

APPLICATION FOR THE CONTINUATION OF STATUTORY MEASURES: LEVIES IN TERMS OF THE MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996, (ACT NO 47 OF 1996), (MAP ACT) AS AMENDED

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INVITATION TO DIRECTLY AFFECTED GROUPS IN THE OILSEEDS INDUSTRY TO FORWARD COMMENTS REGARDING THE REQUEST FROM THE SA CULTIVAR AND TECHNOLOGY AGENCY (SACTA), FOR THE CONTINUATION OF LEVIES ON SOYBEANS FOR BREEDING AND TECHNOLOGY PURPOSES

On 13 June 2024, the National Agricultural Marketing Council (NAMC) received a request from the South African Cultivar and Technology Agency NPC (SACTA) on behalf of specific role players in the oilseeds industry, that the Minister of Agriculture, Land Reform and Rural Development approve the continuation and amendment of the statutory levy on soybeans for three years from March 2025 until February 2028. This application was made in terms of section 15 of the Marketing of Agricultural Products Act, Act No 47 of 1996 (MAP Act). The purpose of the statutory levy is to finance new breeding technology in the soybean industry.

The request includes the following periods and levy rates (VAT excluded) to be administered by SACTA, to be approved by the Minister:

Commodity	Period	Amount (VAT Excl)
Locally produced soybeans	1/3/2025 to 28/2/2026	R70,00 per metric ton
	1/3/2026 to 28/2/2027	R73,00 per metric ton
	1/3/2027 to 28/2/2028	R84.00 per metric ton

In approved, the levy will be payable to SACTA by buyers, processors and persons issuing a silo receipt, and will be recovered from producers. Persons / institutions who collect the statutory levies from producers and who pay it over to SACTA, may claim 2,5% commission on the amount of the levies recovered, in accordance with the conditions set by SACTA from time to time.

BACKGROUND

In 2016, grain and oilseeds industry role-players acknowledged the need for a sustainable industry research funding strategy in respect of self-pollinated crops. It was subsequently decided to introduce breeding and technology levies to ensure a sustainable research funding model. This model is based, *inter alia*, on the Australian end-point royalty system.

On 1 March 2019 a statutory levy was imposed on soybeans and subsequently extended to 28 February 2023. A further application for continuation was approved and extended until 28 February 2025.

According to the applicant, the levy is very effective and payments to the appropriate seed marketing companies have been made annually, and will again be made in respect of the 2023/24 marketing season. To date, payments totalling approximately R670 million across all SACTA administered crops, have been made to seed companies for the different breeding programmes. In particular, some R287 million has been paid to soybean seed and technology

companies and invested in their breeding and technology programmes. Continuation of the model is important in order to maintain investment for the continued development of new soybean seed technologies to improve yields and to sustain food security in South Africa.

According to the applicant, the following industry benefits have been realized since the inception of the statutory levy on soybeans:

- 74 new soybean varieties have been registered.
- Two new soybean technologies have been approved, of which one has been commercialized, and the second one will be commercialized in the near future.
- A third technology is awaiting final regulatory approval.
- South Africa has moved from being a net soybean importer, to a net soybean exporter.
- Following some consolidation, there are currently 12 soybean seed companies participating in the South African market.
- Transformation funding made available through the statutory levies have:
 - enabled the support of 120-150 developing farmers (varies from year to year), who produce crops on almost 10 000 hectares, and participate fully in the commercial marketing channels of these crops.
 - supported 107 students (PhD, MSc, Hons, Interns & TVET) to further their studies in agriculture.

SACTA was established to act as Administrator of the Breeding and Technology Levy System. The Board of Directors of SACTA includes industry role-players that are directly affected by the payment and/or utilisation of the levies, as well as two representatives appointed by the Minister of Agriculture, Land Reform and Rural Development. The aim is for SACTA to eventually administer breeding and technology levies on most self-pollinated crops.

PARTICULARS OF STATUTORY MEASURE REQUIRED UNDER SECTION 10 OF THE MAP ACT

The relevant particulars, as required in terms of section 10(2) of the MAP Act, to be included in a request for the establishment of a statutory measure of this nature, are as follows:

1. The proposed statutory levy would relate to soybeans that are produced in the Republic of South Africa;
2. The manner in which the objectives referred to in section 2(2) of the MAP Act will be advanced (namely increased market access for all market participants, promotion of the efficiency of the marketing of agricultural products, optimisation of export earnings from agricultural products and the enhancement of the viability of the agricultural sector) is summarised below:

The purpose and aim of the statutory measure are to compensate breeders of soybean varieties for their proportionate involvement and contribution towards obtaining and utilising improved international intellectual property to the benefit of the soybean industry in the Republic of South Africa.

SACTA distributes the levies that are collected to the seed breeders, in accordance with their proportionate market share, in terms of a formal Agency Agreement that is concluded with breeders.

Sustainable commercial farming of soybeans, the soybean industry at large, as well as food security in the country, are all dependent on the cultivation of high yielding soybean crops from seed varieties most suited to a particular production region.

The development of new cultivars, with improved quality and yield characteristics, constitutes an important part of breeding and technology research as undertaken by various organisations. The continuous development of new cultivars is indispensable to the sustained production of soybeans in South Africa.

Worldwide, the legislation concerning Plant Variety Protection (“PVP”) and the protection of self-pollinated crops are insufficient to guarantee a return on investment on the intellectual property held by

the holders of Plant Breeders' Rights. This is due to PVP exceptions such as "Farmer's Privilege" and the fact that the grain produced from self-pollinated crops has the same genetic content as the parent seed. This means that seed can be harvested and replanted by farmers, which creates a situation where farmers could, for example, only purchase one season's seed, then lawfully save seed of their harvests for the next and subsequent planting seasons.

The consequence is that commercial seed sales are jeopardised by:

- low volumes (as it is cheaper for farmers to retain their own grain for seed); and
- low price levels (since any increase in seed prices triggers an increase in the use of farm saved seed).

The existence of international networks is critical in seed breeding, as most agriculture related intellectual property is owned by or falls under foreign control. Without an appropriate mechanism to receive adequate compensation, and to account for the risk of exploitation, South Africa will remain an unattractive destination for agriculture related intellectual property associated with self-pollinated crops. This means that access to international nurseries, markers, techniques and technologies is being constrained. The result is that South African farmers do not have access to improved agriculture related intellectual property that is available worldwide, which the breeding and technology levy aims to address.

3. The Administration of SACTA will take responsibility for the collection of the levy and for the administration of the functions associated with the proposed levy. The Board of Directors of SACTA appointed specific persons and institutions to carry out these functions.

BUSINESS PLAN:

The application included the following budget as proposed by SACTA. Crop estimates were based on the average crop size of soybeans over the past three years, but it is envisaged that yields may increase due to the release of new cultivars and technology.

SACTA Estimated budget: Current year and next proposed three-year levy term

Financial year	Estimated crop size (Tons)	Levy amount (R/Ton)	Budgeted levy income R	Seed breeders' distribution R	Transformation Expenditure 20% R	Administration cost R
2024/25	1 813 790	92	149 681 206	115 906 985	29 936 241	3 837 980
2025/26	1 813 790	70	113 887 874	87 606 057	22 777 575	3 504 242
2026/27	1 813 790	73	118 768 783	91 360 602	23 753 757	3 654 424
2027/28	1 813 790	84	136 665 449	105 127 268	27 333 090	4 205 091

The NAMC noted that the expected income by means of the proposed lower statutory levy is based on an expected success rate of 92% in the collection of the levy. The levy income for the proposed three years is estimated to be between R113 million to R137 million per year.

These statutory funds will be used to support breeding research functions, based on the following:

- The levy funds are earmarked for commercial breeding activities by seed companies based on their performance and utilisation in the seed market;
- These funds will be distributed according to the calculated market share of each seed company;
- At least 20% of the levy income will be used for transformation and development projects, of which the business plan will be considered by the NAMC;
- The budget for administration costs represents approximately 3% of the expected income by means of statutory levy on soybeans during the next years; and
- The levy is applicable on local production only and not on imported commodities.

INVITATION FOR COMMENTS:

As the proposed continuation of the breeding and technology levy is consistent with the objectives of the MAP Act, the NAMC is investigating the possible implementation of the proposed statutory levy.

Directly affected groups in the oilseeds industry are kindly requested to submit comments or objections regarding the proposed breeding and technology levy on soybeans to the NAMC in writing (e-mail lizettem@namc.co.za) on or before 16 August 2024, to enable the Council to formulate its recommendation to the Minister in this regard.