Strengthening the Cotton Act, 2005

by

Cotton Working Group

Presented to Members of Parliament
Ibis Garden
Chibombo
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1. Background

The Cotton Act, 2005, ENACTED by the Parliament of Zambia: 7th October, 2005

Background (Cont'd)

- **An Act to establish the Cotton Board and define its functions and powers;**
- to regulate the cotton industry as it relates to the **production and ginning of seed cotton**;
- to control the production and marketing of cotton;
- To repeal and replace the Cotton Act, 1914;

Operationalisation of the Act

- The Act became operational on 8th July 2007 when the Minister of Agriculture and Co-operatives issued a statutory instrument.

2. Stakeholders Concerns

As soon as the Act was passed the Stakeholders appealed to the Republican President, the late, Levy Mwanawasa, SC to relook at the Act as it was **not strong enough** to regulate the industry and control the production and marketing of Seed Cotton.

Stakeholders Concerns (Cont'd)

Increase in **'side buying'** (buying a crop financed by somebody else) due to the **proliferation of companies** buying seed cotton

Eastern Province has 10 Ginneries with ginning capacity of 73,658 mt chasing **43,000 mt** (2006/07) and 60,000 mt (2007/08)

Stakeholders Concerns (Cont'd)

- With over 200,000 farmers producing Cotton, prosecution of defaulters would be extremely expensive
- The penalty for purchasing seed cotton while not properly licensed is too lenient (56,000 penalty units or/and 2 years imprisonment) as compared to the damage made to the sector.

3. Cotton Working Group

16 March 2006 , a sub-committee was formed consisting of five (5) members (Cotton Ginners Association, Cotton Development Trust, Food Security Research Project, Cotton Association of Zambia, and Ministry of Agriculture and Co-operatives (Chair) to consult stakeholders.

Proposals

- Some of the terminologies in the Act were not clear enough, such as Seed cotton; Cotton seed; Cotton planting seed

Registration of Seed Cotton Producers

- Under this section additions were proposed that would make a farmer register in his/her own name as cash producer or via their outgrower financier.
- (a) producers who are not receiving any pre-financing would register as cash producers in their own right;
- (b) producers who have taken pre-financing would be registered in a prescribed format by the financier.

Publication of Registered Persons

- The Board shall at regular intervals, but not less than once a year, cause to be publishing in the *Gazette* a list of all persons registered under this.
- *300,000 producers in a Government Gazette, the Gazette would need to 3,000 pages.*

LICENSING

- A person shall not *pre-finance,* buy, *gin* or otherwise deal in seed cotton, for commercial purposes, without a valid licence issued under this Part.
- Penalty of **One hundred and eighty thousand penalty units** are proposed instead of fifty six thousand.

Record Keeping

- A licence holder shall at all times maintain on their premises, appropriate auditable records as follows:-
- *b) all producers registered by a pre-financier, will include registration no., prescribed identification number, name, details as specified in terms of the licence, of the type, quantity and value of inputs pre-financed for each registered producer.*

Penalty

- Any licence holder who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding ***sixty* thousand penalty units or *twelve months imprisonment or to both.***
- *Instead of five thousand penalty units only*

COMPARISON OF FINES

Section	Offence	Fine		Imprisonment
15 (2)	*Unauthorized disclosure*	30,000 (10,000)		6 months
15 (3)	*Knowingly publish or communicate information which has been unlawfully published or disclosed*	30,000 (5,000)		6 months
24	***A producer who sells but is not registered***	**15,000 (56,000)**		**3 months (2 years)**
29 (2)	*Illegal use of a distinguishing mark*	60,000 (10,000)		12 months
31 (2)	***Not licenced to pre-finance, buy, gin or otherwise deal in seed cotton***	**180,000 (56,000)**		**36 months**
35 (3)	***Licence holder not maintaining appropriate auditable records***	**60,000 (5,000)**		**12 months (0)**
45	***Obstructing an Inspector or not producing a licence or certificate***	**120,000 (8,000)**		**24 months (6 months)**

Summary

- The proposed amendments would give confidence to the investors that their investment will be protected
- ‘Pirate buying’ is not good for the industry as it endangers the livelihoods of over 200,000 households

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