



**COMMERCIAL FARMERS' UNION
of Zimbabwe**

REPORT ON THE SITUATION IN

AGRICULTURE IN ZIMBABWE

January 2009

REPORT ON THE SITUATION IN AGRICULTURE IN ZIMBABWE: JANUARY 2009

Executive Summary

Investment in agriculture is long term and its risk factor very high therefore under the present unstable conditions prevailing in Zimbabwe at the moment production in all sectors is expected to be extremely low this season.

Last season the rains cut off very early and this season has generally started very late so this late planting of crops would ultimately produce lower yields. With the lack of confidence and unavailability of sufficient finance for vital imports many farmers, from all sectors, have planted without fertiliser, feeling that this season was the 'last throw of the dice'.

The super-hyperinflation prevailing in the country and the unavailability of cash from the banks has also impacted negatively on any meaningful production this season. Furthermore the unofficial dollarization of the economy has led to a further shortage in the availability of foreign currency and serious overpricing of goods.

In addition there are many farmers who grew crops on contract with the Grain Marketing Board or various seed houses and who were offered payments in foreign currency who have not received payment after a year or more.

As a result of the above the sector needs stability and security before it would be able to get back into full production once again.

Political Violence

The harmonised elections were held at the end of March 2008, yet the country is still without an effective, democratically elected government.

Since about this time last year there have been continued political violence, assaults, theft and political intimidation against the population, including farm workers and farmers themselves. This reached a peak between April and July during the campaigning for the proposed presidential runoff election held at the end of July.

During this time production on most of the remaining farms virtually came to a standstill.

Even as we speak there continues to be sporadic acts of intimidation and political violence carried out by roving groups of soldiers and party youth.

Dollarization

The availability of Zimbabwean currency has become more difficult due to the shortage of cash which has been stoked by the super-hyperinflation, and constant need for larger amounts of cash to buy the basic items.

The time spent at work by both employees and employers has been drastically reduced due to the fact that they both have to spend days in queues at the banks in order to draw sufficient cash, which has been seriously affected by the cash withdrawal restrictions imposed by the Reserve Bank of Zimbabwe (RBZ).

Subsequently, the RBZ introduced a form of licensing of companies thus allowing them to trade in foreign currency. Since then, whether legal or not the whole country has turned to only trading in foreign currencies. Consequently employees are now all demanding payment of their salaries in foreign currencies.

This has had a negative impact on the economy because:

- There is insufficient cash in those currencies available to effect payment.
- Traders have been highly inflating the prices of their goods.
- Producers have not been paid for their crops in foreign currency.
- The restrictions of the Foreign Currency Accounts for exporters have been a hindrance.
- The banks are now unable to provide their normal service or function

Agricultural Inputs

The agricultural unions are extremely appreciative of the assistance received from the European Union with regards to fertiliser this season. However, not all farmers were in a position to take advantage of this facility due to:

- Lack of the required foreign currency for payment.
- Had let their membership of the union lapse.

Most seed, fertiliser and chemicals available on the market have been in extremely short supply and the little that is available has been sold at highly inflated and uneconomic prices.

ZanuPF National People's Conference

There have been several queries received this week with regard to the press coverage of the ZanuPF National People's Conference held late last year in Bindura in which the following disclosures were made from a report on the Land Reform Programme:

- 341 white farmers will be allowed to continue farming and offer letters are being prepared
- A further 97 will be allowed to continue running conservancies in 6 provinces
- Bring up to a total to 438 out of previous 6 708 farms owned by white farmers
- 278 more on 522 000ha protected by BIPA from 13 countries allowed to continue
- BIPA countries were named as Austria, Belgium, USA, France, Germany, Italy, Netherlands, South Africa, Sweden, Switzerland, Mauritius and Indonesia
- 140 farmers will be prosecuted for failing to vacate following the issuance of eviction notices
- White farmers had 15.5 million hectares and will be allowed to retain 6 million hectares

- 1 530 new farmers issued with offer letters since September – will be 1 800 by end of that week
- 97 new farmers to be issued with 99-year leases

Statements like these have a negative effect on the confidence of farmers from all sectors in Zimbabwe.

Propaganda and Hate Speech

Despite the signing of the 'unity accord' on 15 September 2008, the political propaganda and hate speech has continued against the citizens of Zimbabwe. This has a negative effect against confidence to invest meaningfully in agriculture as well as inciting racial and ethnic hatred and violence.

Law and Order

There continues to be reluctance by the Police force to investigate crimes of theft, assault or intimidation on farms and they are still being controlled by decisions made by the Joint Operations Command, either at district, provincial or national level. Crimes committed on farms are generally termed as "political" and therefore not even investigated and nor have any arrests been made.

In many cases Police are refusing to assist the Deputy Sheriff with either the service or compliance of court orders issued against farm occupants, even in cases where the orders have been issued with the consent of both parties.

Offer Letters

As reported correctly in the press article above, offer letters continue to be issued to new beneficiaries, who are disregarding the law that properties can only be once *vacant possession* of the property has been achieved. In many cases the new beneficiaries insist on moving into the houses occupied by the owner and taking over everything on the property including newly planted crops, farm equipment and materials as well as personal household effects. All this is being done unlawfully and outside the ambit of the Acquisition of Farm equipment or materials Act.

What has come to notice is that the majority of the new beneficiaries are senior Army, Police or party officials who were allegedly involved in the recent political violence. Most of such people indicate that they are above the law and have no respect for any court orders.

Many of the properties onto which these latest beneficiaries are being placed are being taken from productive farmers who have been given some form of authority to continue farming.

No compensation is either being paid or even mentioned, as has been the case with the majority of farmers who have lost their farms, businesses and homes over the last 10 years.

Bilateral Investment Protection Agreements (BIPA)

Despite what is written in the above press report on the Land Reform Programme a Danish investor has recently been evicted from his highly productive property by a senior Army officer. Although he has a court order to protect his equipment the Police refuse to assist. He has also had two controversial court decisions against him whereas he should have received protection through the

BIPA. His loss in the Supreme Court is of great concern to other foreign investors due to its apparent disregard of international agreements or treaties.

Southern African Development Community (SADC) Tribunal

On 28 March 2008 some 78 farmers under the banner of the Campbell case were granted an Interim Relief Order by the SADC Tribunal in Windhoek to allow them to remain in possession of their farms and to be allowed to continue farming unhindered.

However this was not respected by the Government of Zimbabwe and on the 21 July 2008 the farmers were granted a contempt order, which was subsequently referred to the SADC Summit for the latter to take appropriate action.

Yet the farmers continued to be harassed, evicted and prosecuted and there has been no apparent action from the Southern African Development Community and it has been alleged that the matter has been warehoused.

Judgement was given on the main case in Windhoek on 28 November 2008 with the SADC Tribunal ruling that:

- “(a) by unanimity, the Tribunal has jurisdiction to entertain the application;***
- (b) by unanimity, the Applicants have been denied access to the courts in Zimbabwe;***
- (c) by a majority of four to one, the Applicants have been discriminated against on the ground of race, and***
- (d) by unanimity, fair compensation is payable to the Applicants for their lands compulsorily acquired by the Respondent.***

The Tribunal further holds and declares that:

- (1) by unanimity, the Respondent is in breach of its obligations under Article 4 (c) and, by a majority of four to one, the Respondent is in breach of its obligations under Article 6 (2) of the Treaty;***
- (2) by unanimity, Amendment 17 is in breach of Article 4 (c) and, by a majority of four to one, Amendment 17 is in breach of Article 6 (2) of the Treaty;***
- (3) by unanimity, the Respondent is directed to take all necessary measures, through its agents, to protect the possession, occupation and ownership of the lands of the Applicants, except for Christopher Mellish Jarret, Tengwe Estates (Pvt) Ltd. and France Farm (Pvt) Ltd. that have already been evicted from their lands, and to take all appropriate measures to ensure that no action is taken, pursuant to Amendment 17, directly or indirectly, whether by its agents or by others, to evict from, or interfere with, the peaceful residence on, and of those farms by, the Applicants, and***
- (4) by unanimity, the Respondent is directed to pay fair compensation, on or before 30 June 2009, to the three Applicants, namely, Christopher Mellish Jarret, Tengwe Estates (Pvt) Ltd. and France Farm (Pvt) Ltd.”***

It is once again alleged that there is serious contempt of this order as several of the interveners are presently being prosecuted in court.

Furthermore, on the 19 December 2008 a letter was sent to a legal practitioner by the Deputy Attorney General Advocate Prince Machaya, and contained the following statement in the final paragraph:

“Finally, we wish to advise that the policy position taken by the Government pursuant to the judgment handed down by the SADC Tribunal on the 28th of November, 2008 is that all prosecutions of defaulting farmers under the provisions of the Gazetted Lands (Consequential Provisions) Act should now be resumed.”

An urgent application was filed in the High Court on 17 December 2008 for the registration of the SADC Tribunal judgement, but the urgency has been denied, and the case will have to wait its turn on the court role.

Prosecution of Farmers

Although the majority of the farmers still farming on portions of their farms have authority of some sort to do so, as well as by the protection of the SADC Tribunal judgement in the Campbell case, many continue to be called to court for prosecution under the Gazetted Land (Consequential Provisions) Act. This prosecution is extremely stressful and very expensive so a few farmers are merely capitulating to avoid bankruptcy and vacating their properties under the pressure – and without compensation.

The cost of the defence of these cases is becoming extremely expensive, particularly because the lawyer’s fees are being charged in foreign currency, which many simply do not have. Although many appeals have been sent out to prospective donors no money has been forthcoming, probably due to the large amount required.

It is imperative that not a single farmer be allowed to lose his case otherwise the precedent set would jeopardise many others.

Defence of farmers on the land issue is an extremely specialised field and we are extremely short of such experienced lawyers who could successfully defend the farmers.

Compensation

There is a lot of agricultural land which is either not being used or is underutilised but no discussions could take place over these vacant areas until the conflict is taken out of the land issue and fair compensation is paid out to those who have been dispossessed.

Many of those who have been dispossessed were deprived of their only income and ultimately their pension so many of those who could once provide for themselves are now destitute and totally dependent on handouts from friends and family. Everyone is 10 years older from when the so-called Land Reform Programme started so many are too old to work even if they could find a job.

Conclusion

In order to restore confidence in all the sectors of the farming community to invest in agriculture again the following is required:

- Return of law and order
- Enforce court judgement and respect thereof
- Instillation of a democratic government

- Respect of property rights
- Call moratorium on all rural land prosecutions of farmers
- Full investigation on all serious atrocities committed i.e. murders, theft, arson etc
- Full and fair compensation to be enforced immediately
- Cease issuing of offer letters to beneficiaries – carry out transparent land audit
- Investigate all offer letters issued since Goromonzi Declaration Vice President Msika's speech stating possibility of offer letters being fraudulent dated ZANU PF Congress 2006
- Remove subsidies on basic food items, fuel etc
- Open up a free market economy.