



SOUTH AFRICAN SUGAR ASSOCIATION
Kwa-Shukela, 170 Flanders Drive, Mount Edgecombe
P.O. Box 700, Mount Edgecombe, KwaZulu-Natal, 4300
Telephone: +27 31 508 7000
Website: www.sasa.org.za

IA/210/18
9 October 2018

Ms JL Fubbs
Chairperson
Portfolio Committee on Trade and Industry

E-MAIL: jfubbs@parliament.gov.za

Dear Honourable Chairperson

Interventions leading up to the promulgation of the draft Transitional Arrangements to SASA's Constitution and Sugar Industry Agreement (SIA)

Purpose

SASA had, with the assistance and support of the dti made several attempts to resolve the various grower representative structures and funding issues since 2017. This briefing note is aimed at sharing with the PPC the various events, initiatives and interventions that SASA undertook to reach amicable resolution.

Interventions

- **December 2017**

A mediation held on 1 – 3 December 2018 resulted in the conclusion of an agreement between SASA and SAFDA relating to representation on all industry structures and a method of levy collection.

A full and final settlement agreement was concluded with SASA paying SAFDA R9 million in three instalments for levies.

A meeting of the SASA Delegates on 12 December 2017 RESOLVED to adopt the agreement signed on 3 December 2017 and instructed SASA Council to draft and submit amendments to the SASA Constitution and the SIA in accordance with the agreement signed by SASA and SAFDA to the dti by 24 December 2017, in order for the aforementioned to be gazetted for implementation on 1 April 2018.

On 22 December 2018 SASA Council considered and approved the aforementioned amendments and these are submitted to the dti for promulgation.

- **March 2018**

At its meeting on 15 March 2018, Council recognised that the amendments, once gazetted, will take time to implement and therefore, following industry consultations, agreed **transitional arrangements** for up to 30 September 2018. The SASA Constitution and SIA were amended to include the transitional arrangements which accounted for equal representation of SACGA and SAFDA as the Growers Section and a mechanism whereby millers collect a standard levy of R4 per ton cane delivered to a mill and paying a proportionate amount to SACGA and SAFDA to recover their operating costs.

April 2018

SASA Council recognised that until such time that the amended legislation was promulgated and despite the December 2017 settlement agreement, SAFDA would not be able to participate as a voting member on SASA Council. Council therefore agreed on 16 April 2018 the formation of the Transitional Committee to support inclusive decision making which incorporated equal representation by SAFDA and SACGA members as the Growers Section. This equal representation was implemented for all SASA Committees and industry structures.

The Delegates of SASA, as well as representatives of SAFDA, on 16 April 2018, agreed that the Amendments and the transitional arrangements be submitted to the Department of Trade and Industry for approval and promulgation in the Government Gazette.

- **May 2018**

On 21 May 2018 SAFDA appeals to DG Lionel October that the dti holds off from signing the draft industry regulations so that SAFDA may review the levy sharing formula with industry stakeholders, get the draft SIA 2018 updated and re-submitted to the Department for gazetting. SASA is also notified.

- **June 2018**

The Industry Leadership (SACGA, SAFDA, SASMA and SASA) meets to understand SAFDA's issues with the levy.

- **July 2018**

The Industry Leadership agrees on 18 July 2018 to a mediation process between SACGA, SAFDA, SASA and SASMA from 1 to 3 August 2018 with Charles Nupen being appointed as facilitator to attempt to find a long-term solution to the levy matter.

- **August 2018**

The mediation between SACGA, SAFDA, SASA and SASMA lead by Charles Nupen results in no agreement being reached. Consequently the Transitional Committee agrees that an industry delegation comprising the SASA Chairman, SASA Vice-Chairman and Executive Director, together with Charles Nupen meet with DG October on Monday, 20 August 2018, to apprise him of the outcome of the facilitation and to request the guidance of the DG on how to proceed.

The Industry delegation and Charles Nupen on 20 August 2018 met with the DG and the dti team to advise that the negotiations have broken down.

The DG confirms that he wishes to engage separately with SASA, SACGA, SAFDA and SASMA to re-start negotiations for a long-term sustainable solution, including transformation and growth of the industry. The DG also instructs SASA to provide the dti with transitional arrangements which arrangements will be promulgated retrospective from 1 April 2018. These transitional arrangements must ensure that growers are represented on all structures equally by SACGA and SAFDA and that for the period of the transitional arrangements, SASA should recover SACGA's and SAFDA's costs through a levy calculated and payable per ton cane based on the sum of their budgets.

- **September 2018**

On 7 September 2018 the DG and his team meet with SASMA, SAFDA and SACGA. The dti confirmed that in order to allow sufficient time to finalise the long term solution, the transitional arrangements must be put in place and must account for Grower representation in SASA to be equally shared by SAFDA and SACGA; and for the transitional period, SACGA, SAFDA and SASMA budgets be provided to SASA and their reasonable costs be included as industry obligations.

The DG requested that SASA consider whether the transitional arrangements should continue up to 31 March 2019 or 30 March 2020. The DG also requests Charles Nupen to prepare and provide to the dti a terms of reference for a long term solution.

On 10 September 2018 the Transitional Committee meets to consider draft Transitional Provisions to the SASA Constitution and SIA. The Committee cannot reach agreement to approve the Provisions in their entirety. The issues that cannot be agreed on pertained to the period of the Transitional Arrangements and whether the SACGA, SAFDA and SASMA costs should be deemed to be industry obligations for the period of the transitional arrangements. It is therefore agreed that the submissions be presented for approval to the delegates of SASA, as the ultimate decision making body. The issue of representation by SAFDA in the industry structures as part of the Growers Section is not disputed.

The Special Meeting of the SASA delegates on 14 September 2018 are requested to consider the Transitional Provisions to the SASA Constitution and SIA, with specific attention to the items which were not agreed to by the Transitional Committee. The Miller's Section recommends an alternate proposal to the Delegates on the SIA provisions relating to the inclusion of costs within industry obligations. Furthermore the SASA delegates fail to agree on the period of the transitional arrangements. As the issues remain unresolved, the SASA delegates agreed that the dti be informed that the meeting ended in stalemate and that SACGA and SASMA report to the dti on their reasons for lack of agreement.

A letter is sent to the DG informing him that SASA has not been able to reach a resolution.

- **October 2018**

SASA is informed by the dti that transitional arrangements, as determined by the dti has been signed off by DG October & Minister Davies.

Transitional provisions promulgated under Government Gazette number 41967 on the 9 October 2018.

Yours Sincerely

ST NAIDOO
SASA Chairman

HR HACKMANN
SASA Vice-Chairman

(not signed as electronically circulated)