

NOTICE NO 1142 OF 2007

DEPARTMENT OF AGRICULTURE

PROCEDURES FOR THE APPLICATION, ADMINISTRATION AND ALLOCATION OF EXPORT PERMITS UNDER THE TRADE, DEVELOPMENT AND CO- OPERATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF SOUTH AFRICA

A Trade, Development and Co-operation Agreement (TDCA) between the European Community (EC) and the Republic of South Africa has been established and came into force on 1 January 2000. This agreement provides for the establishment of a Bilateral Free Trade Area between the EC and South Africa in accordance with the World Trade Organization (WTO) rules and the strengthening of European development assistance to South Africa.

As part of the concessions provided for under the TDCA, the EC has agreed to grant tariff preferences on limited quantities of selected products in the form of tariff quotas. Export permits will be issued for the access quantities at reduced levels of duty under the conditions set out in the Schedule.

Masiphula Mbongwa
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 export performance over the period of one to three years, as stipulated under item 5.3 of this schedule and item 11 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 exporter's category means SMME's and new exporters that do not qualify under the historical or BEE-category.

2. Countries for Export

Permits for exportation of any of the products specified in the Table on Export Arrangements, to the European Community, will be issued only to exporters in South Africa registered at SARS of which proof is required as stipulated in paragraph 8 of the application form (Annexure A).

3. Application for EC export permits

- 3.1 Any person interested in exporting any of the products specified in the Table (excluding cut flowers – EC tariff code 0603.10 – 0603.90) must apply therefor on a copy of the application form attached as an Annexure.
- 3.2 Application for export permits issued annually must be submitted to the Deputy Director: Marketing Administration within four weeks from the date of publication of this notice. Permits will be valid from 1 January 2008 until 31 December 2008.
- 3.3 In the case of cut flowers, potential exporters must apply to Customs and Excise on a first-come, first-served basis until the quota allocated is fully utilized.
- 3.4 The application form is available electronically on request from: DuduM@nda.agric.za/JanK@nda.agric.za
- 3.5 The application form will only be accepted if duly completed.
- 3.6 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 as set out in paragraph 3.2, and
 - (c) the application (whether faxed or posted) has been received by the Deputy Director: Marketing Administration.
- 3.7 All exporters and potential exporters must comply with –
- (a) the sanitary, phyto-sanitary and other technical requirements as stipulated by the EC; and
 - (b) the Rules of Origin that form part of the TDCA and which can be obtained on request from the Department of Trade and Industry (Chief Directorate: Foreign Trade Relations, EU desk). Please note: The EUR 1 form that must accompany each consignment to be exported in terms of the TDCA, is obtainable from the applicant's local SARS office.

4. Addresses for applications

- 4.1 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 sent 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 export, DAs 550/32 or Certificates of Export) to the address contemplated in paragraph (a) or (b) to reach the Department within 14 days of the facsimile transmission.
- 4.2 Applications delivered by hand will only be accepted during the Department's official hours, namely 07:30 to 16:00.
- 5. Conditions for the issuing of export permits**
- 5.1 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) 70% to historical exporters.
 - (b) 10% to BEE exporters;
 - (c) 20% to the SMME and new exporter's category;
- 5.2 The allocation of quotas for permits will be done as follows:
- (a) Exporters in the SMME and new exporter's category on an equal basis;
 - (b) BEE exporters either on an equal basis or as a historical exporter, whichever will enhance government policy for BEE development; and
 - (c) Historical exporters in proportion to the average quantity of the product concerned, exported by the applicant during the period stipulated for the product in column 4 of the Table.
- 5.3 The quantity exported by a historical exporter will be calculated on the basis of the detailed list of bills of entry export (DA 550/32 or export certificates) or exports captured on the Wine-on-Line System for the product applied for, for the period concerned, submitted together with the application form.
- 5.4 (a) If the allocation for a particular category is not fully utilized, the balance may be re-allocated to the other categories.
- (b) In order to enhance government policy on BEE's, quotas for exporters in the SMME and new exporter's category, as well as the BEE category can be combined to ensure the most beneficial allocation.

- 5.5 The quotas allocated to exporters will be provisional quotas, and the rule of “use it or lose it” will be applied. Therefore if quotas have not been utilized satisfactorily (export rate of 75% per month) by 31 July 2008, the Department has the prerogative to re-allocate the unused quotas after a process of consultation with the exporter has been followed.
- 5.6 Permits for the exportation of products under tariff headings 2008.40; 2008.50 and 2008.70 (canned fruit) will be allocated on receipt of a letter of intent from a local supplier indicating that the exporter can source the product for exportation to the EC.
- 5.7 If the allocation for a particular product under tariff headings 2009.41.10 – 2009.70.99 (pineapple and apple juice) is not fully utilized, the balance may be re-allocated to the other product concerned.
- 5.8 Despite any provisions in other laws, 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.
- 5.9 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/JanK@nda.agric.za.
- 5.10 The provisions of this section shall apply subject to the conditions specified in the Table.

6. Procedure to pay for an export permit

- 6.1 (a) Payment of a tariff of R300 per permit will be payable for permits issued for the first quarter; first semester; and annual permits for 2008, as well as lost and replacement permits issued until 31 March 2008.
- (b) Payment of a proposed tariff of R350 per permit to be approved by National Treasury will be payable for permits for the second quarter to fourth quarter and second semester of 2008, as well as lost and replacement permits issued after 1 April 2008.
- 6.2 All application forms to be accompanied by proof of payment (bank deposit slip or cashier receipt).

6.3 Payment to be made as follows:

Payment to Department of Agriculture's bank account	OR	Payment in cash: Department of Agriculture's cashier
<u>Bank:</u> Standard Bank		<u>Pretoria:</u>
<u>Branch:</u> Arcadia		Agricultural Place, 20 Beatrix Street, Arcadia, Pretoria
<u>Branch No.:</u> 01-08-45		Block P: Room GF 15
<u>Account No.:</u> 013024175		
<u>Account Name:</u> NDA:Marketing Administration– Trade Incentives		

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 complete Annexure B to indicate their progress towards BEE compliance as at 31 October 2007.

7.3 Evaluation must be in accordance with the Agri-BEE Charter for Agriculture and preferably 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 thirty (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 the procedures for the application, administration and allocation of export permits under the TDCA between the EC and the Republic of South Africa.