

SUBMISSION

BY:

THE RED MEAT INDUSTRY FORUM
("The Forum")

TO:

THE PORTFOLIO COMMITTEE
ON AGRICULTURE, FORESTRY AND FISHERIES

TO: **THE PORTFOLIO COMMITTEE ON AGRICULTURE, FORESTRY AND FISHERIES**

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EXECUTIVE SUMMARY:

- i. The Red Meat Industry Forum (“**the Forum**”) represents the interests of the various groups in the red meat industry and is the national representative structure of the South African red meat industry.
- ii. The Forum has unsuccessfully attempted to engage the Minister of the Department of Agriculture, Forestry and Fisheries (“**the Department**”), the Department and the various responsible functionaries in the Department on the following issues:
 - (a) the failure by the Department to take the appropriate steps to ensure the reinstatement of South Africa’s Foot-and-Mouth (“**FMD**”) free zone status with the World Animal Health Organisation ;
 - (b) the registration of abattoirs;
 - (c) an independent meat inspection service;
 - (d) the failure of the Director of the Directorate of Animal Health to comply with and enforce the provisions of the Animal Diseases Act (Act 35 of 1984) in respect of quarantine stations, importation of animals and animal products into South Africa, fences and compensation;
 - (e) the need to formalize South Africa’s import policy with other African countries;
 - (f) the proposed Fertilizer and Feeds Bill;

- (g) the loss of South Africa's export status;
 - (h) the Namibian Small Stock Export Marketing Scheme;
 - (i) the dispute resolution measures under the Animal Diseases Act and the Meat Safety Act (Act 40 of 2000).
- iii. Despite these repeated requests the Minister and the responsible functionaries in the Department have failed to meet with the Forum on the abovementioned issues and / or failed to address the abovementioned issues satisfactorily or at all.
- iv. The Department is failing to support the red meat industry, which is by far the largest agricultural industry in South Africa. By contrast, the relationship between the red meat industries of foreign competitors and their respective governments of countries such as Brazil, Australia, Argentina and New Zealand, is markedly different from the South African experience.
- v. The abovementioned issues are of a serious nature and impact directly upon the entire red meat industry and imperil South Africa's food safety if left unaddressed.

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I. THE FORUM

1. The Forum is:

- 1.1 an unincorporated voluntary association of organisations having legal personality which represents the interests of the various groups in the red meat industry, care of the Secretary, 41 Cederberg Equestria Estate, Pretoria, with the right to sue and be sued in its own name in terms of its Constitution;
- 1.2 the national representative structure of the South African red meat industry;
- 1.3 the custodian of the South African red meat industry, with its strategy focused on providing services to meet its stated objectives. These objectives include enhancing the industry's domestic and global competitiveness; stimulating demand and consumer confidence – both in domestic and export markets; creating alliances with government and influencing legislation, trade and macro-economic conditions to ensure sustained viability and growth; and maintaining and exploiting the high health status and genetic potential of South African breeding herds.

2. The founding members of the Forum are:

2.1 National Emerging Red Meat Producers Organisation ("NERPO").

NERPO is a nationally constituted body which represents the interests of the previously disadvantaged red meat producers of both large and small stock in South Africa.

2.2 The South African Federation of Livestock Agents and Meat Brokers ("SAFLA").

SAFLA represents the interests of livestock agents and auctioneers who operate throughout South Africa.

2.3 South African National Consumer Union ("SANCU").

SANCU is a voluntary autonomous body that today represents millions of consumers. Its membership extends from the vitally important grass-roots support of leading women's organisations such as the various Women's Agricultural Unions, the National Council of Women of South Africa, through to influential bodies such as the DENOSA, the Association of Retired Persons and Pensioners, KONTAK, etc.

2.4 The National Federation of Meat Traders. ("NFMT")

The NFMT is a nationally representative body of all participants in the distribution of red meat and red meat products whose members include the major chain groups and commercial butcheries.

2.5 The Red Meat Abattoir Association ("**RMAA**").

The Red Meat Abattoir Association (RMAA) represents the interests of the abattoir owners in South Africa.

2.6 The South African Meat Processors Association ("**SAMPA**").

The SAMPA is representative of the major processors of meat products and processed meat in South Africa.

2.7 Skin, Hides and Leather Council. ("**SHALC**")

The South African Hides and Skins Council represents the interests of the Hide and Skin trade, tanneries, and related exports in South Africa.

2.8 The Red Meat Producers Organisation ("**RPO**") (which has two representatives).

The RPO is a nationally constituted body with Provincial structures which represents the interests of the commercial farmer who produces cattle and small stock (goats and sheep).

2.9 The South African Pork Producers Association ("**SAPPO**").

The South African Pork Producers Association (SAPPO) represents the interests of intensive pork producers whose members supply the major part of the pork marketed in South Africa.

2.10 The South African Feedlot Association ("**SAFA**").

The SAFA is a legally constituted body which represents the

interests of the intensive farming of cattle and sheep in South Africa. The Feedlot Industry slaughters approximately 80% of the beef supplied in South Africa.

2.11 The Association of Meat Importers and Exporters (“**AMIE**”).

AMIE members are participants in the import of frozen meat and meat products into South Africa. The percentage of imported products to the South African market is growing enormously and makes a very important contribution to the affordable supply of protein to the South African market.

2.12 The Federation of Meat Trade Unions.

The Federation of Meat Industry Trade Unions represents the interests of organized labour engaged in the Meat Industry of South Africa.

3. In addition to what is stated in paragraph 1.3 above, the objects of the Forum also include:

3.1 the promotion, coordination, supervision and securing of the interests of all participants in the meat industry who are affiliated members of the Forum;

3.2 fostering the proficiency of production, the demand for red meat, offal and red meat products and the image of the meat industry as a whole;

- 3.3 encouraging a code of conduct of members of the Forum such as to command the confidence and respect of the public in general;
 - 3.4 the doing of all lawful things in the interests of the affiliated members of the Forum.
4. As is apparent from its objects, the Forum seeks to protect and advance the interests of the red meat industry and in particular the image of the industry.
5. In this submission reference will also be made to:
 - 5.1 “**the Minister**” who is the Minister of the Department of Agriculture, Forestry and Fisheries;
 - 5.2 “**the Department**” which is the Department of Agriculture, Forestry and Fisheries;
 - 5.3 “**the Director**” who is the Director of the Directorate of Animal Health appointed as such in terms of section 2(1) of the Animals Diseases Act (Act 35 of 1984) (“**the Animal Diseases Act**”). ;
 - 5.4 “**the National Executive Officer**” who is the officer designated as such in terms of section 2(1) of the Meat Safety Act (Act 40 of 2000) (“**the Meat Safety Act**”).

II. REASONS FOR THE SUBMISSION

6. The red meat industry is faced with a series of issues which are directly impacting upon and endangering food safety in the Republic of South Africa. These issues pertain to:

6.1 Non-compliance with current legislation by the Department and the Minister;

6.2 The failure by the Department to properly manage food safety in the Republic;

6.3 The failure by the Department to take the appropriate steps to ensure the reinstatement of South Africa's Foot-and-Mouth Disease ("**FMD**") free zone status with the World Animal Health Organisation, the **Office International des Epizooties** ("**the OIE**"). The OIE is the inter-governmental organisation responsible for improving animal health worldwide and South Africa is a member of the OIE;

6.4 The engendering of a situation by the Minister and the Department that undermines the ability of the red meat industry in general to maintain its commercial viability and provide the basic food needs of the South African population.

7. The Forum has repeatedly attempted to address with the Minister the issues set out in this submission. However, the Department and the

Minister have repeatedly disregarded submissions made to them and, regrettably, the Forum at times has had to resort to the Courts to have the matters addressed. The red meat industry is by far the largest agricultural industry in South Africa; yet requests by the Forum to meet with the Minister have been rebuffed at every instance.

8. The Forum has to date, exhausted every avenue in an attempt to have the Department and the Minister address the issues that are detailed hereunder.

9. By contrast, the relationship between the red meat industries of foreign competitors and their respective governments of countries such as Brazil, Australia, Argentina and New Zealand, is markedly different from the South African experience. In particular:

9.1 The governments of Brazil, Australia, Argentina and New Zealand embrace their red meat industries and assist them in every respect in producing a product that is not only competitive in their own countries, but also on the international market;

9.2 The Forum has the clear impression that the Red Meat Industry in South Africa is perceived as a political adversary of the present and past Ministers and the Department. Not only is this perception without foundation, but the inevitable net result of this incorrect perception is to the detriment of the South

African Red Meat Industry, the South African Economy and the South African consumer at large.

10. It is in these circumstances that the Forum is compelled to make these submissions to the Portfolio Committee.

III. MEAT SAFETY ACT

General

11. The Meat Safety Act was assented to on 27 October 2000 and commenced on 1 November 2000 with the express purpose:

“To provide for measures to promote meat safety and the safety of animal products; to establish and maintain essential national standards in respect of abattoirs; to regulate the importation and exportation of meat; to establish meat safety schemes; and to provide for matters connected therewith.”

12. The following Regulations have been promulgated under the Meat Safety Act:

- 12.1 Red Meat Regulations (GN 1072 in GG 26779 of 17 September 2004) – almost four years after promulgation of the Meat Safety Act;

12.2 Poultry Regulations (GN R153 in GG 28520 of 24 February 2006) – more than five years after promulgation of the Meat Safety Act;

12.3 Ostrich Regulations (GN R54 in GG 29559 of 2 February 2007) – more than six years after promulgation of the Meat Safety Act.

13. The Department has not adhered to the Meat Safety Act and the aforementioned Regulations t in specifically the following two respects:

13.1 the registration of abattoirs; and

13.2 an independent meat inspection service.

The Registration of Abattoirs

14. Section 7 of the Meat Safety Act expressly provides the following:

“7 Prohibition of slaughter of animals at places other than abattoirs, and exemptions

(1) No person may-

(a) slaughter any animal at any place other than an abattoir;

(b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or

(c) sell or provide meat for human and animal consumption unless it has been slaughtered at an abattoir.”

15.
 - 15.1 Part II (Regulations 4 – 50) of the Ostrich Regulations deal with the registration of ostrich abattoirs.
 - 15.2 Part II (Regulations 4 – 46) of the Poultry Regulations deal with the registration of poultry abattoirs.
 - 15.3 Part II (Regulations 4 – 48) of the Red Meat Regulations deal with the registration of red meat abattoirs.
16. The functions (and enforcement) of *inter alia* sections 7 and 8 of the Meat Safety Act, as well as the relevant corresponding provisions in the Red Meat Regulations, the Poultry Regulations and the Ostrich Regulations have been assigned to the provincial executive of each province by section 5 of the Meat Safety Act.
17. Notwithstanding the promulgation of the Act and its Regulations, the provincial executives have not enforced the Act as a result of different interpretations of the provisions of the Act and the inability of the National Department to enforce the norms and standards of the Act and the relevant Regulations upon the abattoir industry and as such, very few abattoirs are compliant with these regulations.
18. The failure to properly execute the functions assigned to them, and the resultant selective enforcement of the Meat Safety Act and its

Regulations, places a burden on the compliant operators in the abattoir industry in that:

18.1 there are significant operating costs for those complaint abattoirs associated with proper and due compliance with the Meat Safety Act and the relevant Regulations;

18.2 Abattoirs which are not complaint with the Act and the relevant Regulations, and therefore operating illegally, enjoy a significant cost advantage over compliant abattoirs;

18.3 The provincial executives' failure to perform the functions assigned to them and to enforce the provisions of the Meat Safety Act and the relevant Regulations in respect of abattoirs:

18.3.1 have directly contributed to creating the opportunity for free-riding by non-compliant abattoirs;

18.3.2 impact and imperil the rights and interest of the South African consumer and food safety throughout the Republic.

An Independent Meat Inspection Service

19. Section 11(1)(c) of the Meat Safety Act, which deals with essential national standards, expressly provides, *inter alia*, that the following standard apply to all abattoirs:

“meat inspection services may only be performed by the national executive officer, a provincial executive officer, an authorised person or an assignee, who must perform that function independently from the abattoir;”

20. To date no such independent meat inspection service has been implemented.
21. In practice this “independent” meat inspection service is performed directly or indirectly by abattoir owners in circumstances where the shareholding or members’ interest in the entity performing the “independent” meat inspection service is the abattoir owner or some nominee.
22. The situation is evidently fraught with a conflict of interest between providing safe meat on the one hand, and operating a commercially successful abattoir on the other. Despite this severe conflict of interests, the Minister has, since 2000, yet to nominate the authorized person to perform this function.
23. The result of the abovementioned practice has been that:

- 23.1 Often carcasses that are not fit for human consumption are nevertheless certified as fit in order to avoid adverse financial loss to the abattoir owner;
- 23.2 Food safety throughout the Republic is detrimentally affected and imperiled;
- 23.3 The rights, interest and health of the South African consumer are ignored or circumvented in the interest of commercial gain by the individual abattoir owner.
24. The Forum, together with the Poultry, Ostrich and Game Industries and the Department of Agriculture Veterinary Services agreed upon a *modus operandi* to implement a proper independent meat inspection service. This proposal was submitted by the relevant section in the Department to the Director General of Agriculture but for some unknown reason, the proposal has been blocked. Attached hereto is:
- 24.1 A covering letter, attached to which was the proposal mentioned in paragraph 24 above, addressed to the Minister and which has to date not been replied to, as Annexure “**A1**”;
and
- 24.2 A copy of the proposal mentioned in paragraph 24 above as Annexure “**A2**”.

IV. ANIMAL DISEASES ACT

General

25. The Animal Diseases Act was assented to on 20 March 1984 and came into effect on 1 October 1984. It will be repealed by section 31(1) of the Animal Health Act (Act 7 of 2002) on a date to be fixed by the President by proclamation in the Gazette. No date has yet been fixed for the coming into operation of the Animal Health Act.

26. The purpose of the Animal Diseases Act is:

“To provide for the control of animal diseases and parasites, for measures to promote animal health, and for matters connected therewith.”

27. In particular, the Animal Diseases Act provides:

27.1 In **section 5** for establishment and use of quarantine stations;

27.2 In **section 6** for importation of certain controlled animals or things;

27.3 In **section 9** for the implementation of measures in relation to any controlled purpose, which is defined to mean “*the prevention of the bringing into the Republic, or the prevention or combating of or control over an outbreak or the spreading, or*

the eradication, of any animal disease or, where applicable, of any parasite”;

- 27.4 In **section 18** for the erection and maintenance of fences for control measures, including fences on South Africa’s international borders;
- 27.5 In **section 19** for the payment of compensation pursuant to the destruction of otherwise disposal of any animal or other thing as part of any control measure.
28. There has been a general failure on the part of Minister, the Department, the Director and the Directorate of Animal Health to implement and enforce the provisions of sections 5, 6, 9, 18 and 19 of the Animal Diseases Act.

Quarantine Stations

29. Quarantine stations are crucial to the manner in which the importation and exportation of animals or animal products is conducted.
30. During a court case in the Northern Cape High Court (Case Number Case No: 2173/2010) in which the Forum, the Department and the Director were all parties, it came to light that there has been a practice in the Department to approve private quarantine stations.

31. The Forum is alarmed and opposed to such a development for the following reasons:

31.1 Quarantine facilities are high risk facilities;

31.2 A high risk quarantine facility should not be present on the premises of a party that has a direct financial interest in the animals being quarantined and therefore has a conflict of interest that would compromise its management of the quarantine facility and conditions.

32. Although the Department indicated in Court papers that it was opposed to approving the application for quarantine facilities on Farm Wolfefontein brought by Mr Chris Visser and Swanvest 234 (Pty) Ltd, no indication has yet been forthcoming to indicate what will be done:

32.1 to rectify the situation were private quarantine facilities are operated; and

32.2 to ensure that the establishment and use of quarantine facilities occur in accordance with the statutory provisions set out in section 5 of the Animal Diseases Act.

33. The failure to address the unacceptable *status quo* in respect of quarantine stations impacts directly on South Africa's export status, ability to import, safety and health of the national herd and food safety in South Africa.

Importation

34. It is the Forum's experience that:

34.1 Import permits are currently issued in an *ad hoc* manner which does not promote transparency, is open to abuse and exposes the Director, the Directorate and the Department to continuous litigation. The defective manner in which import permits are issued include:

34.1.1 A general failure to appreciate and incorporate proper standards cognisant of South Africa's obligations as a participant in international trade, which standards are imposed to assure the sanitary safety of international trade in terrestrial animals (mammals, birds and bees) and their products;

34.1.2 The issuing of open ended permits for the importation of meat from neighboring countries, e.g. permits that remain valid for a period of time, as opposed to permits that clearly identify particular batches of animals or animal products entering the country. Such open ended permits are inimical to proper importation control;

- 34.2 The Directorate and the Department currently do not have the ability to conduct proper Risk Analyses in terms of the OIE Terrestrial Animal Health Code (hereafter referred to as the “**OIE Code**”);
- 34.3 The illegal importation of meat into South Africa, especially through neighboring countries, has increased considerably and the Department has shown itself unable to prevent this or cope with the situation.
35. In order for the market, both locally and internationally, to have confidence in South Africa’s ability to import and export animals and animal products it is essential that:
- 35.1 Standards are set for the importation and exportation of animals and animal products which accord with South Africa’s international obligations under the OIE Code. This includes developing and maintaining the ability to conduct regular, transparent, objective and defensible risk analyses for international trade;
- 35.2 The process whereby permits for importation are applied for and assessed by the Directorate be improved in order to promote transparency.

Fences

36. Section 18 of the Animal Diseases Act deals specifically with fences as a means of controlling animal diseases and parasites.
37. The Directorate has generally failed to maintain large sections of South Africa's international border fences, thereby allowing uncontrolled movement of animal products, domesticated animals and wildlife.
38. The Forum has previously addressed complaints to the Director, the Directorate and the Minister regarding the state of sections of South Africa's international border fences, but to no avail.
39. The particulars of the deplorable state of sections of South Africa's international border fences is set out in detail in:
 - 39.1 Annexure "**B1**", which is a an objection lodged by the Forum with the Minister in terms of section 18 of the Animal Diseases Act in respect of sections of South Africa's international border fences and the Director's failure to maintain proper control measures along South Africa's borders;
 - 39.2 Annexure "**B2**", which is an updated report of an investigation undertaken on behalf of the Forum into the state of our border fences. In many instances where control points are supposed to be in place:

- 39.2.1 no vehicle inspections are conducted;
 - 39.2.2 the gate personnel are often illiterate, untrained and unable to effect proper control.
- 39.3 Unless this situation is remedied, there is no chance that South Africa will be successful in an application for re-instatement of its FMD free zone status and further outbreaks of trade sensitive diseases, such as FMD, are bound to occur.

Compensation

40. During May 2009, the then Acting Director: Animal Health issued:
- 40.1 Notice no R.558 published in Government Gazette No 32234 of 22 May 2009 (**“the Amended Regulation”**, a copy of which is attached hereto as Annexure **“C1”**);
 - 40.2 An explanatory memo dated 25 May 2009 (**“the Memorandum”**, a copy of which is attached hereto as Annexure **“C2”**).
41. The Amended Regulation amended the Animal Disease Regulations to the Animal Diseases Act insofar as it deals with payment of

compensation to owners of animals whose animals are destroyed or disposed of pursuant to certain of the provisions of the Act.

42. Pursuant to the amendment of regulation 30 the Acting Director: Animal issued the Memorandum explaining the amendment. On p.4 of the Memorandum he *inter alia* stated that:

“Compensation:

Following deliberations on “compensation” subsequent to the recent outbreaks of animal diseases whereby animals were destroyed, it became apparent that Regulation 30 is not a practical guideline for determining compensation.”

43. The Forum was not a party to the deliberations referred to above.
44. The Acting Director: Animal Health furthermore also stated in the Memorandum that:

“In a disease outbreak, however, it is very important for the Director to engender maximum support of the affected farmers for the control measures, by determining a mutually agreeable compensation value. This requires the Director to liaise with affected parties as an ad hoc rapid response to determine the most appropriate and acceptable compensation value. The amended Animal Disease Regulations on compensation empowers the Director to determine the most appropriate and acceptable compensation value. The amended Animal Disease Regulations on compensation empowers the Director to determine the applicable compensation in consultation with relevant industry organizations and enable Government to persist with the current policy of generous but realistic compensation for animals destroyed in disease controlled campaigns.”

(Own emphasis.)

45. Whilst the Forum supports the sentiments expressed regarding the rendering of maximum support, it is not entirely clear what is intended to be conveyed in the reference to “...a mutually agreeable compensation value” nor what is intended by “...to determine the most appropriate and acceptable compensation value”.
46. To the extent that the Memorandum envisages consultation by the Director of Animal Health with relevant industry organizations, of which the Forum is one, to determine the applicable compensation, the Forum gave notice that it would like to meet with the Director and consult regarding the following:
- 46.1 the manner in which the Director foresees that a market related compensation will henceforth be fixed in circumstances where animals are killed as part of procedures envisaged under the Animal Diseases Act;
- 46.2 whether the Director has the intention of fixing a generally applicable policy. If this is so, the Forum intends to make representations regarding what the policy should be.
- 46.3 what the applicable compensation should be.
47. To date, and despite protracted attempts by the Forum to engage with the Director, the Directorate or the Minister, no consultations have occurred.

V. ANIMAL IMPROVEMENT ACT

48. The Animal Improvement Act (Act 62 of 1998) was assented to on 16 September 1998 and commenced on 21 November 2003. Its stated purpose is:

“To provide for the breeding, identification and utilization of genetically superior animals in order to improve the production and performance of animals in the interest of the Republic; and to provide for matters connected therewith.”

49. Section 16 of the Animal Improvement Act 6 deals with the importation of animals and genetic material into the Republic and provides that:

“(1) No person shall import into the Republic-

- (a) an animal with the aim to record or register such animal in terms of any breed standards; or
- (b) genetic material with the aim to record or register the progeny to be begotten from such genetic material in terms of any breed standards,

unless such importation has been authorised by the registrar in writing.”

50. The Lesotho grazing permit system was historically introduced due to drought conditions which were being experienced at that point in time, to assist farmers in Lesotho. This dispensation has never been withdrawn and more importantly, the terms of the permits issued are not being enforced nor complied with.

51. Currently permits are issued in terms of Section 16(1) of the Animal Improvement Act by the Department, Sub-Directorate of Animal

Improvement, Pretoria to any applicant, whether being a Lesotho or South African citizen under the headings of grazing, keeping in feedlots, direct sale and/or for slaughter purposes.

52. The Lesotho grazing permit system is clearly being abused to the detriment of proper importation control and therefore of food safety in the Republic as is evident from Annexure “D” hereto.

VI. OTHER MATTERS OF CONCERN

The need to formulate South Africa’s Import Policy with Africa

53. The Forum recognizes and supports South Africa’s obligations as a member of the OIE, as well as the aspiration of the Department to implement effective regulatory measures that are least trade restrictive, as well as economically and operationally feasible.
54. In light of the recent outbreak of FMD in Kwa-Zulu Natal and the consequences of that outbreak, the Forum also supports the cautionary approach advocated by the South African Government. The Forum wishes to emphasize its view that where there are capacity constraints that impact on the effective implementation of risk mitigation measures, maintaining the *status quo* or implementation of further restrictions on imports of animal and animal products should be considered. Currently there is a significant number of vacant veterinary posts in Veterinary Services of the Department as is evident from the most recent statistics

provided by Dr Dewald Keet, then Chief State Veterinarian, in a presentation document entitled "Animal Disease Control in South Africa":

| Service | Veterinarians | | Administrative Staff | | Technical Staff | | Border & Control Zone Staff | |
|-------------------|---------------|--------------|----------------------|--------------|-----------------|--------------|-----------------------------|--------------|
| | Filled Posts | Vacant Posts | Filled Posts | Vacant Posts | Filled Posts | Vacant Posts | Filled Posts | Vacant Posts |
| National | 26 | 20 | 35 | 2 | 88 | 8 | 530 | 184 |
| Provincial | 187 | 104 | 226 | 54 | 1079 | 305 | 0 | 0 |
| Total | 213 | 124 | 261 | 56 | 1167 | 313 | 530 | 184 |
| % | 63% | 37% | 82% | 18% | 79% | 21% | 74% | 26% |

55. The Forum sees the South African Government and the Department in particular as its partner, sharing the common good of protecting the South African live stock industries against the introduction of trans-boundary animal diseases, including FMD.
56. The Forum supports the need to facilitate international trade, especially trade within and among African countries. The Forum also welcomes the commitment by the Department that trade activities are to be undertaken within the broader and accepted international guidelines and rules, and that any envisaged trade should not compromise and/or jeopardize existing bi-lateral and multi-lateral trade agreements.

57. The OIE Terrestrial Animal Health Code (hereafter referred to as the “**Terrestrial Code**”) recognizes that South Africa’s trading policy in respect of trade in live cloven-hoofed animals must be determined pursuant to Risk Analyses done on a *per species* and per country basis, or as required.

58. In terms of the Terrestrial Code a country that is free from disease must also provide evidence of all the steps taken to prevent the introduction of any other trans-boundary animal disease, including the FMD virus. This would require the Department to conduct acceptable risk mitigation measures associated with all imports of live animals and their products. Countries are obliged in these circumstances to apply prescribed risk mitigation measures. In this instance, this would *inter alia* include an independent import Risk Analysis. Given current capacity constraints the Forum is concerned about the capacity of the Department to conduct such Risk Analyses.

59. The Forum sets out hereunder the process to be followed in conducting Risk Analyses. Only once these Risk Analyses have been conducted and a Risk Assessment or Assessments are available for a particular country and a particular species, can and should there be an assessment on whether trade as envisaged should or should not take place.

60. Chapter 2.1 of the Terrestrial Code provides recommendations and principles for conducting transparent, objective and defensible Risk Analyses for international trade. The components of Risk Analysis described in that chapter are hazard identification, risk assessment, risk management and risk communication. The Terrestrial Code illustrates the process of Risk Analysis as follows:



61. In order to conduct a proper Risk Analysis, the following steps have to be taken:

| # | <u>TERRESTRIAL CODE CITATION:</u> | STEP: |
|----|--|---|
| 1. | Article 2.1.7.(2) Article 2.1.7.(4) Article 2.1.7.(5) Article 2.1.7.(6) | Put a risk communication strategy in place. <ol style="list-style-type: none"> 1. The principal participants in <u>risk communication</u> include the authorities in the <u>exporting country</u> and other stakeholders such as domestic and foreign industry groups, domestic livestock producers and consumer groups. 2. The assumptions and uncertainty in the model, model inputs and the risk estimates of the <u>risk assessment</u> should be communicated. 3. Peer review is a component of <u>risk communication</u> in |

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| | | order to obtain scientific critique and to ensure that the data, information, methods and assumptions are the best available. |
| 2. | Article 2.1.1 Chapters 3.1 and 3.2 of the Terrestrial Code | <p>Consider the results of an evaluation of:</p> <ol style="list-style-type: none"> 1. <u>Veterinary Services</u> of the exporting country, 2. Zoning of the exporting country; 3. Compartmentalization in the exporting country; and 4. Surveillance systems in place for monitoring of animal health in the <u>exporting country</u>. <p>These are described in separate chapters in the <u>Terrestrial Code</u>.</p> |
| 3. | Article 2.1.2 | <p>Do Hazard Identification.</p> <p>This includes <i>inter alia</i>:-</p> <ol style="list-style-type: none"> 1. The <u>hazard identification</u> involves identifying the pathogenic agents which could potentially produce adverse consequences associated with the importation of a <u>commodity</u>. 2. The evaluation of the <u>Veterinary Services</u>, <u>surveillance</u> and control programs and zoning and 32 compartmentalization systems are important inputs for assessing the likelihood of <u>hazards</u> being present in the animal population of the <u>exporting country</u>. |
| 4. | Article 2.1.3 | <p>Adhere to the principles of Risk Assessment</p> <p>These principles are:</p> <ol style="list-style-type: none"> 1. <u>Risk assessment</u> should be flexible to deal with the complexity of real life situations. No single method is applicable in all cases. <u>Risk assessment</u> should be able to accommodate the variety of animal <u>commodities</u>, the multiple <u>hazards</u> that may be identified with an importation and the specificity of each <u>disease</u>, detection and <u>surveillance</u> systems, exposure scenarios and types and amounts of data and information. |

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| | | <ol style="list-style-type: none"> 2. Both <u>qualitative risk assessment</u> and <u>quantitative risk assessment</u> methods are valid. 3. The <u>risk assessment</u> should be based on the best available information that is in accord with current scientific thinking. The assessment should be well-documented and supported with references to the scientific literature and other sources, including expert opinion. 4. Consistency in <u>risk assessment</u> methods should be encouraged and <u>transparency</u> is essential in order to ensure fairness and rationality, consistency in decision making and ease of understanding by all the interested parties. 5. <u>Risk assessments</u> should document the uncertainties, the assumptions made, and the effect of these on the final risk estimate. 6. <u>Risk</u> increases with increasing volume of <u>commodity</u> imported. 7. The <u>risk assessment</u> should be amenable to updating when additional information becomes available. |
| 5. | Article 2.1.4 | <p>Conduct a Risk Assessment According to the Risk Assessment Steps</p> <p>These include the following:</p> <ol style="list-style-type: none"> 1. Release Assessment: Examples of the kind of inputs that may be required in the release assessment are biological factors, country factors (included in which is evaluation of <u>Veterinary Services, surveillance</u> and control programs and zoning and compartmentalization systems of the <u>exporting country</u>) and commodity factors. 2. Exposure Assessment: Exposure assessment consists of describing the biological pathway(s) necessary for exposure of <u>animals</u> and humans in the <u>importing country</u> to the <u>hazards</u> (in this case the pathogenic agents) released from a given <u>risk</u> source, and estimating the probability of the exposure(s) occurring, either |

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| | | <p>qualitatively (in words) or quantitatively (as a numerical estimate).</p> <p>3. Consequence Assessment: Consequence assessment consists of describing the relationship between specified exposures to a biological agent and the consequences of those exposures. Examples of consequences include direct consequences (such as animal <u>infection</u>, <u>disease</u> and production losses and public health consequences) and indirect consequences (such as <u>surveillance</u> and control costs, compensation costs, potential trade losses and adverse consequences to the environment.)</p> <p>4. Risk estimation: <u>Risk</u> estimation consists of integrating the results from the release assessment, exposure assessment, and consequence assessment to produce overall measures of <u>risks</u> associated with the <u>hazards</u> identified at the outset. Thus risk estimation takes into account the whole of the <u>risk</u> pathway from <u>hazard</u> identified to unwanted outcome.</p> |
| 6. | <p>Article 2.1.5</p> <p>Article 2.1.6</p> | <p>Establish Principles of Risk Management</p> <p>Risk Management to consist of the following components:</p> <ol style="list-style-type: none"> 1. Risk evaluation. 2. Option evaluation. 3. Implementation. 4. Monitoring and review. |

62. The Forum wishes to emphasize that:

62.1 peer review should form a critical component of the Risk Analysis; and

62.2 there must be no capacity constraints that may impact upon the effective implementation of risk mitigation measures required

by a new policy. In this regard the Forum points out that the recent outbreak of FMD in KwaZulu-Natal has illustrated that there are currently capacity constraints within Veterinary Services that must be addressed as a matter of urgency.

63. Despite repeated attempts to co-operate with the Department in putting appropriate structures in place to conduct proper Risk Analyses on a continual basis, the Forum's offers have been rebuffed and the Department has to date not produced a single acceptable Risk Analysis.

64. Due to the recent outbreak of FMD in Northern KwaZulu-Natal, South Africa lost its FMD free zone status. This, alone, has contributed to a loss to livestock industries of ±R4 billion per annum. (A report has been submitted by the National Agricultural Marketing Council to the Minister). Foreign earnings, which are vital to help offset our foreign trade deficit, are being needlessly lost as a result. To date no acceptable and internationally compliant plan has been put forward by the Minister, the Department and the Director explaining how South Africa will regain its lost FMD free zone status.

Proposed Fertilizer and Feed Bill

65. The Department together with the large feed manufacturers have agreed on the implementation of a new piece of legislation which would require every producer who uses his own feed for consumption on his farm, to be

registered and to comply with extremely expensive procedures which could play into the hands of the large feed companies.

66. Despite numerous presentations by the Forum to the Department, this matter remains on course for implementation. If this legislation is to be promulgated in its present form, the Forum will have no alternative but to once again resort to the Courts for relief.

Loss of Export Status

67. Up until 2007, South Africa was included in the European Commission's list of countries with approved residue monitoring plans for live commodity products which, inter alia, allowed for products which were slaughtered in approved facilities to be exported to European countries. The listed commodities were bovine, ovine/caprine, swine, poultry and wild game, farmed game, and game products.
68. In order to retain this status, the Department has to comply with certain residue control requirements as set down by the European Commission.
69. The Department was advised on 28th March 2007 that South Africa would be de-listed as certain required information had not been submitted to the Commission services despite repeated requests by the European Commission for South African authorities to do so.

70. In a letter from the European Commission dated 17th July 2007 received on 23rd July 2007 (copy attached as per Annexure “E”), the Department was advised, *inter alia*, that:

“I regret to inform you that the FVO mission team found many substantial deficiencies in the implementation of residues control in South Africa. These have been communicated to the competent authorities during the course of the mission and will be described in detail in the forthcoming report. However, in advance of the report, I wish to draw your attention to the fact that no official residues testing were performed in either 2006 or 2007 to date. Furthermore, the results from 2005 have not yet been finalised. This means that successive residues plans submitted to the Commissions services had not actually been implemented”

And:

“Overall, the absence of testing and poor controls on veterinary medicines means that the E.U. can have no confidence in the residue status of food of animal origin exported from South Africa as the system does not provide guarantees with an effective equivalent to those provided for by Commission law.”

71. The loss of export status of South African products is due solely to the deliberate inaction and/or gross negligence of the Department as is endorsed by the E.U. reports on this matter.
72. The loss of potential earnings of foreign exchange cannot be quantified but they are very substantial. This loss of earnings can also be attributed to the Department’s inability to enforce and comply with the provisions of the Animal Disease Act as highlighted above, and begs the question as to why the South African consumer must consume meat and meat products that are not acceptable to the European Union consumers.

Namibian Small Stock Marketing Scheme

73. The Namibian Government has put in place a so called “Small Stock Marketing Scheme”. The objective in introducing this Scheme was to encourage local utilization of Namibian slaughter facilities through, *inter alia*, the imposition of restrictions on the export of live small stock from Namibia to South Africa. Objectively assessed the Small Stock Marketing Scheme failed to achieve its objectives.
74. Approximately 10% of the cattle slaughtered in South Africa originate from Namibia as South Africa is a net importer of cattle and if left unchecked it is possible that a similar scheme could be imposed on live cattle exports.
75. The Forum has, through numerous channels, raised the matter with the Department and stressed that:
- 75.1 the Namibian Small Stock Marketing Scheme is contrary to the WTO, the SADC Protocol on Trade and the SACU Agreement;
and
- 75.2 creates instability in the domestic market.
76. The latest unilateral action referred to in paragraph 73 above now requires an urgent remedial response by Government.

77. Attached as per Annexure “F” is a copy of a legal opinion regarding the lawfulness of certain measures imposed by Namibia on exports of sheep in terms of Namibia’s commitment under the rules of the WTO, SADC and SACU.

Dispute Resolution Measures under the Meat Safety Act and the Animal Diseases Act

78. Section 18(1) of the Meat Safety Act provides that:

“(1) Any person who feels aggrieved by a decision of the national executive officer, an assignee, a provincial executive officer or an authorised person may appeal against that decision to the Minister or the MEC of the province in question, as the case may be.”

79. Section 23(1) of the Animal Diseases Act provides that:

“(1) Any person who feels aggrieved by any decision of or steps taken by the director, or by any other person or body referred to in section 10 (7) (a), or by any employee or other person under the control or direction of any such person or body, in terms of this Act, may within the prescribed time and on payment of the amount which is prescribed, lodge in accordance with the provisions of this section an objection against the decision or steps with the Minister.”

80. The office of the Minister has shown itself to be incapable of properly and effectively dealing with appeal and objections lodged with the Minister under the Meat Safety Act and the Animal Diseases Act respectively. The result has been that the Director and the Department have successfully been reviewed on numerous occasions due to non-compliance with the above mentioned sections.

VII. CONCLUSION

81. The issues addressed in this submission make it clear that the Minister and the Department are failing in their statutory obligations and jeopardizing the long term viability of the Red Meat Industry and the wellbeing of the South African consumer.

82. The failure by the Minister and the Department to provide a stable regulatory framework has resulted in:
 - 82.1 South Africa becoming a net importer of food for the first time in many decades;

 - 82.2 Employment opportunities in the agricultural industry reducing – contrary to Governmental hopes;

 - 82.3 The sustainability of rural farming (including the emergent farmer) being compromised.

83. As a first step of reviving and restoring the red meat industry, the current statutory framework needs to be implemented properly across the board by competent and dedicated administrators. Without such proper implementation the industry and the country will continue to suffer the adverse effects of the current status of regulatory decay and ineptitude. Those most affected are the many poor South Africans who rely on the government to ensure that healthy, affordable, and consistently available food is provided from farm to fork.

DATED AT PRETORIA ON THIS THE ____ DAY OF SEPTEMBER 2011.

Mr Dave Ford

Chairman of the Red Meat Industry Forum