







INCORPORATING
KIETI LAW LLP, KENYA

IN THIS ISSUE

Green ammonia, the next big step towards decarbonisation of the agriculture sector

The global effort to reduce the carbon footprint of various carbon intensive sectors have been welcomed this year with several innovative projects, technologies and new alternative fuels coming to the fore. The President of South Africa recently announced plans to remove significant red tape for renewable energy projects in relation to permitting and registration requirements, to streamline the regulatory process to reduce South Africa's carbon emissions and move towards cheaper and more reliable renewable energy sources.



AGRICULTURE, AQUACULTURE & FISHING SECTOR ALERT

Green ammonia, the next big step towards decarbonisation of the agriculture sector

The global effort to reduce the carbon footprint of various carbon intensive sectors have been welcomed this year with several innovative projects, technologies and new alternative fuels coming to the fore. The President of South Africa recently announced plans to remove significant red tape for renewable energy projects in relation to permitting and registration requirements, to streamline the regulatory process to reduce South Africa's carbon emissions and move towards cheaper and more reliable renewable energy sources.

South Africa's move to renewable energy and the easing of the process, provides the agriculture sector with an opportunity to utilise green ammonia to decarbonise its processes and value chain.

GREEN AMMONIA AND ITS VERSATILITY

Green ammonia is produced by using hydrogen from water electrolysis and nitrogen separated from the air, whereafter hydrogen and nitrogen are reacted together at high temperatures and pressures to produce ammonia, through using the Haber-Bosch process, which is powered by renewable energy. Although the current production of ammonia mostly utilises grey hydrogen which is generated from fossil fuels.

The production of green ammonia can be seen as an energy storage option for excess renewable energy, as it can be stored more easily than hydrogen with existing distribution infrastructure already in place.

Further to this, ammonia is versatile, with various associated uses and off-shoot products, especially in the agriculture sector. Green ammonia can contribute to decarbonise the agriculture sector along the various scopes of greenhouse gas emissions, including:

• Green fertilizers: Ammonia is considered a building block of all mineral fertilizers and is used across the agricultural sector. The use of green ammonia to produce fertilizers will lead to the decarbonisation of fertilizers used in the agriculture sector, the current standard production of which produces significant carbon emissions within the sector and attributes 1,8% of global carbon dioxide emissions.

• Alternative fuel: Ammonia can be used in fuel cells to produce electricity or burned in an engine, whereby green ammonia can replace diesel, providing a zero-carbon fuel benefit and limited redesign of existing diesel engines. The replacement of diesel with green ammonia will reduce carbon emissions during production as well as transport of agricultural produce to market and end-users.

Green ammonia provides the opportunity to significantly reduce the carbon footprint of the whole agriculture value chain. While this will require some adaption from the status quo, we have seen the imminent need to change the way things have always been done. In recent years we have seen the change in mindset of consumers when it comes to produce, with consumers looking towards sustainability and organic farming practices. With consumers

AGRICULTURE, AQUACULTURE & FISHING SECTOR ALERT

Green ammonia, the next big step towards decarbonisation of the agriculture sector

CONTINUED

becoming mindful of sustainable farming practices, the incorporation of green ammonia into the agricultural practices will further drive sustainable agriculture and reduce the carbon footprint of the sector.

RELEVANT LEGAL FRAMEWORK

The production or sale of green fertilizers will need to comply with the requirements as set out in the Fertilizers, Farm Feeds, Seeds and Remedies Act 36 of 1947 and the Regulations Regarding Fertilizers, published under Government Notice R732 in Government Gazette 35666 of 10 September 2012. The relevant legislation does not make specific provision for green fertilizers and as such, the prescribed requirements for the various fertilizers apply and will need to be complied with. The prescribed

requirements mostly relate to the production and sale of fertilizers, labelling and container requirements, import of fertilizers and registration requirements.

The Gas Act 48 of 2001 (Gas Act) does not make reference to ammonia specifically, but rather hydrogen rich gas which falls within the ambit of gas as defined and regulated under the Gas Act. The Gas Act, in its current form, does not provide for "green" gasses such as green ammonia or hydrogen. Amendments to the Gas Act may, therefore, need to be considered in order to specifically cater for "green" gasses or alternatively develop specific legislation for "green" gasses.

CONCLUSION

While significant efforts have been made to ease the permitting and registration processes for renewable energy, a holistic approach is required to ensure green technologies and off-shoot products such as green ammonia and green fertilizers are also promoted to ensure each sector is provided the same opportunities to reduce its carbon footprint. Thorough consultation between the Department of Agriculture, Land Reform and Rural Development, the agricultural sector and other key stakeholders will be necessary to ensure the transition towards decarbonising the agricultural sector is effective and considers the associated hurdles and red tape.

ANTON ACKERMANN, OVERSEEN BY MARGO-ANN WERNER



OUR TEAM

For more information about our Agriculture, Aquaculture & Fishing sector and services in South Africa and Kenya, please contact:



André de Lange
Sector Head:
Agriculture, Aquaculture & Fishing
Director: Corporate & Commercial
T +27 (0)21 405 6165
E andre.delange@cdhlegal.com



Sammy Ndolo
Partner | Kenya
T +254 731 086 649
T +254 204 409 918
T +254 710 560 114
E sammy.ndolo@cdhlegal.com



Preeta Bhagattjee
Practice Head & Director:
Technology, Media & Telecommunications
Sector Head:
Technology & Communications
T +27 (0)11 562 1038
E preeta.bhagattjee@cdhlegal.com



Practice Head & Director: Tax & Exchange Control T +27 (0)11 562 1063 E emil.brincker@cdhlegal.com

Emil Brincker

Chris Charter



Practice Head & Director: Competition Law T +27 (0)11 562 1053 E chris.charter@cdhlegal.com



Jackwell Feris
Sector Head:
Industrials, Manufacturing & Trade
Director: Dispute Resolution
T +27 (0)11 562 1825
E jackwell.feris@cdhlegal.com



Tobie JordaanSector Head: Business Rescue,
Restructuring & Insolvency
Director: Dispute Resolution
T +27 (0)11 562 1356
E tobie.jordaan@cdhlegal.com



Mashudu Mphafudi Practice Head & Director: Finance & Banking T +27 (0)11 562 1093 E mashudu.mphafudi@cdhlegal.com



David Thompson
Deputy Practice Head & Director:
Corporate & Commercial
T +27 (0)21 481 6335
E david.thompson@cdhlegal.com



Albert Aukema
Director:
Competition Law
T +27 (0)11 562 1205
E albert.aukema@cdhlegal.com



Roy Barendse
Executive Consultant:
Dispute Resolution
T +27 (0)21 405 6177
E roy.barendse@cdhlegal.com



Tessa Brewis
Director:
Corporate & Commercial
T +27 (0)21 481 6324
E tessa.brewis@cdhlegal.com



Simóne Franks
Director:
Real Estate
T +27 (0)21 481 6464
E simone.franks@cdhlegal.com



Johan Latsky
Executive Consultant:
Corporate & Commercial
T +27 (0)11 562 1149
E johan.latsky@cdhlegal.com



Andries Le Grange
Director:
Competition
T +27 (0)11 562 1092
E andries.legrange@cdhlegal.com

OUR TEAM

For more information about our Agriculture, Aquaculture & Fishing sector and services in South Africa and Kenya, please contact:



Gillian Lumb
Director:
Employment Law
T +27 (0)21 481 6315
E gillian.lumb@cdhlegal.com



Richard Marcus
Director:
Dispute Resolution
T +27 (0)21 481 6396
E richard.marcus@cdhlegal.com



Burton Meyer
Director:
Dispute Resolution
T +27 (0)11 562 1056
E burton.meyer@cdhlegal.com



Susan Meyer
Sector Head:
Healthcare & Pharmaceuticals
Director: Competition Law
T +27 (0)21 481 6469
E susan.meyer@cdhlegal.com



Hugo Pienaar
Sector Head:
Infrastructure, Transport & Logistics
Director: Employment Law
T +27 (0)11 562 1350
E hugo.pienaar@cdhlegal.com



Verushca Pillay
Director:
Corporate & Commercial
T +27 (0)11 562 1800
E verushca.pillay@cdhlegal.com



Lucinde Rhoodie
Director:
Dispute Resolution
T +27 (0)21 405 6080
E lucinde.rhoodie@cdhlegal.com



Belinda Scriba
Director:
Dispute Resolution
T +27 (0)21 405 6139
E belinda.scriba@cdhlegal.com



Roux van der Merwe Director: Corporate & Commercial T +27 (0)11 562 1199 E roux.vandermerwe@cdhlegal.com



Clarice Wambua
Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E clarice.wambua@cdhlegal.com



John Webber
Director:
Real Estate
T +27 (0)11 562 1444
E john.webber@cdhlegal.com



Charl Williams
Director:
Corporate & Commercial
T +27 (0)21 405 6037
E charl.williams@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.

T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town. T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya. T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E cdhkenya@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600. T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

©2022 11472/AUG















KIETI LAW LLP, KENYA