

法規名稱：MAIZE TRADE AGREEMENT BETWEEN BOARD OF FOREIGN TRADE, MINISTRY OF ECONOMIC AFFAIRS, REPUBLIC OF CHINA, AND MAIZE BOARD, REPUBLIC OF SOUTH AFRICA

簽訂日期：民國 64 年 10 月 07 日

生效日期：民國 64 年 10 月 07 日

- 1 Following the agreement entered into between the Board of Foreign Trade, Ministry of Economic Affairs, Republic of China, and the Maize Board in January 1973 and in view of the fact that the Board of Foreign Trade and the Maize Board have reaffirmed their desire to foster and expand the trade in maize between the Republic of China and the Republic of South Africa, a delegation headed by Mr. Y. T. Wong, Director-General of the Board of Foreign Trade, Republic of China, negotiated with the Export Committee of the Maize Board during the period 29 September to 7 October 1975.
- 2 The negotiations were conducted in a spirit of mutual co-operation and understanding and culminated in this Agreement. It is understood that both the Board of Foreign Trade and the Maize Board are desirous of entering into a new Agreement after expiry of this Agreement.
- 3 It is mutually agreed between the Board of Foreign Trade and the Maize Board that the maize trade between the Republic of China and the Republic of South Africa for the period of 1 June 1976 to 31 May 1979 be conducted on the following terms and conditions:

#### Validity of Agreement

- 4 The Agreement shall be valid from date of signing until such date as all shipments contemplated in this Agreement have been effected, and the obligations under this Agreement have been discharged.

#### Quantity

- 5 The total quantities of maize which the Maize Board undertakes to sell to the Board of Foreign Trade for shipment during the periods indicated below are as follows:

#### Period

1 June 1976 to 31 May 1977

1 June 1977 to 31 May 1978

1 June 1978 to 31 May 1979

#### Quantity

450 000 metric tons

450 000 metric tons

450 000 metric tons

#### Provided that

- (1) if the Maize Board's exportable surplus for the period concerned is less than three times the quantity to be supplied in terms of this Agreement to the Board of Foreign Tr-

ade for that particular period the quantity concerned shall be adjusted proportionately;

- (2) the Maize Board shall at least 10 weeks prior to the commencement of each of the above-mentioned periods advise the Board of Foreign Trade of the extent to which the quantities mentioned in this paragraph shall be adjusted in terms of proviso (1) above: Provided further that if it should prove on or before 31 August of a particular period that the exportable surplus was overestimated by the Maize Board when advising the Board of Foreign Trade of the extent to which the quantity for the period concerned is adjusted and the actual exportable surplus is less than twice the quantity to be supplied by the Maize Board to the Board of Foreign Trade in terms of this Agreement during the period concerned, the two parties to this Agreement shall negotiate about the quantity to be supplied to the Board of Foreign Trade, and should it prove that the crop was underestimated by the Maize Board as a result of which the quantity under the Agreement was reduced by the Maize Board, the Board of Foreign Trade shall be given the opportunity to negotiate with the Maize Board about an increase in that quantity;
- (3) the quantity to be shipped during each of the periods contemplated in this Agreement may be increased or decreased by 10% at the option of the Board of Foreign Trade;
- (4) the Board of Foreign Trade shall advise the Maize Board at least nine weeks prior to the commencement of each of the above-mentioned period of the quantities to be shipped during each month of the period concerned, which quantities may at the option of the Board of Foreign Trade be increased or decreased by up to 15%;
- (5) the quantity to be shipped during any particular month may be changed subject to notice by the Board of Foreign Trade to the Maize Board at least nine weeks prior to the beginning of the month concerned;
- (6) the maximum quantity that may be shipped during any one month shall be 65 000 metric tons;
- (7) it is understood that in the event of any emergency the Board of Foreign Trade may negotiate with the Maize Board for its approval that the above-mentioned quantity of 65000 metric tons be exceeded in a particular month and the Maize Board will endeavor to assist the Board of Foreign Trade in this respect as far as circumstances permit.

#### Colour of maize

- 6 (1) Subject to the provisions of sub-clause (2) below, the maize to be supplied in terms of this Agreement shall be yellow maize.
- (2) If the price realized by the Maize Board for yellow maize

sold by it on tender for shipment in a particular month exceeds the price realized by the said Board for white maize sold by it on tender for shipment in that month by more than the equivalent of three US dollars per metric ton, the Board of Foreign Trade shall take 15% of the total quantity of maize to be shipped during that month in white maize.

- (3) White maize to be supplied in terms of sub-clause (2) shall be shipped in the month immediately following the month referred to in that sub-clause: Provided that if the quantity of white maize to be shipped in a particular month is less than a cargo, it may be shipped in subsequent month: Provided further that the white maize must be shipped not later than the month immediately following the month in which the total quantity of white maize to be shipped has accumulated to 15 000 metric tons.

#### Price

7 The price per metric ton of white and yellow maize intended for shipment during any particular month in terms of this Agreement shall be the weighted average free-alongside-coastal-elevator price per metric ton realized by the Maize Board for maize of the relevant colour sold on tender for shipment during the month concerned plus fobbing costs (which shall not include the cost of transportation from the elevator to the ship's side and the loading on board the ship of maize bagged at the elevator): Provided that

- (1) the prices realized for yellow maize cargoes sold for shipment ex East London and Durban will be used to determine the free-alongside-coastal-elevator price of yellow maize, and the prices obtained for white maize cargoes sold for shipment ex East London will be used to determine the free-along-side-coastal-elevator price of white maize;
- (2) if the Maize Board does not sell a cargo of yellow maize on tender for shipment during a particular month, the price payable for the yellow maize to be shipped in terms of this Agreement in that month shall be determined by adjusting the weighted average free-alongside-coastal-elevator price realized by the Maize Board for a cargo or cargoes of yellow maize sold by it on tender for shipment during the last month of shipment preceding the month for which the price must be fixed
- (a) by adding fobbing costs;
- (b) by adding any increase or deducting any decrease in the Chicago Futures prices for US No. 3 corn from the last month of shipment of yellow maize sold by the Maize Board on tender to the month for which the price must be fixed: Provided that the change in the Chicago Futures prices between such last month of shipment and the month

for which a price must be fixed shall be determined by comparing the average of the three lowest closing prices picked by the Maize Board and the three highest closing prices picked by the Board of Foreign Trade from the future prices (quoted during the second month prior to the last month for which the Maize Board sold yellow maize) for the last month of shipment of yellow maize sold by the Maize Board on tender for export on the one hand and the three lowest closing prices picked by the Board of Foreign Trade and the three highest closing prices picked by the Maize Board from the future prices (quoted during the second month prior to the month for which the price must be fixed) for the month for which the price must be fixed on the other hand; and

- (3) if there are no Chicago Futures quotations for a specific month, the Chicago Futures prices for that month will be determined on a daily basis by averaging the Chicago Futures closing prices for the month prior to that month and those of the month succeeding that month.

Other terms and conditions

- 8 (1) Other terms and conditions applicable to this Agreement are contained in the Annexure hereto which shall form part of this Agreement.
- (2) The Board of Foreign Trade has the right to contract with the Cental Trust of China, Ministry of Finance, Republic of China, to carry out the procurement of the maize under this Agreement.
- (3) If the necessity arises for any alteration in the working procedures or operating organization of either of the parties to this Agreement which may affect the implementation of this Agreement, the party concerned shall obtain the consent of the other party before implementing any such alteration.

THUS DONE and SIGNED in PRETORIA on this 7th day of October 1975

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Y. T. WONG

Director-General of the Board of Foreign Trade, Republic of China

Witness.....

T. S. HSU

Manager, Trading Department, Central Trust of China

Witness.....

K. C. LIN

President, Maize Importers Joing Committee

Witness.....

W. M. LEE

Consul-General for the Republic of China

.....

B. H. WILKENS

Chairman of the Maize Board, Republic of South Africa

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H. F. B. HICKLEY

General Manager of the Maize Board

Witness.....

W. J. LOUW

Assistant General

Manager (OS) of

the Maize Board

ANNEX

#### 1 REFERENCE

In this Annexure the MAIZE BOARD, Republic of South Africa, is referred to as the Seller and the Board of FOREIGN TRADE, Republic of China, is referred to as the Buyer.

#### 2 QUALITY

The maize shall at the option of the Seller be South African maize, the crop year of which shall be the year immediately preceding the year during which the maize is exported and/or the same year as the year of export. The grade(s) of the maize shall be white maize grade one or white maize grade one and white maize grade two at Seller's option for white maize, and yellow maize grade one or yellow maize grade one and yellow maize grade two at Seller's option for yellow maize: Provided that the maximum percentages of white maize grade two and yellow maize grade two supplied in terms of this Agreement shall be in accordance with the relevant maximum percentages provided for in the contracts of sale entered into between the Maize Board and exporters to whom the Board sold cargoes of maize the relevant colour on tender for shipment during the month concerned

The said crop year and grade(s) shall be as defined in Government Notice R.1141 of 31 July 1964, as amended. Subject to the provisions of clause 3 thereof, the Seller has the option to supply either maize with a moisture content not exceeding 12.5 % (by mass) or maize with a moisture content not exceeding 14 % (by mass). (The moisture content shall be determined in accordance with the directions set out in Government Notice R.1141 of 31 July 1964, as amended.)

#### 3 CURRENCY AND REDUCTION FOR EXCESSIVE MOISTURE CONTENT OF MAIZE

Payment shall be made in South African currency per metric ton net mass of maize in bulk delivered free on board, unstowed and untrimmed, buyer's tonnage at the port or ports of shipment. If the moisture content of the maize exceeds 12.5% (by mass) but does not exceed 14% (by mass) the price shall be reduced by the same number of percentage points as those by which the moisture content of the maize exceeds 12.5% (by mass).

#### 4 MASS AND GRADE

Mass certificates issued and certified by the South African Railways Administration and export inspection certificates issued by the Department of Agricultural Economics and Marketing shall be conclusive proof of the mass and grade(s), respectively of the maize delivered to the Buyer.

#### 5 INSPECTION

A representative of the Maize Board shall have the right to board the vessel into which the maize is to be loaded and prior to commencement of loading, to inspect the holds of the vessel during and after loading of the vessel for the purpose of grading and sampling: Provided that no delay or hindrance to the vessel or in loading shall arise therefrom. Should the said representative find that the holds of the vessel are not free from insects, he shall advise the Buyer's or Charterer's agent and the Marine Surveyor employed by the Buyer to that effect in which case the Buyer or his agent shall refuse to accept notice of readiness for loading the vessel the maize for loading into the vessel until such time as the representative of the Maize Board certifies that no live insects were found in the holds of the vessel in the course of his inspection. The Seller shall not be under any obligation to release the maize for loading into the vessel until such time as the said representative has certified that no live insects were found in the holds of the vessel.

#### 6 SHIPMENT

- (1) Suitable tonnage as defined in clause 19 shall be presented by the Buyer at the port of East London or Durban for lifting yellow maize and at the port of East London for lifting white maize during the shipping periods arranged by Buyer and Seller from time to time: Provided that the shipping periods during a particular month shall be 15 days and the first or last day of any shipping period shall be deemed to be the first or last date of a shipping period (where applicable) referred to in this Annexure. The Seller shall declare the port(s) of shipment at least eight weeks prior to the beginning of the month during which the maize is to be shipped and the Buyer shall then immediately declare the shipping periods for the cargoes to be shipped during that month: Provided that the seller shall declare such shipping periods if the Buyer is not in a position to do so.
- (2) The Buyer shall advise the Seller by cable or telex as soon as freight has been chartered, stating the lay days stipulated in the Charter Party.
- (3) Should the Buyer charter freight which is not in terms of section (1) above and as defined in clause 19, any additional cost incurred and/or losses suffered by the Seller shall be for the account of the Buyer.

- (4) The Buyer shall furnish the Seller or Seller's agent prior to commencement of loading with a certificate from a competent Marine Surveyor that the vessel is fit and ready in all compartments to receive and carry a full cargo of maize in bulk.

#### 7 DELIVERY

- (1) Delivery shall be free on board unstowed and untrimmed the vessel presented by the Buyer in terms of clause 6 and Bills of Lading supported by mass certificates issued in terms of clause 4 shall, subject to the provisions contained in sub-paragraph (2) below, be proof of delivery. The vessel chartered by the Buyer will be subject on arrival at loading port to the normal loading turn as regulated by the port Captain. Any cost caused by delays in procuring a berth shall be for account of the Buyer. Any elevator overtime not ordered by the Seller shall be for account of the Buyer.
- (2) It shall be a special condition of this Agreement that delivery of the maize shall be completed and effectively made only as soon as clean Bills of Lading supported by mass certificates in terms of clause 4 have been issued and delivered to the seller or his duly authorized agent.

#### 8 READINESS TO LOAD

The Buyer shall notify the seller in writing, which notice shall reach the Seller at least ten days prior to the first date referred to in clause 6, of the name(s) of the vessel(s), the approximate quantity/quantities to be loaded and the expected date(s) of readiness of such vessel(s) to load.

#### 9 LOADING RATE AND DEMURRAGE CHARGES

- (1) Any dispatch money earned or demurrage under the charter party covering the vessel that is used for loading the cargo shall be for account of the Buyer.
- (2) The Seller shall arrange for delivery of the maize at an average rate of not less than 1 500 metric tons of maize per weather working day if notice of readiness (referred to in subclause (3) of this clause) has been accepted on or before the last day stipulated in clause 6 hereof and at an average rate of not less than 1 000 metric tons of maize per weather working day if the notice of readiness referred to has been accepted not later than five days after the last day referred to in clause 6 hereof. It must be clearly understood that the Seller shall not be under any obligation to deliver the maize at the aforesaid rates if, inter alia, the vessel concerned cannot load at the said rates or if the notice of readiness has not been accepted on or before the last day referred to in clause 6 hereof, or not later than five days after the last day referred to in clause 6 hereof, as the case may be. For the p-

urpose of this clause " weather working day" shall mean a day of 24 hours excluding

- (a) public holidays;
- (b) time between 12h00 on Saturdays and 07h20 on Mondays;
- (c) time when loading is stopped by order of the Master of the vessel.

Time during which the vessel, after acceptance of notice of its readiness, is unable to occupy the loading berth because another vessel is loading maize or grain sorghum not contemplated in this Agreement (and for no other reason) shall not be excluded.

- (3) The calculation of time of the vessel loading maize under this Agreement shall commence to run 24 hours after notice of readiness in respect of the vessel concerned has been accepted, which notice shall be given during business hours between 09h00 and 17h00 on an ordinary working day or between 09h00 and 12h00 on a working Saturday, but in any event time shall not begin to run or count before 07h20 on the first rate referred to in clause 6 hereof.
- (4) If and when the Seller is obliged to deliver the maize but fails to do so, in breach of such obligation and not for reasons stated in clause 16, then, but subject to the provisions of clause 13 (1) (c), the Seller shall be liable to pay the Buyer damages, limited to damages in lieu of demurrage, at the rate of R2 000 in South African currency per running day of 24 hours or pro rata for part of 24 hours plus interest at the Bank Rate of the South African Reserve Bank as determined from time to time plus 2% per annum on the price in this Agreement of the total quantity of the maize shipped in the vessel concerned, for the period that elapses between the time on which shipment should have been completed at a rate of 1 500 or 1 000 metric tons per weather working day as the case may be, as is stated in clause 9(2) and the time on which shipment was in fact completed.
- (5) In the event of such delay in release of the maize the final date of shipment shall be extended by the period of duration of such delay in release, without any additional liability to the Buyer (as contemplated in clause 13 of this Annexure).

#### 10 RISK

All risks after placing the maize on board the vessel in terms of clause 7 (1) shall be for the account of the account of the Buyer.

#### 11 PAYMENT

- (1) The Buyer shall at least 10 days prior to the commencement of the shipping period or commencement of shipment, whichever date is the earlier, furnish the Seller with an



irrevocable confirmed Letter of Credit issued by a Bank acceptable to the Seller against which the value of each cargo of maize shipped can be drawn and stipulating that the amount payable by the Buyer in terms of this Agreement shall be paid in cash on presentation by the Seller of the following documents:

- (a) Bill of Lading (full set clean on board to "Order" and endorsed in blank) marked "Freight payable as per Charter Party" .
  - (b) Commercial invoices.
  - (c) Inspection certificates issued by the Department of Agricultural Economics and Marketing.
  - (d) Mass certificates issued by the South African Railways Administration.
  - (e) Phytosanitary certificate issued by the Division of Plant and Seed Control, Department of Agricultural Technical Services, Republic of South Africa, stating that the maize exported is from areas free from *Xanthomonas vasculorum*.
- (2) Prior to shipment of the first cargo of maize in terms of this Agreement, the Buyer shall furnish the Seller with a Letter of Undertaking that the Buyer will, within 30 days after his Agent has been advised of the amount of penalties payable to the Seller in terms of clause 13 of this Agreement, pay such amount to the Seller.

## 12 BAGS

The Buyer shall provide bags for any maize required to be delivered in bags, such empty bags to be delivered to elevator at the expense of the Buyer. However, the cost of bagging shall be for account of the Seller. Any additional expenses incurred through bagging in overtime are for Buyer's account. As from the date of bagging all costs in connection with bagged maize including costs of storage and placing the maize on board shall be for the Buyer's account. The quantity of bagged maize shall not exceed 15% of the total cargo lifted or the maximum provided for under the Charter Party, whichever is the lesser. The quantity of bagged maize required, if any, shall be declared by the Buyer at least seven days before commencement of loading. Any delays to the vessel due to non-compliance with this provision shall be at the cost and responsibility of the Buyer.

## 13 EXTENSION OF SHIPPING PERIOD

- (1) Should the Buyer not tender suitable tonnage on or before the last permissible date of shipment referred to in clause 6, and if the Buyer lodges in writing or by telegram with the Seller an application for extension of the shipping period at least 16 Seller's business hours (the Seller's business days are Mondays to Fridays excluding pub-

lic holiadys and his business hours are 08h00 to 16h30 South African time) prior to the said last permissible date of shipment, the Seller shall, in his discretion grant extension: Provided that

- (a) the Buyer shall pay to the Seller interest at the Bank Rate of the South African Reserve Bank as determined from time to time plus 2% per annum on the value of the maize at the Agreement price calculated from the seller's last business day (as defined in this sub-clause) immediately preceding the said last permissible date of shipment up to and including the day immediately preceding the date of commencement of loading;
- (b) the Buyer shall pay to the Seller a charge of 1,1c (one decimal one cent) per metric ton per day as from the said last permissible date until the day immediately preceding the date of commencement of shipment, inclusive :

Provided that if notice of readiness of the vessel lifting maize contemplated in this Agreement cannot be presented because the vessel has not been allotted a layby or loading berth at the time of its arrival at the port of loading (and for no other reason) , the date of acceptance of notice of readiness shall, for the purpose of this sub-clause only, be taken as the date on which the vessel anchored at outer anchorage at the said port, extended by the period between the time on which the vessel entered a layby or loading berth, whichever is the earlier, to the time on which notice of readiness was accepted;

- (c) the Seller shall not be obliged to deliver the maize at the rates set out in sub-clause 9(2) hereof if shipment is effected later than five days after the last permissible date of shipment referred to in clause 6 hereof, or to pay interest or damages in lieu of demurrage.
- (2) The Seller shall not ipso facto be obliged to extend the period of shipment in terms of sub-clause (1) beyond 30 days but if longer extension of time is required, this will be subject to negotiation.

#### 14 EXPORT PERMIT

The Seller undertakes to procure a permit for the export of the quantity of maize shipped under this Agreement, provided there is no prohibition on the export of maize.

#### 15 IMPOSSIBILITY OF PERFORMANCE

Should the fulfilment of this Agreement or part thereof be rendered impossible by prohibition of export from the Republic of South Africa or import into the Republic of China, blockade or hostilities, this Agreement or any unfulfilled part thereof shall be subject to further negotiation.

16 DELAY IN PERFORMANCE

Should the fulfilment of this Agreement be unavoidably delayed by reason of riots, strikes, lockouts or breakdown in the South African Railways system at port or ports of loading, the final date of shipment per clauses 6 and 13 shall be extended by the actual duration of such riots, strikes, lockouts or breakdown in the South African Railways system without any additional liability to the Buyer or Seller.

17 FORCE MAJEURE

Should the fulfilment of this Agreement or part thereof be rendered impossible to either party by force majeure the unfulfilled part affected by force majeure shall be subject to further negotiation.

18 JURISDICTION IN CASE OF DISPUTES

The Buyer consents to the Supreme Court of the Republic of South Africa, Transvaal Provincial Division, Pretoria, having jurisdiction to deal with any dispute arising out of this Agreement.

19 DEFINITIONS

(1) Tonnage

In this Agreement tonnage shall mean a vessel of the following classification chartered by the Buyer on gross terms at loading, completely fitted for the purpose of conveying the maize concerned and no other cargo: first class Steamer or Power-engined Ship, class not lower than 100 A.1, or British Corporation B.S., or top classification in American, French, Italian, Norwegian or other equal Register, or a ship not inferior to these classifications.

(2) Charter Party

The Charter Party shall inter alia stipulate the following condition Readiness: Time for loading shall commence to count 24 hours after written notice, accompanied by a pass of the representative of the Maize Board and a certificate from a Marine Board and a certificate from a Marine Surveyor approved by the Charterers certifying the vessel's readiness in all cargo spaces, including fumigation, if required, to receive cargo whether in berth or not, has been given by the Master or Agent to the Charterer or his Agent between 09h00 and 17h00 from Monday to Friday or between 09h00 and 12h00 on a Saturday, excluding public holidays.

(3) The work "vessel" in this Agreement can also refer to more than one vessel.