



**agriculture**

Department:  
Agriculture  
REPUBLIC OF SOUTH AFRICA

## **NOTICE 1125 OF 2008**

### **DEPARTMENT OF AGRICULTURE**

#### **APPLICATION FOR MARKET ACCESS PERMITS FOR AGRICULTURAL PRODUCTS**

In order to fulfil South Africa's commitment under the World Trade Organisation: Marrakesh Agreement regarding market access, it is hereby made known that market access permits will be issued for the products specified in the Table of Import Arrangements and under the conditions set out in the Schedule.

Permits will be issued only to importers in South Africa for importation into the Republic for the quantities and at the reduced levels of duty as specified in the Table.

**Njabulo Nduli**  
**DIRECTOR-GENERAL: AGRICULTURE**

#### **SCHEDULE**

##### **1. Definitions**

- 1.1 BEE-category means companies which qualify under the Broad-Based Black Economic Empowerment Act, Act No. 53 of 2003;
- 1.2 Historical category means companies that have a proven import performance over the period of one to three years, as stipulated under item 4.3 of this schedule and item 12 of the application form.
- 1.3 "SMME" means small, medium, and micro enterprises as defined in the National Small Business Act, Act No. 102 of 1996. The Act classifies small businesses according to size, and in descending order as medium, small, very small or micro enterprises.
- 1.4. The SMME and new importer's category means SMME's and new importers that do not qualify under the historical or BEE-category.

##### **2. Application for market access permits**

- 2.1 Permits will be issued only to importers registered at DTI and SARS of which proof is required as stipulated in par. 7 and 8 of Annexure A to the Schedule.
- 2.2 Any person interested in importing any of the products specified in the Table must apply therefor on a copy of the application form attached as an Annexure.
- 2.3 The application form is available electronically on request from [DuduM@nda.agric.za](mailto:DuduM@nda.agric.za)/[JanK@nda.agric.za](mailto:JanK@nda.agric.za)/[SisC@nda.agric.za](mailto:SisC@nda.agric.za).

2.4 An application form will only be accepted if duly completed.

2.5 An applicant bears the responsibility to ensure that –

- (a) the application form reflects the correct information as requested for the product concerned;
- (b) the application is submitted timeously within the time period contemplated in paragraphs 5.1 to 5.3; and
- (c) the application (whether faxed or posted) has been received by the Deputy Director: Marketing Administration.

### **3. Addresses for applications**

3.1 Applications must –

- (a) when forwarded by post, be addressed to:  
The Deputy Director: Marketing Administration  
Department of Agriculture  
Private Bag X15  
ARCADIA, 0007  
(For attention: Mr G.J. Kamfer, Sefala Building, Room 715).
- (b) when delivered by hand, be delivered to:  
The Deputy Director: Marketing Administration  
Department of Agriculture  
Sefala Building, 503 Belvedere Street, Arcadia  
(For attention: Mr G.J. Kamfer, Room 715)
- (c) when transmitted by facsimile, be transmitted to:  
Facsimile number: (012) 319 8077  
(For attention: Mr G.J. Kamfer)

An application transmitted by facsimile must be followed up by forwarding the original application (do not include copies of the bills of entry unless specifically stipulated so in column 5 of the Table) to the address contemplated in paragraph (a) or (b) to reach the Department within 14 days of the facsimile transmission.

3.2 Applications delivered by hand will only be accepted during the Department's official hours of 07:30 to 16:00.

### **4. Conditions for the issuing of permits**

4.1 Permits for the products specified in the Table, will be allocated on the basis of the following categories, unless specified differently in the Table:

- (a) 10% to BEE importers;
- (b) 20% to SMME and new importers; and
- (c) 70% to Historical importers.

4.2 The allocation of quotas for permits will be done as follows:

- (a) SMME and new importers on an equal basis;
- (b) BEE importers either on an equal basis or as a historical importer, whichever will enhance government policy for BEE development; and
- (c) Historical importers in proportion to the average quantity of the product concerned, imported by the applicant during the past three years (submitted for each year as from 1 November to 31 October) or the period stipulated for the product in column 5 of the Table.

4.3 The quantity imported by a historical importer will be calculated on the basis of a detailed list of bills of entry for the product concerned submitted together with the application form, for the period stipulated for the product in column 5 of the Table.

- 4.4 (a) If the allocation for a particular category is not fully utilised, the balance may be re-allocated to the other categories, or may be held over for the particular category for the following application period stipulated for the year under consideration.
- (b) In order to enhance government policy on BEE's, quotas for importers in the SMME and new importer's category, as well as the BEE category can be combined to ensure the most beneficial allocation.

4.5 If the market share for a particular applicant exceeds the limit for dominant firms, contemplated in Article 7(a)-(c) of the Competition Act, Act 89 of 1998 as amended in 2000 the Department can adjust the allocation formula to create fair competition within that industry sector.

4.6 Despite any provision in other law, applicants registered as joint ventures, mergers, consortiums, holding companies or other similar business arrangements are not allowed to apply separately from their subsidiaries, minority shareholders or divisions for the same product, as this will establish an unfair advantage towards other applicants.

4.7 A lost permit will only be replaced if an affidavit in this regard has been submitted and the Department is satisfied that the applicant acted in good faith and took the necessary steps to recover the original permit, as well as undertake to return the original permit if it is found. The pro forma of the affidavit is electronically available on the departmental website <http://www.nda.agric.za> or on request from [DuduM@nda.agric.za/](mailto:DuduM@nda.agric.za) [JanK@nda.agric.za/](mailto:JanK@nda.agric.za) [SisiC@nda.agric.za](mailto:SisiC@nda.agric.za).

4.8 The provisions of this section shall apply subject to the conditions specified in the Table.

## **5. Time periods for applications**

5.1 Applications for market access permits issued on a quarterly basis must be submitted during the following time periods:

- (a) For the first quarter of the quota valid for importation during the period 1 January 2009 to 30 April 2009: Within four weeks from the date of publication of this Notice.
- (b) For the second quarter of the quota valid for importation during the period 1 April 2009 to 31 July 2009: 1 to 28 February 2009.
- (c) For the third quarter of the quota valid for importation during the period 1 July 2009 to 31 October 2009: 1 to 31 May 2009.
- (d) For the last quarter of the quota valid for importation during the period 1 October 2009 to 31 January 2010: 1 to 31 August 2009.

5.2 Applications for market access permits issued on a half-yearly basis must be submitted during the following periods:

- (a) For the first half of the quota valid for importation during the period 1 January 2009 to 30 June 2009: Within four weeks from the date of publication of this Notice.
- (b) For the second half of the quota valid for importation during the period 1 July 2009 to 31 December 2009: 1 to 31 May 2009.

5.3 Applications for market access permits issued on an annual basis for the period valid from 1 January 2009 to 31 December 2009 must be submitted within four weeks from the date of publication of this Notice.

## 6. Procedure to pay for an import permit

- 6.1 (a) Payment of a tariff of R350 per permit will be payable for permits issued for the first quarter; first semester; and annual permits for 2009, as well as lost and replacement permits issued until 31 March 2009.
- (b) Payment of a proposed tariff of R395 per permit to be approved by National Treasury will be payable for permits for the second quarter to fourth quarter and second semester of 2009, as well as lost and replacement permits issued after 1 April 2009.
- 6.2 All application forms to be accompanied by proof of payment (bank deposit slip or cashier receipt), as stipulated under item 13 of the application form.

6.3 Payment to be made as follows:

Payment to Department of Agriculture's  
bank account

Bank: Standard Bank  
Branch: Arcadia  
Branch No.: 01-08-45  
Account No.: 013024175  
Account Name: NDA:Marketing  
Administration–Trade  
Incentives

OR

Payment in cash: Department of Agriculture's  
cashier  
Pretoria:  
Agricultural Place, 20 Beatrix Street, Arcadia,  
Pretoria  
Block P: Room GF 15

6.4 Payments must be made per application period and no payments should be made in advance for another period.

6.5 If a permit has been lost by an applicant either in his/her possession or during the process of clearing, a replacement permit will only be issued after proof of payment for the new permit has been received.

## **7. Compliance to BEE criteria in terms of Agri-BEE Charter for Agriculture**

7.1 A company or business fully owned by a black person as described in the BEE Act, Act No. 53 of 2003, qualifies as a BEE;

7.2 Companies or businesses, irrespective of the size (large, medium, small, very small or micro) have to do a proper evaluation in terms of the Agri-BEE Charter or Industry Charter in accordance with Annexure B (example) to indicate their progress towards BEE compliance as at 31 October 2008.

7.3 Evaluation must preferably be done by an accredited BEE evaluator as approved by DTI (Department of Trade and Industry);

## **8. General**

8.1 Applicants must return all expired permits within 30 days after the date of expiry thereof. Applicants who do not return their expired permits timeously will not be considered for the granting of permits.

8.2 This notice replaces all previous notices regarding procedures for the application, administration and allocation of market access permits under the World Trade Organisation: Marrakesh Agreement regarding market access.