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BUSA Reaffirms Safeguards in Expropriation Act, Dismisses Land Grab Concerns

Johannesburg, Wednesday, February 5, 2025 — The Expropriation Act, in its present form, incorporates sufficient checks and balances to prevent the arbitrary expropriation of land without compensation.

Concerns that the signing of the Act into law by President Cyril Ramaphosa, opens the door to land grabs, are unwarranted. The President's signature came after a thorough consultation process, lasting over 12 years. Business Unity South Africa (BUSA) was an active participant in the consultations in Parliament and the National Economic Development and Labour Council (Nedlac), among others.

Theo Boshoff, CEO of the Agricultural Business Chamber of South Africa, who represented BUSA in the Nedlac negotiations about the legislation, says: "The Act is certainly not a 'short-cut' for the state to acquire property, as the procedures the state must follow are significantly more burdensome than those for purchasing the property directly. The Act stipulates that the state can only expropriate if it has failed to purchase the property on reasonable terms. It serves as a deadlock-breaking mechanism and should only be used as a last resort.

"Section 12 (3), which includes the nil-compensation provision, understandably raises considerable anxiety, as we will only fully understand its impact once the courts have had the opportunity to interpret it. But the wording of this clause does not assert that awarding nil compensation will necessarily be just and equitable; it merely states that it may be so."

Across the world, the state has powers of expropriation. Where a country's government requires the property of a private person for a public purpose, and the owner refuses to sell, there must be a mechanism to acquire the property against the owner's will, provided that due process is followed and compensation paid. There is no reason for South Africa to be an exception.

Like any piece of legislation, the Expropriation Act is not without imperfections and contains ambiguities that have justifiably raised concerns. We urge the business community to remain vigilant in monitoring the implementation of this Act, but as yet, there is no reason for alarm.

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