

Corporate Work Permits for Lesotho Shearers: Labour & Agriculture Departments & National Wool Growers' Association

Date of Meeting: 13 Jun 2012

Chairperson: Mr M Johnson (ANC)

Summary:

The Departments of Agriculture, Forestry and Fisheries and Labour and the representatives of the South African wool industry appeared before the joint meeting to make presentations on the issue of the granting of corporate permits to sheep shearers from Lesotho to work in South Africa. The Department of Home Affairs did not attend the meeting which the Chairperson said was unfortunate.

The Departments of Labour and Home Affairs were involved in a collaboration; the Department of Agriculture, Forestry and Fisheries had a Memorandum of Understanding with the National Wool Growers' Association. There was a shortage of skilled South African shearers, so farmers employed shearers from Lesotho. But the process of applying for corporate permits for Lesotho shearers was lengthy and cumbersome and did not take into account the lack of predictability about when shearers would be needed.

The Department of Labour, on the other hand, worked on the principle of needing to ensure that South African citizens would always be employed before foreign nationals, if there were local employees available.

Several of the questions revealed a suspicion that foreign labour was cheaper than South African labour, but the industry asserted that this was not the case and that they would prefer to employ South Africans but there were insufficient experienced shearers.

There were questions about why such a small percentage (only 16%) of trained local shearers went on to pursue a career in the industry. A Committee Member proffered that South Africans were lazy, and went further to accuse South Africans of having criminal tendencies, which caused some upset and resulted in the Chairperson bringing the Member to order.

It was agreed that stakeholder consultations would continue during the parliamentary recess, and the Chairperson would convene another meeting during the next session of Parliament.

Minutes:

Chairperson's opening remarks:

The Chairperson indicated that the purpose of the meeting was to listen to the Departments of Labour and of Agriculture, Forestry and Fisheries and the Wool Growers' Industry on the issuing of corporate permits to sheep shearers from Lesotho. There had been an apology from the Department of Home Affairs, which he described as "unfortunate". The Department of Economic Development was also present, although they would not be making a presentation. He apologised that the programme had kept changing, and the meeting had been delayed, leading to the industry having to knock on a number of doors, but the urgency of this matter for the economy was understood, hence this meeting.

Department of Agriculture, Forestry and Fisheries (DAFF) presentation:

Mr Mooketsa Ramasodi, Acting DDG: Agricultural Production, Health and Food Safety, presented Options on the National Wool Growers' Association's Labour Predicament (see document). The preferred option of the Department was to "revert to the issuance of corporate permits to organised operators but simultaneously evaluate available options for a system that would be amenable to all parties involved without jeopardising any legislative requirements".

The Chairperson permitted a comment from a sheep farmer who had to leave the meeting early, as long as it did not open up discussion before all the presentations had been heard. This was to the effect that wool, known as 'white gold', was a critical part of the South African economy, and the sheep had to be sheared. Farmers were independent and competent and had organised themselves. While he conceded that permits were perhaps necessary, he believed it was not necessary to create a huge infrastructure for an industry that had been working for more than a century.

Department of Labour presentation Mr Moraka I. Nong, Manager: International Labour Migration, Department of Labour, presented International/Cross-Border Labour Migration (ICBLM) Management (see document). The different types of work permits were detailed, as well as an overview of the work permitting system.

The Chairperson noted the growth path of shearing, and its economic benefits, which talked to jobs and entrepreneurship.

Wool Industry presentation. Before the presentation, a short DVD was shown on the wool industry in South Africa. In the DVD, it was noted that Cape Wool was the generic term for all wool produced on the sub-continent. Mr Harry Prinsloo, National Chairman: National Wool Growers' Association (NWGA), presented Lesotho Shearers Corporate Permits (see document). It detailed the permit application procedures followed by Cape Mohair and Wool (CMW) and the response from the Department of Labour, whereby 20 permits were awarded for an application for 500 permits for shearers, and two awarded for an application

for 20 wool classers. An appeal was made for a speedier and more flexible process for corporate permits in the future.

Mr. Prinsloo ended by thanking the Chairperson, who had attended a conference the previous week. He explained that the farmers were not opposed to any procedures to comply with job creation, but they had problems with the complicated working procedures to procure permits. The shearing season would begin, but farmers could not start shearing because no shearers were available. Yet the sheep had to be shorn. He also mentioned that sheep shearing was a skilled job, which took three years to learn. Each shearer required three support staff, who were South African citizens, whose jobs would also be lost if the shearing could not continue. The Chairperson remarked that one had to sympathise with the industry, having listened to the Department of Labour's complicated processes. Bureaucracy played a role in doing business in South Africa, but it was very time consuming, and he was of the opinion that government had to do something to improve this.

Dr Neva Makgethla, DDG Economic Policy, Economic Development Department, raised a few issues. The first of these was that there was very rarely an absolute skills shortage, but that it was more about cost, and that the Lesotho shearers may not have been paid well. She also believed that immigrants from neighbouring countries, with their legacy of oppression, colonialism and poverty, should not be treated the same as those from overseas countries, for instance Australia. She concluded by asking if bringing in Lesotho shearers would lead to more jobs for South Africans.

The Chairperson opened the discussion with some opening comments about the fact that sheep shearing in South Africa was a R2 billion industry, with the potential to do more, if given opportunities. There had been a process of farmworkers' summits, where it was found that many issues were shared, such as doing business, jobs, respecting the law, and the need for minimal bureaucratisation. He expressed his sympathy with the industry about the difficulties encountered in the process of job creation.

Discussion

Mr L Van Dalen (DA) reminded the Department of Labour that presentations would not be entertained, unless accompanied by a hard copy. He went on to speak about the Department's red tape, which made it too difficult to get people from Lesotho into the country to do specialised work, despite the notion of an African Renaissance. He believed that many South African workers were "lazy", which left South African farmers in a position where they could be exploited by being forced to employ South African citizens rather than shearers from Lesotho. He went on to say that if there were an exemption for skilled workers from other countries, they could transfer their skills to local people in the long run.

Mr S Motau (DA) asked if there was a database of the remaining 84% of people trained who

did not pursue a career in shearing, so that they could be contacted when necessary for short-term work; and he also queried why only 20 CMW (Cape Mohair and Wool) applicants referred to in the industry's presentation had been granted permits out of 500 applications.

Mr S Abram (ANC) expressed the fear that South Africa would be branded as a country where it was difficult to do business if difficulties in accessing work permits and visas continued in the same vein. He went on to ask for actual statistics, such as the number of producers and how many of them were new; if the new producers were also required to employ shearers from Lesotho; the volumes of wool produced; the potential to increase the number of producers; and the numbers of producers in Lesotho.

Ms G Bothman (ANC) reminded the Committee that the issue of poverty and unemployment in Lesotho was a state-to-state issue, and not one about which anything could be done in this meeting. She wanted to know what was causing the trained South African shearers to drop out of the career. She did not agree with the description of laziness, and cautioned that if such a label was applied to South Africans, they would have difficulty being employed. She expressed the view that South Africa could not rely on or exploit people from other countries, and wondered if Basotho workers were cheaper labour.

Mr E Nyekemba (ANC) noted that bringing the affected Departments and the industry together to look at the options in terms of current procedures and legislation was progressive, but that organised labour would also need to be included. He asked for clarification on who had been trained, as he did not understand the need for foreign labour if trained South African workers were available. He wondered if the money spent on training included Sector Education and Training Authority (SETA) grant monies. He also asked which particular legislation was referred to regarding the different types of work permits.

Ms E Pilusa-Mosoane (ANC) asked for clarity on the Departments' steering committees. She wanted to know from the Departments of Home Affairs and Labour why it should take so long for applications for permits to be processed. She questioned why NWGA would choose foreign labour over local and asked if it was because labour from Lesotho was cheaper. She queried what had happened in 2011/12 in terms of training, as none was reflected on the table in the industry's presentation.

Mr B Bhanga (COPE) asked what the required number was of people to be trained. He did not understand what the main reasons were for more people not coming through the training, and why South Africans appeared to be uninterested in being trained as shearers. He did not buy the "laziness" theory and felt it was a dangerous notion. He did, however, express the view that, when close to home, people were in a comfort zone, whereas they may work harder when away from their own context. He said it was government's

responsibility to address barriers that made it difficult for businesses to operate, and that unjust administration needed to be simplified. There was a need, in his opinion, to focus on youth and empowerment to improve the conditions and encourage people into the mainstream of the industry.

The Chairperson raised a few points: he cautioned about welfare systems, and gave the example of an unemployed friend of his in England, who lived handsomely on welfare benefits. He went on to speak about treaties, referring to the paragraph in the industry's presentation that reads "Unfortunately the practices of the South African Government do not address the undertakings of South Africa with regard to the said treaties" (regarding the movement of people between neighbouring countries). He spoke about the plight of South African fisherfolk, who, despite South Africa being a signatory to the ILO – which stipulated that they must be governed by labour legislation – were governed, not by the Labour Relations Act, but by the Merchant Shipping Act, which rendered them vulnerable. He also questioned the level of consultation that the Department of Labour had engaged in with the agricultural sector, Home Affairs and the industry, as the regulations had been published in December, at a time when most people were on holiday and not reading papers or concentrating on work issues.

Ms Nomantombi Bobani, Director: LMES, Department of Labour responded to some of the issues raised. Regarding "red tape", she said that the Department needed to ensure that the skills were not available in the country before foreign labour was imported; the Labour laws covered foreigners if they were legally in the country; foreigners were allowed in if they were coming to transfer their skills. Mr Motau's specific query about the CMW application was explained by the fact that there were only 20 vacancies on Ficksberg farms when the application had been made to recruit 400 workers. The employer had been advised at the labour centre that applications for different provinces had to be made separately, as the Department had to do inspections to check that employers were complying. Migrant workers were not allowed to pass from one employer to another. The turnaround time for applications was 30 days, but if an employer did not comply, their application would be delayed.

Mr Nong dealt with the rest of the questions. The specific law referred to by Mr Nyekemba was the Immigration Amendment Act 19 of 2004. The treaties referred to by the Chairperson were actually bilateral labour agreements with Lesotho, Swaziland, Botswana and Mozambique, and Mr Nong pointed out that some of these required amendment, such as the one which still referred to Mozambique as "Portuguese East Africa". He asserted that the Department did, in fact, comply with The Employment Bureau of Africa (TEBA) regulations regarding bilateral agreements, and was aligned with three ILO conventions.

In answer to the Chairperson's comments on the consultative process, Mr Nong explained that the Departments of Labour, Home Affairs and Trade and Industry looked together at whether and how many foreigners needed to be brought into South Africa, keeping in mind the principle of not building a large pool of foreign labour. The Department wanted agreement with employers on the numbers of employees. They then gave presentations to farmers on how the system worked.

He agreed that there needed to be an investigation into why trained people were not taking up positions in the industry. He referred to the issue of "laziness" that had been raised and said that the Department wished to commission research into why South African citizens were reluctant to accept employment in the agricultural sector. He agreed that application process, if it went beyond a wait of two months, was unacceptably long.

The Chairperson asked if the Department of Labour had consulted with Agriculture and the industry, and Mr Nong's reply was that it had not done so directly to explain regulations and procedures.

The Chairperson asked for details of how exactly it worked, and Mr Nong replied that it was a process, and at the stage where the Act was being signed, the Department would come up with the steps and regulations, guided by the Act.

Mr Ramasodi said that operational departments took responsibility for their own costs.

Mr Prinsloo clarified about the example that had been given about Ficksberg, by explaining that the weather played a big role in farmers' decisions, and so they could not predict in advance how many shearers would be required at any particular time. The Department of Labour made it difficult for farmers, requiring specific dates and payment of R1 500 per permit. The industry was not against the system, but the system as it was, was impractical.

He could not say why so many trained shearers did not continue in the work. There was a central database, but it was of no use if needing to call on shearers, because practical experience was also necessary in addition to the training.

He also mentioned how the potential for wool growing, job creation and poverty alleviation was huge, with no fear of overproduction. But they had to have shearers, and he wondered who would provide them.

Mr Stolz, a colleague in the industry, on the point of cheap labour, clarified that shearers from Lesotho earned the same as South African shearers.

Mr Louis De Beer, Cape Wools General Manager, said that they had not been consulted by the Department of Labour on the bureaucratic process.

Mr James De Jager, Cape Mohair and Wool manager, made the point that acquiring labour from Lesotho was more expensive, and that the industry would prefer to employ local labour if it were available. He also confirmed that the industry had not been consulted with regard to changes in the laws.

Ms Elize van der Westhuizen, Manager: Human Resources at Agri SA, referred to the Immigration Act, wherein the vacancy needed to be filled in a specific time. She explained that the service providers had the vacancies, not the farmers themselves, which was why farmers did not apply for the permits. Also, this was not regional, but national.

Mr Prinsloo answered the question about the training in 2011 by saying that R2.5 000 000 of industry funds had been spent on training South Africans.

Mr Bhanga commented that it was the responsibility of both the industry and the Department of Labour to find a new mechanism for sustainability, and that they needed to have a dialogue to sort out the misunderstandings. He was not happy about the industry's training programme – if it was not attractive for trainees to remain in the industry, there was something wrong and it needed to be put right. The Department of Labour had a responsibility to make the environment conducive.

Ms Bothman felt there were a lot of things which were still unclear, making it difficult to come to conclusions. The issue of consultation was one of these – she wanted to know if the meeting had been on the new labour law or on the Immigration Act. She clarified that the Members were not saying that it was a fact that Lesotho shearers were paid less, but that more information was needed.

Mr Abram said it was important to listen to the interest groups who came to Parliament, as it was representative of all the people in the country. He wanted to know how to make it possible for more farmers to get into the business of sheep farming. He appealed for flexibility and understanding of the problems of the people on the ground, and to realise that one size did not fit all in this industry. It was important to be able to justify South Africa as a destination for investment.

Mr L Gaehler (UDM) agreed with the proposal to get all the stakeholders together. The industry needed to improve its planning – it should be able to project an approximate

number of people needed, and then there could be an intake for unemployed youth.

Mr Van Dalen said that he had not meant to imply that all South Africans were lazy, but he wanted to know who would make sure that they were not “lazy, or murderers, or thieves”, but were “good, qualified people without criminal records”?

The Chairperson interjected at this point, and told Mr Van Dalen that he had crossed a boundary. He cautioned the Member to speak as if he were in a house made of glass, because such talk, especially of murder, could have ramifications. He reminded the Committee members that there was a principle binding them – about food production and security – and it did not matter which party they belonged to; if they crossed the line they would be called to order.

Mr Van Dalen withdrew his comment, replacing it with wanting to know who would ensure that South Africans were hard working.

The Chairperson said that an important point raised by the Department of Agriculture, Forestry and Fishing was about the processes followed when introducing any regulation. He spoke about the need to consult with each other to avoid the departments moving in different directions. The issue raised by Ms Bothman of needing more information needed to be attended to. Also, he spoke about needing to look at broader opportunities, and the possibilities of selling wool to other marketers. He suggested that a Steering Committee was needed to pull together all the issues.

Mr Nyekemba mentioned that a key critical point was that the mandate of each particular government department should be known to all the stakeholders. There were seasonal workers in many industries apart from the wool industry, and, in the absence of industry agreements, these were governed by the Basic Conditions of Employment Act. There were labour centres all over the country, and that the wool industry should not expect to be treated differently from other industries. In response to Mr Gaehler’s point, he mentioned that there was a Skills Development Act in place, dealing with learnerships involving individual agreements. He wondered what needed to be done in order to employ South Africans.

The Chairperson suggested that stakeholder interaction should occur during the parliamentary recess, from 25 June to 20 July, so that the matter could be dealt with swiftly in the next session of Parliament.

Mr Prinsloo thanked the Committee members for listening. The wool industry did not

expect to be treated any differently from other industries, and they would take what they had heard and try to improve on budgets and projects, and reiterated that they shared the view that work opportunities should be focused on South African citizens.

Ms Bobani asked the Chairperson to convene the next meeting.

The Chairperson agreed to do so, and the meeting was adjourned.