



PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES

Our Ref: Cannabis Bill Comment April 2023
Your Ref: Afristar CLG CPPB April 2023

21 April 2023

Email: cannabisbill@parliament.gov.za
And: vramaano@parliament.gov.za
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*****ATTN: HON. V. RAMAANO & HON. S MTHONJENI*****
*****PER EMAIL ATTACHMENT*****

Dear Hon. Members of Parliament,

RE: COMMENT ON THE HEMP CHANGES TO THE AMENDED CANNABIS FOR PRIVATE PURPOSES BILL

1. We, hereby, accept your invitation to submit comments on the hemp changes to the "Amended Cannabis for Private Purposes Bill" ("the Bill"), which comments follow hereunder.
2. **We expressly record that we would like the opportunity to make verbal presentation/s to Parliament hereon.**

3. THE AFRISTAR CANNABIS LOBBY GROUP MANDATE:

This submission is made by Afristar Foundation, registered as a Non-Profit Company Reg. Section 18a Company 2003/007366/08 NPC with the following objectives:

- Develop projects and strategies promoting Regenerative Futures focused on a nature-based economy.
- To formalize and develop indigenous cannabis communities that have always existed in South Africa
- To facilitate training and skills development / transfer for the cannabis industry.
- Develop, support and lobby government and civil society for rational scientific cannabis laws that will enable the birth of a new farming and industrial base in the country that has the potential to enable and empower people.
- Provide access to information on all aspects of cannabis.
- Demonstrate models of best practice for cannabis cultivation incorporating agroecological principles including research and development of cultivars for food, fuel, fibre, and medicine for all biomes / provinces.
- To develop and motivate for a legal framework that is beneficial to government and the community, that opens the cannabis market to the public and connects members in the industry together to facilitate the development of a cannabis industry cluster that would provide opportunities and jobs for South Africa's most impoverished rural communities.
- To ensure that all people have access to the cannabis plant and its derivatives as well as business opportunities.

Collectively we represent cannabis users, growers and stakeholders from around South Africa focused on sustainable land use utilising cannabis as an economic driver for rural transformation.

Afristar has been actively engaging with the Presidency, National and Provincial Governments to unlock the cannabis industry and develop an enabling policy and legislative environment. We have also worked with the Eastern Cape Rural Development Agency (ECRDA) on the Conceptualisation, Motivation and Key Provision for an Enabling Regulatory Environment for Cannabis in South Africa, one of our Directors is working on the team appointed by DTIC to research the situational analysis and country competitive strategy for cannabis

We humbly request the opportunity to make oral representation to the Justice & Correctional Services Parliamentary Sub Committee on our proposed way forward for inclusive cannabis regulation in SA.

4. COMMENT ON THE HEMP AMENDMENTS TO THE PROPOSED BILL:

4.1 Does Industrial Cannabis / Hemp have to be Regulated?

The overriding concern that we have with regards to this CPPB is the continued insistence to regulate industrial cannabis / hemp to be used for industrial purposes as it creates a licencing permitting system that is an immediate barrier to entry to the rural poor and it continues to leave the existing smallholder cannabis farmers out of potential value chain.

What is not clear is the motivation for this approach from the Department of Justice as it falls entirely on Parliament and the South African government to determine how to approach cannabis for industrial purposes. There is an ongoing position from the DOJ, DOH and SAHPRA that industrial cannabis has to be regulated in terms of our international treaty obligations without pointing to where or how they arrived at this position.

The treaty terms are succinctly unpacked in a recent United Nations Conference on Trade and Development, Commodities (UNCTAD) at a Glance, Special Issue on Industrial Hemp Report, No 16, 2022 that outlines the regulatory position for industrial cannabis / hemp as follows:

The international drug control system comprises three conventions signed by the United Nations Member States that established core international regulations related to cannabis. They focus on the distinction between the intoxicant and non-intoxicant properties of the plant implemented to prevent the abuse of narcotic drugs and psychotropic substances, while ensuring their availability for medical, scientific purposes, and industrial uses.

1961 Single Convention on Narcotic Drugs, amended by the 1972 Protocol (C-61 or Single Convention) Convention on Psychotropic Substances of 1971 (C-71) Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (C-88).

A clear textual distinction is made, especially in C-61, between *C. sativa* L. plants grown to produce drugs (falling within the scope of the treaties) and exempting those grown for any other purposes. In Article 1-1(c) of C-61, the definition of "Cannabis plant" refers only to Cannabis plants used for the "production" and "manufacture" of drugs. Article 28-2 further qualifies distinctive features between drug and non-drug products: "This Convention shall not apply to the cultivation of

the Cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes". The official Commentary published by the United Nations Secretary-General's office further underlines that "[this] control regime applies only to the cultivation of the *C. sativa* L. plant for the production of cannabis and cannabis resin [i.e. drugs present in the Schedules]" and hence the "cultivation for any other purpose, and not only for the purposes mentioned in paragraph 2 [i.e. "industrial purposes", "horticultural purposes", "fibre and seed"], is consequently exempted from the control regime provided for in article 23 [i.e. falls out of the scope of C61]" (United Nations, 1973: 312). UNCTAD, pg. 20.

It is important to note that the convention doesn't define industrial cannabis / hemp by THC levels in the plants or part thereof, it defines industrial cannabis / hemp by end use and stipulates that cannabis utilised for industrial purposes falls outside of the scope of the United Nations 1961 Single Convention on Narcotic Drugs.

So, if this is what is guiding how we regulate why are we attempting to regulate an agricultural commodity at the point of production? If regulation is required, then regulate at the point of processing. This will open the door to including small holder farmers to utilise the crop they already have.

4.2 Definition - Industrial Cannabis vs Hemp

It is also useful to note that UNCTAD and the conventions do not define industrial cannabis / hemp by THC percentages in fact they note that "There is no consensual taxonomic or phylogenetic classification, for industrial cannabis / hemp" UNCTAD, Pg14.

If we choose to use the term "industrial cannabis" instead of "hemp" to describe cannabis that is grown for industrial purposes, we can expand the potential uses of our landrace cannabis strains for industrial applications. This will allow for the inclusion of landrace strains, which are already widely cultivated in South Africa, in the emerging cannabis industry. By doing so, we can tap into the significant existing production of landrace cannabis and enable more people to participate in the industrial cannabis market.

4.3 Quantifying Land Race Cannabis Production in South Africa

Unfortunately, there is no current data available on the exact amount of landrace cannabis produced in South Africa, as much of the cultivation and production of cannabis in the country is still illegal and operates in informal, unregulated markets.

Landrace cannabis strains are traditionally grown by local farmers and cultivators in rural areas, often for personal use or to sell in local markets. Because of the illegal status of cannabis in South Africa, there are no official records or statistics on the production of landrace strains.

SA completes an Annual Reporting Questionnaire that it submits to the United Nations Office on Drugs and Crime (UNODC) who publish the data in a report, the highest figure reported 82,000 hectares (later reported as a gross overestimate) but supported by the United States Drug Enforcement Agency who estimated 20 - 30,000 ha in 1993/4 and 83,000 ha in 1994/5. The South African Police Service report in 1994 indicated 22,7000 ha in 1994 representing 0.1% of arable land. Before and after this figures range from 1000 to 6000 ha reported per annum which are contradictory when compared to seizure figures.

Afristar sponsored and motivated for Tijmen Grooten from Wageningen University in the Netherlands to conduct research focused on the Upper Mzimvubu catchment for his Master's thesis titled *Harvesting Hope: Exploring the untapped potential of Smallholder Cannabis Farming in South Africa* which was published early in 2023.

The results are informative and support the larger numbers indicated in the paragraph above. He estimates the average family farms nearly 1 ha with between 18,719 – 56,157 ha under cultivation (compared to the 32,000 ha total area of hemp under cultivation in Europe) supporting between 20,000 and 60, 000 small holder farmers in this part of Mpondoland.

He further postulates on the potential economic value of this plant in one of the poorest most inaccessible parts of South Africa where:

- Industrial - between 162 & 505,000 tons of stalk could be harvested annually, sequestrates between 374,000 & 1,1 million tons of carbon (which also potentially has value) processed into between 112,767 & 338,301 of tons annually hurd with a minimum value of R451m.

If the processing facility was licenced to SAHPRA medical standards then there is additional value :

- Medical / Recreational – Harvest between 1500 & 4485 tons of cannabis flower annually with an estimated value of R 1.1 billion (if there is a market) or could be converted into 60 to 180 tons of Full Extract Cannabis Oil (FECO) with a minimum value of R5.9 billion value

This provides an interesting insight into the value of the green gold that is currently unutilised in SA especially since the demand for this cannabis has dried up since the Constitutional Court ruling.

5. CONCLUSION

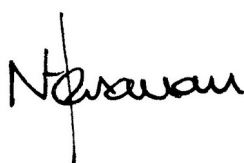
The CPPB could unlock a significant rural resource placing a high value crop in the hand of the rural poor if it is well reasoned and strategically positioned to maximise our potential country competitive advantage in the global Cannabis industry.

This requires a thorough understanding of what we have in terms of production and value addition through agro processing so as to develop legislation that is:

- Pro poor tool for regeneration of the rural economy
- Enables existing growers to enter and participate in the value chain
- Maximize our competitive advantage of farmers and climate resilient and drought tolerant genetics
- Formalizes the existing market
- Negate the necessity for further court challenges on the constitutionality of the legal frameworks (dagga is already legal by virtue of the constitutional court ruling – need to allow reasonable trade to facilitate those without access to private land for cultivation)

We humbly request the opportunity to make oral representation to the Justice & Correctional Services Parliamentary Sub Committee on this proposed way forward for inclusive cannabis regulation in SA.

This Submission made on behalf of the Afristar Cannabis Lobby Group by;



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