

Intention meets regulation at the 2019 FERTASA conference

The 2019 Fertilizer Association of Southern Africa (FERTASA) Annual Congress kicked-off on Thursday 11 April with the beautiful backdrop of Spier's conference centre in Stellenbosch. There was a very strong focus on regulation as the speakers included Prof Nic Vink who spoke to the macro environment required for agricultural growth, Annelize Crosby from Agri SA who spoke about Expropriation Without Compensation, Christi Venter from Global Gap, Michel Prud'homme from the International Fertilizer Association and Jonathan Mudzunga from DAFF. Agbiz was fortunate enough to be called upon to speak about regulation in the industry, with a special focus on the draft Fertilizer Bill.

Mr Prud'homme kicked off the debate by stating that regulation is good for the sector, as it clarifies the rules of the game and ensures fair competition whilst ensuring public safety and environmental concerns are given attention. Whilst noting that the intention may be good, we highlighted the need for the text of the Bill to reflect this clarity as there are currently provisions which could result in unintended consequences. More specifically, one must guard against a duplication of interests that deserve regulation if the facilities are to be licenced in addition to products and raw materials requiring registration. The issue of assigning functions could also be a prickly pear if an open and transparent process is not followed to ensure credibility. The scope of the functions that can be assigned should also be limited to prevent the core functions of the Registrar such as the consideration of licences and enforcement from being delegated to a private entity.

Mr Mudzunga, speaking for the Department, informed the conference that the intention is to ease the regulatory burden as the registration of raw materials would allow for the blending of custom mixes, which is currently not allowed under Act 36 of 1947. Furthermore, the intention behind assignment was to build capacity and appoint experts on a contract basis that can advise the registrar. Whilst these words may provide some comfort for fertilizer businesses, there seems to be a need to revise the wording so that it reflects the intention, as advisory functions are very different from the wholesale assignment of functions.

Building on the spirit of the conference, the channels of communication has been opened and it is up to the industry and the Registrar to find each other and ensure that the text reflects the intention of the Bill.