup>7</sup> Chapter 8.5 of the Terrestrial Code.

<sup>8</sup> Defined in the Terrestrial Code to mean:

““Terrestrial Manual” means the OIE Manual of Diagnostic Tests and Vaccines for Terrestrial Animals.”

- 7.3 describe how veterinary services supervise and control all FMD related activities in the country and in the zone;
- 7.4 provide documentary proof that the provisions in Chapters 1.1.2., 1.1.3. and 2.1.5. of the Terrestrial Manual are applied in the FMD free zone in South Africa;
- 7.5 provide documentary proof that surveillance for FMD in the FMD free zone in South Africa is properly implemented and supervised in accordance with the provisions of Articles 8.5.42. to 8.5.48. of the Terrestrial Code and Chapter 2.1.5. of the Terrestrial Manual;
- 7.6 in respect of FMD prevention, provide particulars describing the animal health measures implemented to effectively prevent the introduction of FMD into the FMD free zone in South Africa, taking into consideration physical or geographical barriers;
- 7.7 in respect of control measures and contingency planning, *inter alia* be provide the following information;
- 7.8 give details of any written guidelines, including contingency plans, available to the official services for dealing with suspected or confirmed outbreaks of FMD;
- 7.9 in the event of a future FMD outbreak:

- 7.9.1 indicate the sampling and testing procedures used to identify and confirm the presence of the causative agent;
  - 7.9.2 describe the actions taken to control the disease situation in and around any holdings found to be infected with FMD;
  - 7.9.3 indicate the control and/or eradication procedures (e.g. vaccination, stamping-out, partial slaughter / vaccination, etc.) that would be taken and include therein details on antigen and vaccine banks;
  - 7.9.4 describe the procedures used to confirm that an outbreak has been successfully controlled/eradicated, including any restrictions on restocking;
  - 7.9.5 give details of any compensation payments made available to farmers, etc. when animals are slaughtered for disease control or eradication purposes and their prescribed timetable; and
- 7.10 furnish a declaration indicating:
- 7.10.1 there has been no outbreak of FMD during the past 12 months;



- 7.10.2 no evidence of FMD infection has been found during the past 12 months;
- 7.10.3 no vaccination against FMD has been carried out during the past 12 months;
- 7.10.4 no vaccinated animal has been introduced into the zone since the cessation of vaccination, except in accordance with Article 8.5.10 of the Terrestrial Code.

## V. CONCLUSION

- 8. It is imperative that the Directorate of Animal addresses and proceeds with the steps outlined above as quickly as possible in order for South Africa to retain its former FMD status.
- 9. No application by South Africa for the reinstatement of its FMD free zone status can be made until the necessary documentary proof is available.