NOTICE OF 2010

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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.

Peter Thabethe
ACTING DIRECTOR-GENERAL: AGRICULTURE, FORESTRY AND FISHERIES

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 13 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 therefore on a copy of the application form attached as an Annexure.

2.3 The application form is available electronically on request from JanK@daff.gov.za/SisiC@daff.gov.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.

(c) the application (whether send electronically, faxed, posted or delivered by hand) has been received by the Administrative Officer: Management Support (Mr B. Nedombeloni).

3. Addresses for applications

3.1 Applications must –

(a) when forwarded by post, be addressed to:

The Administrative Officer: Management Support
Department of Agriculture
Private Bag X15
ARCADIA, 0007
(For attention: Mr B. Nedombeloni, Sefala Building, Room 715).

(b) when delivered by hand, be delivered to:

The Administrative Officer: Management Support
Department of Agriculture
Sefala Building, 503 Belvedere Street, Arcadia
(For attention: Mr B.Nedombeloni, Room 715)

(c) when transmitted by facsimile, be transmitted to:

Facsimile number: (012) 319 8077
(For attention: Mr B.Nedombeloni)

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;

(d) when sent electronically to BernardN@daff.gov.za; an electronic application must be followed up by forwarding the original application to the address contemplated in paragraph (a) or (b) to reach the Department within 14 days of the electronic 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.

(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.

(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 section 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.daff.gov.za or on request from JanK@daff.gov.za/ SisiC@daff.gov.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 2011 to 30 April 2011: 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 2011 to 31 July 2011: 1 to 28 February 2011.

(c) For the third quarter of the quota valid for importation during the period 1 July 2011 to 31 October 2011: 1 to 31 May 2011.

(d) For the last quarter of the quota valid for importation during the period 1 October 2011 to 31 January 2012: 1 to 31 August 2011.

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 2011 to 30 June 2011: 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 2011 to 31 December 2011: 1 to 31 May 2011.

5.3 Applications for market access permits issued on an annual basis for the period valid from 1 January 2011 to 31 December 2011 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 R435 per permit will be payable for permits issued for the first quarter; first semester; and annual permits for 2011, as well as lost and replacement permits issued until 31 March 2011.

(b) Payment of a proposed tariff of R470 per permit to be approved by National Treasury will be payable for permits for the second quarter to fourth quarter and second semester of 2011, as well as lost and replacement permits issued after 1 April 2011.

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 bank account		OR	Payment in cash: Department of Agriculture cashier
Bank:	Standard Bank		Pretoria:
Branch:	Arcadia		Agricultural Place, 20 Beatrix Street, Arcadia, Pretoria
Branch No.:	01-08-45		Block P: Room GF 15
Account No.:	013024175		
Account Name:	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 Permits issued for products in terms of schedule no. 4, General Rebates of Customs Duties, are subject to the Agricultural Black Economic Empowerment (AgriBEE) Sector Charter (AgriBEE Charter) under section 12 of the Broad Based Black Empowerment Act, 2003 (Act No 53 of 2003). The AgriBEE Charter was published in Notice no. 314 of Government Gazette no. 30886 on 20 March 2008. The AgriBEE Charter is also available on the departmental website http://www.daff.gov.za; Publications / Government Gazette / Notice no. 314.

7.2 In the initial phase of implementation of the AgriBEE criteria, until such time that the AgriBEE Sector Code under section 9 of BEE Charter is finalized, exporters will not be disqualified for quota allocation purposes but failure to do an evaluation after the initial phase of implementation will constitute automatic non-compliance.

7.3 According to the Generic Codes of Good Practice, enterprises with a moving average turnover of less than R5 million (Exempted Micro Enterprises or EME's) are deemed to be exempted. A declaration confirming their EME status, signed by a Financial Accountant must be submitted to the Department of Agriculture, Forestry and Fisheries. The envisaged AgriBEE Sector Code under Section 9 will indicate the turnover threshold levels for Exempted Micro Enterprises (EME's) and Qualifying Small Enterprises (QSE's).

7.4 The AgriBEE Charter applies to multinational businesses or South African multinationals whose business falls within the scope of the Charter as defined in the Broad Based Black Empowerment Act, 2003 (Act No 53 of 2003). A specific regime for multinationals exists in the Codes of Good Practice and will apply.

7.5 Enterprises using agricultural or agricultural related products for processing and / or manufacturing products in a multidiscipline sector will be evaluated according to the AgriBEE Charter.

7.6 Companies or businesses, irrespective of the size (large, medium, small, very small or micro) have to do a proper evaluation in terms of the indicative AgriBEE Scorecard to indicate their progress towards BEE compliance as at 31 October 2010.

7.7 Only BEE verification certificates issued by Accredited Verification Agencies or Verification Agencies that are in possession of a valid pre-assessment letter from South African National Accreditation Systems will be valid. The period of validity of the certificates will be 12 months from the date of issue. Despite this aforementioned provision, all verification certificates issued by non-accredited verification agencies before 1 February 2010, will remain valid for 12 months from the date of issue as published in the Government Gazette No. 32467 of 31 July 2009. The list of accredited Verification Agencies is available on the Department of Trade and Industry website (http:// www.thedti.gov.za;). Certificates issued for a holding company can be used by all its subsidiaries.

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.