MANUFACTURING — CHEMICAL Products

1997

AUG. — DEC.

**YEAR OF SUCCESS** *Trevor Munday, left, the managing director of Polifin, and Paul Kruger, the chairman, believe price increases and higher volumes were responsible for the boost in earnings* PHOTO SHAUN HAR

(183)

# Commodities buoy Polifin

CT (BR) 1/8/97

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Stronger commodity prices, tighter cost control and a small increase in sales volumes boosted Polifin's full-year attributable earnings 20 percent to R543 million on a 14 percent rise in turnover to R3,6 billion

Trevor Munday, the managing director of the plastics and petrochemicals producer, said 13 percent of the rise in turnover for the year to June 25 was driven by price increases, the rest by higher volumes

This had a direct effect on trading income, which surged 25 percent to R929 million, in spite of higher oil prices, which increased the costs of feedstocks for ethylene and propylene.

During the year Polifin strengthened its balance sheet by more than R1 billion in cash, generated from operating activities After paying for capital expenditure and reducing debt by R183 million, the group had R40 million in cash at year end

Gearing was reduced to 3 percent and the group declared a final dividend of 20c a share

Dividends for the year rose to 32c a share from 27c

But stronger sales prices were unlikely to last as the plastics commodity cycle was entering a gradual downturn that would only recover around the turn of the century, he said

Lower expected feedstock prices and continued efficiency improvements within the group gave him confidence of a "modest improvement in earnings" for the financial year at present

Polifin continued its programme of high capital expenditure during the year, spending R302 million on plant improvements and budgeting R450 million for the financial year

☐ **Business Watch, Page 18**

## Board reviews R7bn feedstock proposal

Johannesburg — Polifin hoped to approach its board in December with a clear proposal on a location and f[illegible] supplier for a R7 billion petrochemicals complex, Trevor Munday, Polifin's managing director, said yesterday

The complex [illegible] be built by 200[illegible] a 500 000 to 600 000 tons a year ethylene cracker along with downstream polymer plants to meet an expected shortfall in the domestic market

Polifin planned to take a 55 percent share in the project and had offered 10 to 15 percent to Sentrachem The balance would go to an offshore company The group has spent about R6 million on the project this year, and could spend up to R150 million on preliminary engineering studies and planning next year

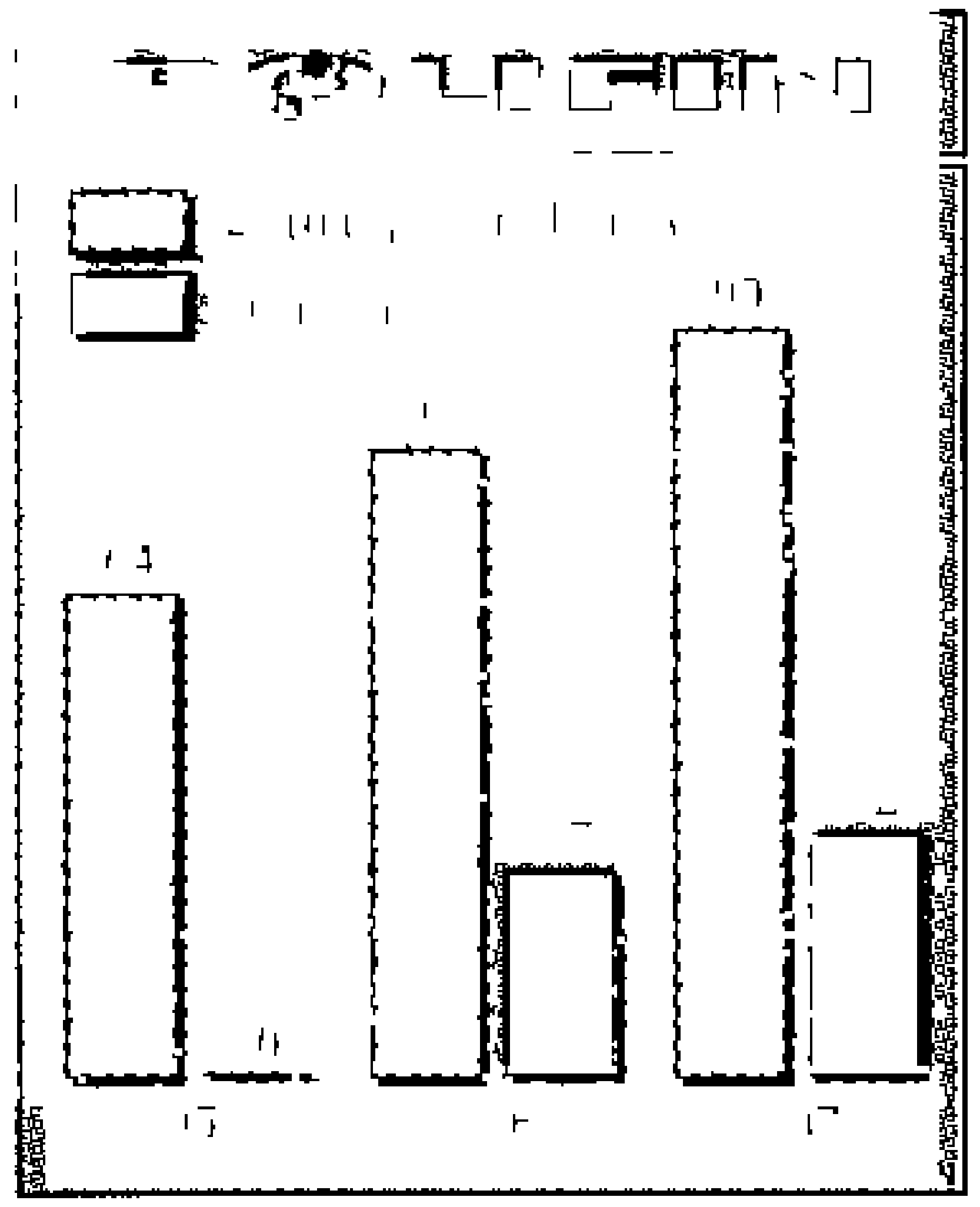
Sasol, Mossgas and [illegible]pref, a joint venture refin[illegible] in Durban were preparing submissions on the location and feedstock for Polifin

Munday said although many considered the Mossgas bid "a long shot", he said Polifin would evaluate it [illegible]und".

Submissions have to be in by September. — Jonathan Rosenthal

# Improved productivity, good prices boost Polifin

(183) BD 1/8 1997



**Ingrid Salgado**

POLIFIN, the AECI and Sasol petrochemicals joint venture, lifted attributable profit 20% to R543m in the year to June as productivity improvements enhanced growth arising from an increase in average selling prices

The results were on the conservative side of market expectations This was mostly a result of a higher tax charge, which partially offset rising operating margins and reduced finance costs.

Earnings a share increased 19% to 99c A 20c dividend was declared, bringing the total dividend for the year to 32c (1996 27c).

Polifin announced yesterday it would decide by year-end where to site its proposed R7bn ethylene cracker and downstream polymer plants, otherwise known as "Project 2003"

MD Trevor Munday said project players Sapref, Sasol and Mossgas would submit feedstock and site proposals by the end of next month. The project's site options include Durban, where the cracker would be linked to a Sapref refinery; Mossgas at Mossel Bay; and inland, at either Sasolburg or Secunda.

Polifin would take a 55% stake in the venture, Sentrachem had been offered a 15% share while a leading international petrochemical group was being sought, Munday said.

He said Polifin was confident of achieving a "modest improvement" in share earnings in the next financial year. The group expected international polymer prices to decline in dollar terms over the next few years, but lower feedstock prices and a weakening rand could go some way to offsetting this

Turnover for the year rose 14% to R3,6bn, comprising a 1% increase in sales volumes and a 13% rise in average selling prices

Trading income shot up 25% to R929m, helped by productivity improvements and control of fixed costs, Munday said Operating margins increased to 25,5% from 23%, maintaining Polifin's internationally competitive position

Finance costs dropped 11% to R56m Strong cash generation reduced the gearing level to 3% from 26% as borrowings net of liquid funds were cut to R10m.

Munday said reduced borrowings would enable Polifin to fund its share of Project 2003 internally. The group spent R6m in preliminary studies on the project while an additional R150m was earmarked for next year

Polifin's tax rate increased from 33% to 37%, lopping off 7c from earnings a share. Tax rose primarily due to a nonrecurring benefit in the previous year from the sale of the group's carbide furnaces to Samancor.

Munday said cash generated from operating activities after finance costs topped the R1bn mark for the first time

This was used to fund capital spending worth R302m, tax and dividend payments of R214m and R162m respectively and shareholder loan repayments valued at R183m Polifin was left with R40m in cash at the year-end

He said the focus of capital spend during the year had swung to consider environmental issues.

# AECI is cautiously upbeat

CT(BR) 5/8/97 (183)

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

Johannesburg — AECI, the Anglo American chemicals conglomerate, yesterday reported a 30 percent rise in net profit to R159 million for the six months to June 30, but warned that demand for its products had begun to weaken in the second quarter, which would impair prospects for the rest of the year

This represents a swing from last year's results, in which a weak first half was offset by strong demand in the latter part of the year

Turnover rose 11 percent to R3,86 billion from R3,48 billion in the first half of last year, but trading profit jumped 27 percent to R323 million The group said its trading margin was improved by an easing in the international prices of imported raw materials, together with a containment of fixed costs Exports increased by R10 million to R651 million

Aiding the rise in profitability was a halving in finance costs, to R68 million from R133 million last year This was achieved in part through the group's sale of its shares in Afex Holdings, but this also resulted in a decline in investment income.

"Barring unplanned acquisitions, the seasonal pattern of working capital and cash flow is expected to result in a considerably lower level of net debt by year-end," it said

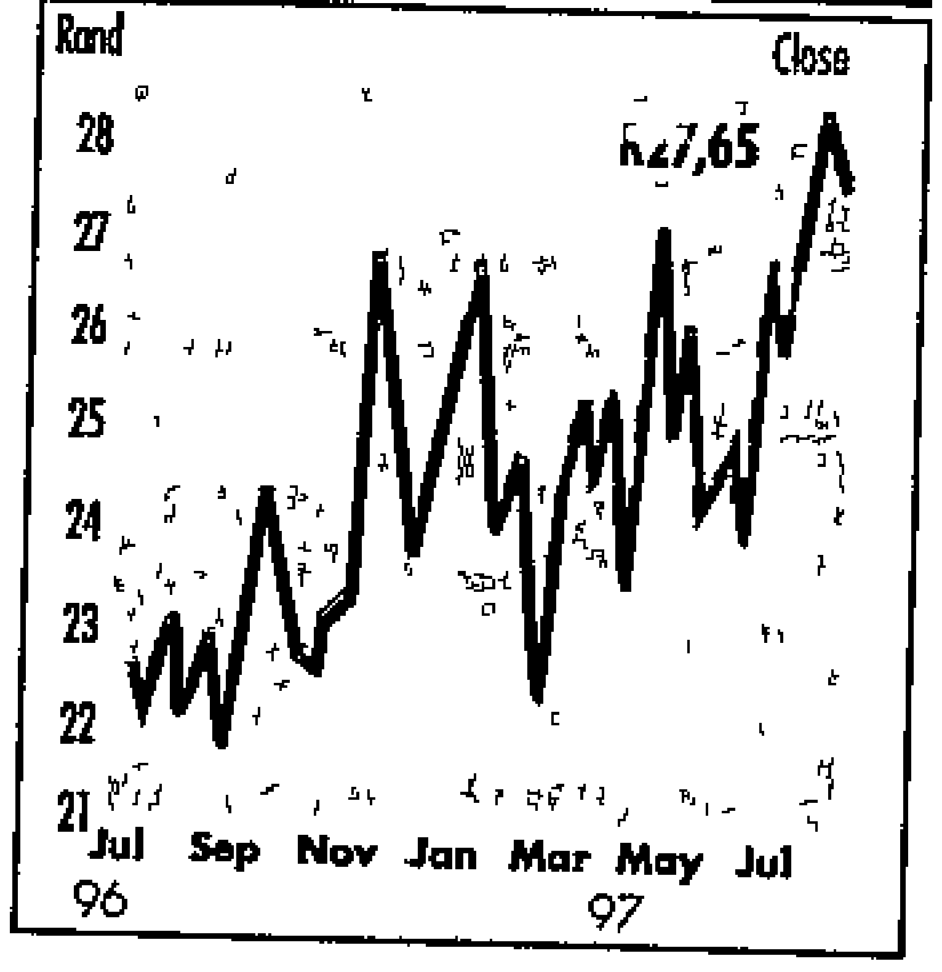
The group's taxation jumped to R86 million from R27 million for the same period last year

Earnings a share climbed to 103c from 79c and a dividend of 27,5c was declared, up 2,5c a share on the first half of last year

"Prospects for the balance of the year have been impaired by the current slowdown in the domestic economy and prevailing weakness in global markets for nitrogen fertilisers," the group said

"Nonetheless, provided interest rates are soon allowed to reflect the lower levels of economic activity and given reasonable agricultural conditions, the group remains well positioned to achieve real growth in earnings for the year"

AECI



*Dow Chemical ready to pay 33% premium*

# R2bn offer to buy out Sentrachem

CT (BR) 5/8/97 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — The US-based Dow Chemical Company offered yesterday to buy Sentrachem, the local chemicals and plastics group, at R10,50 a share — a 33 percent premium to the ruling share price — in a deal worth R2,074 billion

Dow is the fifth largest chemical company in the world and the second largest in the US The deal would be one of the biggest foreign buyouts in this country's recent history and would firmly establish the US as South Africa's largest foreign investor

Sankorp, which holds 38,7 percent of Sentrachem stocks, said yesterday it had accepted the offer of R10,50 a share and recommended that minority shareholders do the same

Themis Themistocleous, an analyst at SBC Warburg, was enthusiastic about the deal as it offered shareholders a large premium with no risk

He said Sentrachem's restructuring exercise could take 18 months to bear fruit, with no guarantee that the share price would reach R10,50 for at least a year

Paul Carter, a chemical sector analyst at ING Barings, said. "I didn't expect to see Sentrachem at R10,50 for a considerable period of time. Shareholders should consider this a good exit opportunity"

Dan Fellner, a Dow spokesman, said a key contingency of the offer was a condition that 90 percent of shareholders accepted it Analysts said it was likely Dow had set the 90 percent condition to ensure it would be able to take out minorities and delist Sentrachem

This would enable Dow to restructure the group and integrate it with its existing operations

Dow's turnover in southern Africa was R200 million last year The group already operates a polyurethane manufacturing plant near Durban

Fellner said it was "premature" to talk of delisting Sentrachem, and that it was too early to comment on possible complications to the deal which could be caused by Sentrachem's trading relationship with Cuba

Sentrachem has reportedly exported at least $40 million worth of agricultural chemicals to Cuba. US legislation prevents US companies and, under the Helms-Burton Act, certain foreign companies, from doing business with Cuba

"Obviously we would have to conform with US laws," Fellner said

The deal is also expected to put a halt to the restructuring exercise started by Sentrachem earlier this year

Sentrachem's share price has been battered down from R12,20 last November, when it first reported substantial losses on the foreign exchange market. It closed on Friday at R7,92

Sentrachem reported first-half losses of 111,4c a share for the six months ended February 28 But analysts said if exceptional items — primarily the restructuring costs and forward cover losses — and debt costs were stripped out, Sentrachem could easily produce earnings of R1 to R1,50 a share

☐ Business Watch, Page 18

# Chemical unions call for national action

(1833) CT(BR) 7/8/97

**FRANK NXUMALO**

Johannesburg — The Chemical Workers' Industrial Union (CWIU) yesterday called on all workers allied to it to prepare for "national action"

This comes after the failure of efforts by the Commission for Conciliation, Mediation and Arbitration to broker a wage settlement between employers of the chemical industry and six out of seven union sectors

"Employers are offering 10 percent, while the union demand ranges from 11 percent to 12 percent As a union, we believe and maintain that the employers can afford more than the 10 percent

"This was evident during the negotiations, when the employers demonstrated intransigence instead of pleading poverty to the union," union spokesman Siphiwe Mgcina said

But he said "major progress" had been made regarding the reduction of working time to a 40-hour week, and paid maternity leave

He said the pharmaceutical sector had made a "commitment" towards a 40-hour working week, over a period of three years to June 1 1999, and there was still a general dispute surrounding the amount of payment for maternity leave

The employers were offering between 30 percent and 33,3 percent of basic pay, with the union demanding 100 percent of basic pay

"Out of seven sectors, only one, the plastic convertors, managed to settle Workers who earn between R600 and R1 500 (a month) will get an increase of 11 percent, and workers who earn above R1 500 will get the increase of 10,5 percent," Mgcina said

Fanie Erenst, the national co-ordinator of the employers for the chemical industry, said the deadlock had been brought about by a "combination of unreasonably high demands"

But he said "the whole process was not dead" and there was still "commitment towards a negotiated settlement"

# Political expedience could be hampering the oil industry

(183)

BD 7/8/97

Whither the petroleum industry in SA? **Jacques Magliolo** looks at the economic and political paradox and attempts to find some answers

WHEN assessing the SA petroleum industry, analysts are faced with a fundamental economic and political paradox

Economic sense suggests that the time has come for the local industry to face a complete end to tariff protection for Sasol and Mossgas At the same time, politicians continue to promote commissions and task teams to assess deregulation, but ultimately do little to radically restructure the industry

Government's hesitation to remove regulations, in particular the service station rationalisation plan (Ratplan) and the Petroleum Products Act, may be related to a political agenda

For instance, if Ratplan were scrapped, would there be massive station closures and unemployment? If the state stopped controlling and taxing fuel prices, would companies falter under a free market system?

Perhaps it is more relevant that government would lose the 45% fuel tax it receives and that unemployment would hardly make a further dent in the 40% unemployment rate SA already faces

To confuse matters further, Mineral and Energy Affairs Minister Penuell Maduna recently said the state's oil-related assets could be consolidated and listed on the JSE

Does this mean that the industry is to get some clarity on the state's position for the future of the industry? Or is there some other agenda?

To understand these issues, it is necessary to look at international oil trends and to assess how SA fits into the global arena

Throughout the world, geologists agree that the low-cost (known) petroleum production resources of the Middle East should be exploited first

These hold 63% of the world's proven, recoverable reserves of crude oil and natural gas Yet oil prices and supply imbalances created by Opec in the 1970s have prompted heavy investment in new, high-cost fields

Today, 75% of international oil and gas investment is being spent in OECD countries, which have only 6% of proven global oil reserves

In addition, OECD reserves are being depleted much faster than in other countries and there is a growing commercial and political alliance between the Commonwealth of Independent States (CIS) and the Gulf region, which could see the creation of a considerable economic and political force against the rest of the world

Could these factors lead to a rapidly diminishing supply of international petroleum? Does the CIS/Gulf alliance mean oil prices will continue to be manipulated?

In terms of SA, a diminishing world supply would give credence to government's lack of action to rid itself of storage facilities created during the apartheid years, and, secondly, the state could have an argument for keeping the Petroleum Products Act in place to maintain a reasonably steady oil price for SA

An assessment of international reserves and trade provides a better understanding of difficulties associated with the instant and complete deregulation of the SA industry

Globally, proven oil reserves are continuing to rise, with new finds and re-evaluations of existing fields.

In 1996, there were notable additions to reserves from Angola, Argentina and Colombia Successful oil exploration along the southern coast of SA (Oribi field now supplies 6% of SA's daily consumption) has resulted in a profitable government contract with Phillips Exploration International, Energy Africa and Sasol to explore for oil along the country's eastern coast

At the 1996 production rate of 70-million barrels per day, proven global reserves could meet demand for 40 years International experts vary in their forecasts, but a conservative estimate shows that by 2015 consumption of oil products should reach 100-million barrels per day, but that production will easily meet this demand

In addition, there are twice as many new oil finds globally as in the Middle East, which indicates that its total reserve is expected to diminish relative to world reserves within 20 years and, therefore, supply of petroleum will remain undiminished in the long term So SA has no reason to keep storage facilities

The Middle East controls 52% of total exports and the US, Western Europe and Japan are increasingly becoming dependent on oil imports However, the Opec cartel has been unable to manipulate prices for at least the last 10 years This was amply shown on May 12 this year when market forces pushed the price of crude up by one dollar a barrel

The movement was due to a series of international events that had nothing to do with Opec's control or ability to disrupt crude flows

Two of the world's main oil exporters, Iran and Colombia, suffered earthquakes and a major North Sea oil terminal in the Shetland Islands was blockaded by fishermen over payments disputes arising over claims that fishing had been affected by an oil spill

Essentially, forecasts for the next two decades are that crude prices will remain steady, ranging between $19 a barrel and $25 a barrel, with worst case scenarios pushing the price up to US$36 a barrel

A stable crude price removes government's argument that it is important for it to smooth out fluctuations through the Petroleum Products Act

If there is no real reason to keep these Acts in place, why not remove them? And why consolidate and list state assets?

The first answer possibly lies in former energy affairs minister Pik Botha's inability to wade through the government of national unity's red tape in 1994 and 1995.

Maduna's reasons are slightly different Now that we are nearing the run-up to the 1999 election, the ANC cannot afford to have problems with its electoral alliance partners, even if unprofitable service stations should be closed

After all, a deregulated industry would hurt downstream operators like the black empowerment companies of Naledi, Afric Oil and Bombanani

So what is the answer? Petroleum is recognised by all African states as the single most important product that could lead this continent into an economic renaissance For sub-Saharan Africa, the Southern African Development Community is the preferred avenue to access this R350bn industry, which could grow by 56% between 1996 and 2015

This would be dependent on an improved infrastructure to access, exploit and deliver crude Without this structure, production of oil could grow by only 10%, which will turn sub-Saharan Africa into a net importer of oil

Therefore, it is logical to create a mechanism to access this forecast growth Under a listed scenario, the free market would fund expensive exploration into the interior The ANC could then turn its alliance partners and black empowerment groups into shareholders and force them to close unprofitable service stations

If you do not understand an industry, remove yourself from it — but make sure you are perceived to be undertaking withdrawal on sound economic principles

☐ *Magliolo is a financial author and investment strategist at stockbrokers CA Miller de Kock & Co*

**AECI**

(183)

FM 8/8/97

# Figures up but undervalued

Sans increases trading profit by 160%, but explosives fizzle

**International** chemical markets are holding up much better than expected six months ago, according to AECI MD Mike Smith, and this is reflected in the interim results

The most welcome recovery has been in polyester margins at SA Nylon Spinners (Sans), which benefited from lower feedstock prices A restructuring of its cost base and strong exports enabled Sans to report a 160% increase in trading profit to R63m

A 7% increase in dollar polymer prices also helped Polifin (see *Company Results*), the polymers joint venture with Sasol, to increase its contribution by 30% to R189m Stronger lysine prices pushed up AECI Bioproducts, too, which offset the weak performance of AECI Explosives to leave the contribution from "other joint ventures" almost unchanged at R26m

Smith says the strength of the US economy continues to sustain chemical prices, and some of the new capacity which had been announced in recent years has been postponed "I'm confident there is now a better balance of demand and supply"

One exception is the nitrogen price, which collapsed after China shut its doors to importers AECI's Kynoch fertiliser business and AECI Explosives, which includes ammonium nitrate explosives in its product range, both suffered This was compounded by the biennial maintenance shutdown of the Modderfontein ammonia complex — though it must be better to have a shutdown while demand is weak

The contribution from Kynoch, last year's star performer, fell 35% to R33m AECI Explosives also suffered from lower domestic sales owing to the weaker gold price, though Smith says there is plenty of recovery potential in this operation

The balance sheet is in far better shape since AECI sold its interest in Afex, a holding company which held 17,5m AECI shares, in October Gearing fell from an unacceptably high 63% to 29% over the 12 months Gearing is up from 14% at year-end but this is seasonal as AECI stocks up for its busier second half of the year

Stocks also reflect an unexpected slowdown in domestic demand in May and June, which Smith says was reversed in July

There is continued speculation about the shape of AECI The industry is changing fast — as is dramatically illustrated by Dow Chemical's bid for Sentrachem (see page 66)

Links with ICI have diminished further since the UK firm sold its interest in Tioxide to Du Pont ICI has identified paint as a core product, and Smith says there have been initial discussions on turning Dulux SA into a possible joint venture with ICI

ICI, however, is still disposing of assets to fund its US$8bn purchase of Unilever's speciality chemicals business and does not have funds for further acquisitions

Analysts have speculated that ICI might be keen to dispose of its explosives business, which it considers to be a bulk chemical AECI would be an obvious candidate to buy ICI's global explosives business, probably in concert with other companies in the Anglo American group such as Minorco It might be available at a knock-down price Smith, understandably, will not comment

**COMMENT**

**FOX**

Almost 60% of AECI's market cap is backed by its interests in listed Polifin and Chemserve, and there is probably at least another R400m in surplus property, which it plans to realise over the next five years This values the rest of the business on a p e of about six or seven

While explosives might be considered mature and declining, fibres, fertilisers, paints and bioproducts have room to grow AECI looks undervalued

**Stephen Cranston**

*Industry won't open books for scrutiny*

# 'Secret' oil debt owed to Mossgas

CT (BR) 12/8/97 (183)

**CHRISTO VOLSCHENK**
ECONOMICS EDITOR

Cape Town — South Africa's oil companies might owe Mossgas, and indirectly South Africa's motorists, hundreds of millions of rands, according to Wally van Heerden, the co-author of a special report on Mossgas released by the auditor-general

"The exact amount owed to Mossgas could not be calculated because the oil companies refused to open their books to the auditor-general," Van Heerden said yesterday

The debt has its origin in a decision by the cabinet in August 1993 that Mossgas should be paid the in-bond-landed-cost (IBLC) for its product The oil industry refused to pay the IBLC and, later, it was agreed it would pay Mossgas the lower Africa Netback (ANB) price

The difference between the IBLC and the ANB price would be topped up out of the Equalisation Fund as long as the oil industry was a net exporter of Mossgas-type product

When the oil industry became a net importer it would pay Mossgas the IBLC

The lower ANB price was agreed on to compensate the oil industry for the expected loss of income caused by oversupply after Mossgas came on stream in 1992, and because it could be forced to export at lower prices than those that could be fetched locally

Van Heerden said yesterday the industry might have been a net importer for some time, but the Equalisation Fund continued to pay the Mossgas subsidies as if the industry was an exporter

Van Heerden had investigated the "reasonableness" of the R523 million subsidy, which had been paid out of the Equalisation Fund to Mossgas since 1992

"Less than R523 million would have been paid out of the motorist-funded Equalisation Fund had the oil industry owned up to their responsibility"

An interim agreement on subsidy payments by the Equalisation Fund expired in 1994 and the government had been unable to conclude a new agreement with the industry since then The Equalisation Fund is being funded by motorists with the fuel levy that is added to the price of petrol and diesel

Reuter reports that Colin McClelland, the South African Petroleum Industry Association director, said yesterday that the industry had bought Mossgas output since the plant went on stream in 1992 "although there was no statutory obligation or commercial gain for them to do so"

The industry had, however, wanted compensation in terms of lower prices for Mossgas fuel as it would have had to export its own excess capacity at lower prices to accommodate Mossgas.

Since mid-1996, when it started becoming a marginal importer of gasoline, the industry had offered to pay import parity prices for Mossgas petrol, but had received no response

"If Mossgas really feels aggrieved, it should take us to court, but we believe we have fully met the agreement originally made," McClelland said

# Mossgas

(183)

Continued from Page 1

BD 12/8/97

small, less than 1%, that it did not give rise to further query".

On the question of the Mossgas subsidy, Kluever's report said the amounts owed by the oil industry to the Equalisation Fund for the period covered by an interim agreement (October 26 1993 to October 25 1994) in terms of retroactive price adjustments could range from R4,9m to R60m depending on the interpretation adopted

A study by Deloitte & Touche found the adjustment would increase to R47,6m if only Mogas 97 volumes were considered, and to about R60m if both Mogas 97 and Mogas 93 were taken into account

The oil companies refused Kluever access to their import and export figures, but he concluded that they started moving into a net import position for Mogas in about June last year and had remained a net exporter of kerosene and diesel. Once they became net exporters, oil companies no longer qualified for compensation for taking up Mossgas's production which was paid only because they claimed that they had to export the Mossgas product at lower prices.

Under the present scheme, Mossgas charged oil companies the lower Africa Netback prices for its products. The Equalisation Fund then paid Mossgas the difference between these prices and the higher in-bond-landed-cost which formed the basis of determining selling prices. Kluever was concerned that Mossgas's compensation by the fund was determined simply on the basis of the volumes of product sold to the oil industry at Africa Netback prices. He was also concerned at the lack of a formal agreement on the upliftment of Mossgas products by the industry.

The SA Petroleum Industry Association director Colin McClelland conceded that Kluever was on "fair ground" to question the reasonableness of the payments to Mossgas from taxpayers' money.

Picture: Page 3

# Sentrachem board opposes takeover

(183)

**Shareen Singh**

BD 13/8/97

THE planned takeover of Sentrachem by US-based Dow Chemicals Company for more than R2bn is in the balance after the Sentrachem board decided on Monday to recommend that shareholders reject the offer of R10,50 a share

The board said yesterday it believed the purchase offer "does not adequately represent the value of Sentrachem's business" Sentrachem shares rose 5,37% to close at R10,25 on the Johannesburg Stock Exchange yesterday

Sankorp, which holds a 38,74% controlling interest in Sentrachem, accepted Dow's offer last week in a deal which analysts said amounted to a "hostile takeover" as management was not informed until the 11th hour Dow's offer hinged on 90% acceptance by Sentrachem shareholders, with a provision for acceptance of a lesser percentage at Dow's discretion

Analysts said Dow had two options — to increase its offer or reduce the 90% threshold

Market sources said Old Mutual, the biggest minority shareholder, was unhappy about the price and was likely turn it down Roddy Sparks, Old Mutual assistant general manager investments, said yesterday it held, directly and indirectly, close to 20% of Sentrachem's issued share capital

An analyst said there was no reason for Dow to raise its offer when it could change the necessary percentage of shareholder acceptance, but this would mean Dow would not be able to delist Sentrachem immediately

It was more likely that Dow would exercise its option and make an improved offer to minorities at a later stage Some corporate advisers were recommending that their clients "sit it out and bide their time until some goodwill came off the deal"

It was unlikely that Dow would walk away and lose R75m, the analyst said Dow spokesman Dan Fellner would not comment

Market sources believed Dow's real interest in Sentrachem was to acquire its US-based speciality chemicals subsidiary, Hampshire, which manufactures cyanide compounds used in the herbicide Roundup, a product of US company Monsanto, whose patent expires in 2000 The herbicide accounted for 75% of Monsanto's R3bn turnover from agricultural products last year

Analysts said in that context, as well as Sentrachem's potential to return to profitability — its share was trading at about R14 a year ago before a R261m exceptional loss at Sanachem — Dow was purchasing an asset with great potential value

**CONSPIRACY** *Parliament 'kept in dark' over widespread irregularities in state oil purchasing arm*

# Maduna accuses energy fund

CT (BR) 14/8/97 (/83)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

**IN BLACK AND WHITE** *Penuell Maduna, the minister of mineral and energy affairs, holding a Price Waterhouse report which parliament has never seen*
PHOTO FANI MAHUNTSI

Johannesburg — Documents released at a press briefing yesterday by Penuell Maduna, the mineral and energy minister, paint a picture of widespread irregularities in the state's oil purchasing arm, the Central Energy Fund (CEF)

Allegations levelled by Maduna include the falsification of financial statements, attempts to keep parliament in the dark on alleged losses on the state's strategic oil stockpile and the payment of large commissions to middlemen — despite the fact he could find no evidence that the middlemen had rendered any services

Among the documents is a handwritten letter, allegedly written by Kobus van Zyl, the suspended managing director of the CEF, which implies a conspiracy within the fund to keep secret a R6,7 million payment from Shell to the CEF relating to the Salem oil scam of 1979

The scam entailed the theft of cargo from a ship carrying $56,5 million worth of Shell's oil The ship illegally sold its cargo to the Strategic Fuel Fund (SFF) and then was sunk off the coast of Senegal The SFF paid Shell compensation for the oil, but Shell had agreed to pay the SFF part of the money it was able to recover from the insurers

The letter, addressed simply to Roy (Roy Pithey was chairman of the CEF at the time), indicates that Pik Botha, the former mineral and energy minister, may have been party to the conspiracy of silence

"If you agree we can inform Min Botha He can then thank (or whatever) John Drake over the telephone Nothing in writing In doing it this way Shell gets acknowledgement from the top that we have the money, but we don't disclose the origin in the books," the letter said

A Shell spokesman yesterday said John Drake, the managing director, had never received a call from Botha and that Shell had not tried to keep the matter secret

Shell had received a letter from Pithey thanking it for the payment and had provided full documentation to Maduna when he questioned the issue

Maduna also questioned the auditor-general's report to parliament on Monday, which disputed Maduna's allegations that parliament had been misled by an auditor-general's report on the SFF that failed to disclose a "loss" of R170 million

In the audit, performed by Price Waterhouse for the auditor general, an amount of R170 million was deducted from the SFF's income under the heading "result of strategic stock transfers" But in the summarised report tabled before parliament by the auditor-general, the R170 million "loss" was not listed

Neither Van Zyl, Pithey nor the auditor-general's office could be reached for comment

# Maduna renews attack on Kluever over 'nondisclosure' by fuel fund

(183) BD 14/8/97

**Louise Cook**

PRETORIA — Mineral and Energy Minister Penuell Maduna has renewed his attack on Auditor-General Henri Kluever, repeating an allegation that the R170m "loss" from SA's strategic oil stock had been "neatly tucked away" and raising questions over his membership of auditing organisations

The media, and Business Day in particular, came under fire for "misinforming" readers and "rubbishing" him while he was out of SA

Maduna said a report he had commissioned on SA purchases of Egyptian oil since 1992 "could" lead to criminal investigations and reveal irregularities involving billions of rands

Media reports had "forced" him to take his dispute with the auditor-general's office over the nondisclosure of R6,8m by the Strategic Fuel Fund (SFF) into the public domain

Expanding on an earlier comment in which he accused Kluever of "some nimble footwork" to cover an alleged R170m loss from SA's strategic oil stock, Maduna said the money had in fact been "neatly tucked away" and reflected as "sophisticated book entries".

He also handed out documents dated October 24 1994, apparently recording a meeting between representatives of Kluever's office and the SFF, which stated in part "We again agreed on secrecy No-one will disclose anything If you agree we can inform Minister Botha He can then thank (or whatever) John Drake over the telephone Nothing in writing

"In doing it this way, Shell gets acknowledgement from the top that we have the money, but we don't disclose the origin in the books"

Maduna denied that the auditor appointed by him in February to probe the SA/Egyptian deals, Barend Petersen of the firm Nkonki Sizwe Ntsaluba, had been a token appointment "In fact, I have letters confirming that Auditor-General Henri Kluever is not registered with either the Public Accounts and Auditing Board or the SA Institute of Chartered Accountants Mr Petersen is registered with both these bodies"

He denied allegations that he had been responsible for the suspension of Central Energy Fund (CEF) GM Kobus van Zyl, saying Van Zyl was suspended by the Central Energy Board.

"I have been asking questions outside the public eye for months about some transactions around the SFF The R170m was purely incidental — I will fight to get answers to all the remaining questions.

Continued on Page 2

## Maduna

(183) BD 14/8/97

Continued from Page 1

"My department was criticised by the auditor-general for nondisclosure of R119 000 — how can the nondisclosure of R6,8m then be justified?"

Maduna said the law required that full records be kept of all SFF transactions However, there were differences between Kluever's report to Parliament and the Price Waterhouse audit, appointed by Kluever to audit the books in 1994

Kluever had failed to consult the head of state or the finance minister, as required by law, before applying secrecy clauses to the information given to Parliament Copies of a letter by Deputy Auditor-General JAJ Loots to the chairman of the CEF, dated February 21 1994, showed that the CEF was asked to give reasons why the fund's financial statements could not be published or, alternatively, that statements fit for publication be drawn up, Maduna said "As a minister, it is my duty to get to the bottom of this"

Rejecting Kluever's explanation that the R6,7m had been incorrectly reflected as income from Shell in 1994/95, Maduna said the money was "tucked away neatly, a flagrant violation of the law"

Kluever was not available for comment yesterday In a report to Parliament, he had said that the R170m was not a "loss" but the result of a transfer of strategic stock reserves that was included in the report for the year to end-March 1994 The R170m had been included in net trading income of R699m from strategic and commercial crude oil transactions "There is no question of my office performing some nimble footwork in this, or any other instance The fact of the matter is that nondisclosure was due to there being no indications of irregularity," Kluever said

**Linda Ensor** reports that Democratic Party spokesman Kobus Jordaan called on Parliament to censure Maduna for abusing his parliamentary privilege to make "false allegations" against the auditor-general's office

"It is clear from the information now available that the minister had not done his homework properly before casting slurs on the integrity and the independence of the auditor-general"

# Energy row: 'lost' R170-m in spotlight

Sowetan 15/8/97

(183)

## Maduna says number of irregularities were discovered in state's oil-purchasing arm

**By Political Staff**

Five days before former president FW de Klerk left office in May 1994, he ordered that information relating to unauthorised expenditure of R170 million in oil purchases should not be disclosed, documents released by Mineral and Energy Affairs Minister Mr Penuel Maduna reveal

The expenditure is the centre of a major row between Maduna and auditor-general Henri Kluever

The documents were released by Maduna this week after an ongoing battle with Kluever over what Maduna insists are a number of irregularities in the state's oil purchasing arm, the Central Energy Fund

Maduna has said a report prepared by Kluever for Parliament in 1994 omitted to state that R170 million was lost as a result of "strategic stock transfers"

The documents also reveal that R5,2 million was lost in a crude oil freight-hedging contract that had been entered into in contravention of the Strategic Fuel Fund (SFF) regulations

The amount is also not reflected as a loss but instead is reflected as part of a training budget, thus giving the impression that it had been spent on training Those responsible for this were "reprimanded" the AG told Parliament

Another amount of R6,7 million resulting from the ship, The Salem, which sank off the coast of Senegal after its oil cargo was illegally offloaded to the SFF, is not recorded as unauthorised expenditure

Instead, the auditor-general, while admitting in a report tabled in Parliament on Monday that this was a loss, said it was not reflected because it was "so small, less than one percent that it did not give rise to further query"

Kluever's office has said the R170 million was not a loss but a book entry Kluever said yesterday politicians were unhappy with being held accountable by his office

He said politicians who had glibly talked about transparency in the past were "now finding that being held accountable and having the light of transparency shining on them isn't so pleasant"

Maduna also said Kluever was not a qualified accountant, to which Kluever replied "The criteria for the AG are set out in the Constitution which says he must have a knowledge of state finance, administration and auditing"

MOZAMBIQUE GAS

# Sasol streaks ahead in power play for Pande

(183)

fm 15/8/97

US energy giant Enron in distinct danger of losing out as Mozambique reconsiders its options

Sasol could well win an elaborate power game being played out over Mozambique's huge gas reserves

This became clear from Tuesday's announcement by Mozambican Minister of Mineral & Energy Affairs John Kachamila that his government supports the Arco/Sasol gasfield development near Beira

This will be the energy source for JCI's planned US$462m hot briquetted iron (HBI) plant just north of Mozambique's second coastal city and a new $200m deepwater harbour development 28 km north of Beira

More importantly, Kachamila sent a strong signal to Houston-based energy giant Enron Corp, licence holder of the Pande gasfield, that slow progress in finding an anchor customer in SA (Sasol) could ruin the US corporation's plans for Pande, which has proven gas reserves of 3 trillion cu ft

But, while Enron is prepared to do a deal with Sasol, Sasol has so far refused to consider buying gas from Enron as it would prefer to have control at source Enron and Sasol have had an acrimonious relationship since Enron first obtained the exploration rights for Pande, originally held by Sasol Sasol could well have reservations on Enron's future pricing policy

Arnold Pienaar

*Kachamila (left) with JCI chairman Mzi Khumalo*

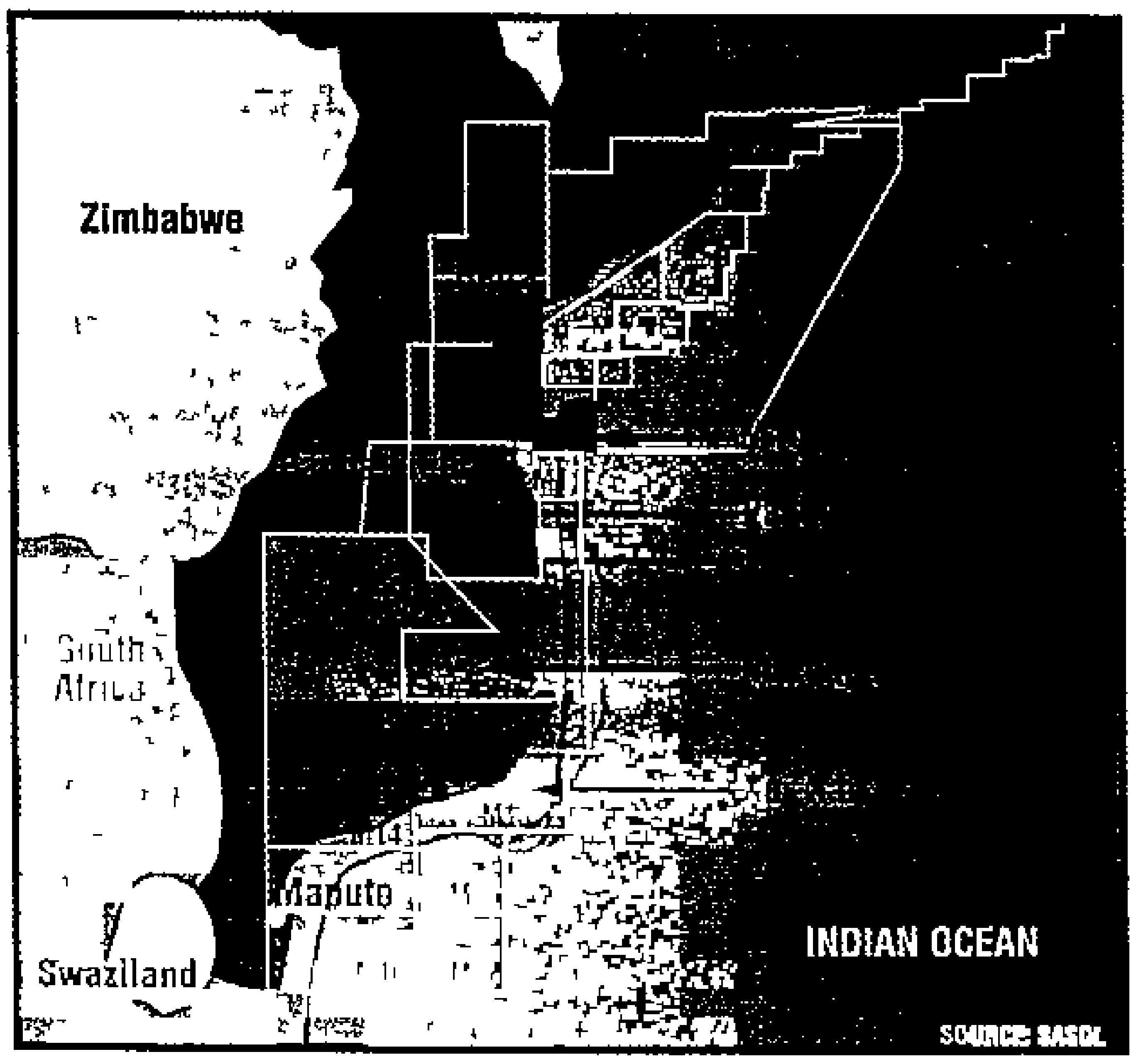
"Progress with developing Pande, since 1994, has been slow With Enron's exploration licence having expired on July 31, we will shortly have to decide on a possible extension," says Kachamila

Kachamila was recently quoted in Maputo's *Metical* newspaper saying that the Pande development is "shaky"

He also cites lack of progress with the Industrial Development Corp (IDC)'s linked direct reduced iron (DRI) plant in Maputo The IDC must still finalise technologies for the 270 Mt magnetite tailings stockpile lying at Phalaborwa, while the siting (and cost) of a proposed slurry pipeline to Maputo, through or around the Kruger National Park, as well as the price it will pay Enron for its gas, must still be finalised

"Coupled with this," says Kachamila, "the Maputo plant will only use about 5% of Pande's gas potential"

A better option, in his view, would be to sell Pande gas into Sasol's existing gas grid — or, possibly, to be beneficiated into diesel and other fuels Sasol has developed a unique process of beneficiating natural gas into high-quality diesel and has entered into agreements with Qatar and Norwegian energy giants



SOURCE: SASOL

Should Enron fail to cement a deal with the IDC or Sasol, and also flop in getting an extension of its exploration licence agreement, it might be forced to do a deal on Sasol's terms — with the concomitant risk of being relegated to junior partner or worse still being forced to pull out entirely

"Enron has now spent around $19m in developing Pande's development potential and they will not walk away without a fight," says an Enron source But, without its Mozambican licence, it might well be forced to write this off to experience

With growing global competition in the DRI/HBI markets, the project that gets off the ground first will obviously have a powerful marketing advantage — especially as JCI project head Hugh Brown touts the proposed HBI plant as one of the most economical in the world

Meanwhile, Sasol Petroleum International (SPI) — Sasol's international petroleum exploration and production subsidiary — is steadily tightening its grip on Mozambique's fledgling but potentially huge gas industry

SPI already owns the exploration rights to the 45 000 km² onshore Mazenga block, about 250 km north of Maputo (see map) But it recently also expanded its activities in Mozambique by acquiring a 47,62% interest in three additional blocks Temane, Sofala and Block M10 Temane will be the initial gas source for JCI's HBI plant, says Brown

The three additional blocks are jointly held under a technical evaluation agreement between Arco International Oil & Gas Company and Zarara Petroleum Resources Arco and Zarara will have participation interests of 47,62% and 4,76% respectively

Sasol is quietly chuckling but so far has stayed out of the war of words All Sasol spokesman Alfonso Niemand will say is "SPI will continue to identify opportunities for oil and gas exploration in the southern African region, including Mozambique"

**Arnold van Huyssteen**

STRATEGIC FUEL FUND

# There's many a slip 'twixt oil fund and lip

(183)

FM 15/8/97

The Auditor-General's finding that oil stocks worth R170m were not stolen is a rebuke to Minister Maduna's political rhetoric

There was always something curious about the claim by Minister of Mineral & Energy Affairs Penuell Maduna that about R170m worth of oil stocks had disappeared out of the Strategic Fuel Fund Association (SFF), an arm of the Central Energy Fund (CEF)

Now it has been resoundingly refuted in a report to parliament by Auditor-General Henri Kluever It turns out the "missing" R170m was an accounting artifact, related to the comings and goings of oil stocks valued at historic cost

Nevertheless, suspended CEF GM Kobus van Zyl is not off the hook because other allegations are still outstanding Van Zyl was suspended on full pay, pending further investigations

Maduna — under cover of parliamentary privilege on June 18 — described the allegation about the R170m as "theft" How Maduna came to the conclusion that this item was a theft remains a mystery

Van Zyl's suspension was ordered by the board of the SFF on March 26, on the basis of an interim report by the special auditor appointed by the Minister — Cape Town accountants Ntsaluba Nkonki Sizwe

At that stage the R170m was not in question The auditors alleged there had been (possibly illegal) payments of US7,5c/barrel over and above the generally accepted selling price of oil set by the Egyptian General Petroleum Company, which sets a monthly basis for all grades of its crude oil referenced to dated Brent crude (from the North Sea) This is adjusted according to a quality differential

As the quantity of oil could have exceeded 1m t/year for several years, the corresponding amount of the alleged commissions could also have been large

Even if it turns out that these commissions were paid improperly, this should not be used to discredit the CEF and SSF, because they, if proven, were the work of individuals

The correct interpretation of the "disappearance" of the R170m, says Kluever, is that the SFF sold oil from its underground reserves held in worked-out coalmines at Ogies in Mpumalanga, while replenishing the stocks at the storage tanks at Saldanha Bay This presumably was done to prevent irrevocable deterioration in the condition of the oil at Ogies (through evaporation of volatile constituents) because of the length of time it had been in storage

***Henri Kluever** refutes claim of R170m "theft"*

Quite possibly, some of the oil dated back earlier than 1979 and had cost US$6/barrel, or even less Total stocks were rebuilt through adding to the quantities at Saldanha at much higher than current prices — hence the R170m

This plausible explanation, if it does account for the facts, renders Maduna's allegation against the SFF, coupled with allegations against the office of the Auditor-General, reckless in the extreme Kluever refuted the criticisms of his office in a statement to parliament on July 31

Democratic Party spokesman Kobus Jordaan has described all the allegations as "abuse of the Minister's parliamentary privilege"

Excluding the R170m, the remaining issues are still unresolved Quite apart from the commissions on the supply of Egyptian oil there is a mysterious payment to the CEF of around $1,9m in 1994-1995, relating to the sinking of the tanker *Salem* in 1980, before the Auditor-General assumed responsibility for the accounts of the SFF Kluever says in his report that these should be further investigated in a management audit of the fund

Maduna's adviser Walter Gcabashe told the *FM* that a ministerial reply to the Auditor-General, explaining the mystery of the R170m, was being prepared and would be submitted to the ANC caucus on Tuesday this week for approval

At the time of going to press, the reply had not been issued

The issue of the supply of oil to SA during the sanctions era remains highly sensitive for several reasons, and is still capable of arousing strong political passions — as exemplified by Maduna's rhetoric in parliament

Various countries which had solemnly sworn not to supply oil to SA did so, or failed to stop their citizens from doing so

***Penuell Maduna** "abused parliamentary privilege"*

Within SA, political feeling among those opposed to apartheid was directed most notably against international oil majors active in SA, in the (mostly mistaken) belief that they had been active in sanctions-busting The same negative feeling has also been directed against Sasol

That said, all political players ought to recognise that oil — synthetic, imported or stockpiled — remains an essential input

Regardless of the culpability or otherwise of Van Zyl, the intemperance of Maduna's parliamentary utterances is damaging to confidence within the oil sector He cannot, it seems, resist the temptation to play politics at the expense of the oil industry

**Robin Friedland**

**FINANCES** *'He is in trouble because I never stole a single bloody cent'*

# Kluever threatens Maduna with legal action

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Henri Kluever, the auditor general, said yesterday that he could well take legal action against Penuell Maduna, the minerals and energy minister, as the war of words between the two escalated over alleged irregularities in the Strategic Fuel Fund (SFF).

Earlier this week Maduna cast doubt on the competence of Kluever and repeated allegations, first made in parliament in June, that Kluever had kept parliament in the dark on alleged irregularities in the SFF, which trades in oil on behalf of the state. Maduna was responding to a special report to parliament in which Kluever denied that R170 million had been stolen and defended the actions of his office in auditing the SFF.

"I think the minister's position is totally unconstitutional ... In the first round of allegations he was protected by parliamentary privilege. What happens now I haven't sorted out yet," Kluever said yesterday.

"I have only read one newspaper report on Maduna's statements and do not know exactly what he has said, but if he made demeaning insinuations, I think he's in trouble because I never stole a single bloody cent of the taxpayers' money."

Thulani Gcabashe, a special adviser to Maduna, said the ministry stood by its statements and remained convinced that money had been stolen from the SFF. Gcabashe said Maduna was unconcerned about the possibility of a defamation case.

Gcabashe said: "The minister has every right to raise what he questions, unless you are saying certain people are beyond question. Even Clinton is being challenged to pull down his pants, so who is he (Kluever)?" Gcabashe again questioned why the auditor general's office had requested the Central Energy Fund to prepare an alternate statement.

Last night Pik Botha, the former energy minister, said that in 1995 he had asked the SFF to appoint M&L Inspectorate to audit its stockholding and management at the suggestion of Thabo Mbeki, the deputy president. The audit gave SFF a clean bill of health. "As far as I am concerned every cent has been accounted for," Botha said.

☐ Business Watch, Page 13

***OUT OF HAND*** *Henri Kluever, the auditor general, dismisses allegations by oil minister Penuell Maduna* PHOTO JOHN WOODROOF

(183)  CT (BR) 15/8/97

# Soekor seeks empowerment

CT (BR) 15/8/97 (183)

**CHRISTO VOLSCHENK**
ECONOMICS EDITOR

Cape Town — Soekor yesterday urged black empowerment groups to invest in the upstream oil industry by joining it in exploration and production ventures

Soekor, which has oil reserves of between three and five years, would like to expand those reserves to eight years to make it an attractive candidate for partial privatisation, Joggie Heuser, its chief executive officer, said yesterday

Fourteen black-owned companies and empowerment groups attended yesterday's information session, where chairman Don Mkhwanazi told prospective investors that "the risks are high but the potential rewards are just as high"

Soekor said geological evidence suggested explorers were more likely to find gas than oil in South Africa's largely under-explored offshore area

Since the Oribi oilfield went on stream in May, 1 million barrels of oil had been produced, and Soekor was now looking at building its reserves by developing some of the 10 fields in the Bredasdorp basin where it had previously discovered oil


Don Mkhwanazi

PHOTO ANDREW BROWN

Heuser said investment in exploration and production projects by black economic empowerment groups was one way of pulling black business into the industry, while the part-privatisation of Soekor would be another

"But that is a decision to be taken by the government, which is the shareholder We have to build Soekor into an attractive investment for part-privatisation to be an option," Heuser said

Soekor would also like to partner international oil companies in exploration and production projects elsewhere in the world

Mkhwanazi said Penuell Maduna, the minister of mineral and energy affairs, had asked the Soekor board to advise him on the "restructuring of the CEF (Central Energy Fund) group of companies to transform it into a major integrated energy company which could later be listed on the JSE Our recommendations will be with the minister by the end of November," he said

# Fuel fund probe urged by minister

(183)

ARG 15/8/97

**CLIVE SAWYER**
POLITICAL CORRESPONDENT

**Mineral and Energy Minister Penuell Maduna, facing motions of censure in Parliament over his row with Auditor-General Henri Kluever, says President Mandela should appoint a judicial commission to investigate his claims of irregularities in the Strategic Fuel Fund accounts.**

Parliament's powerful standing committee on public accounts is poised to investigate the dispute between Mr Maduna and Mr Kluever over accounts

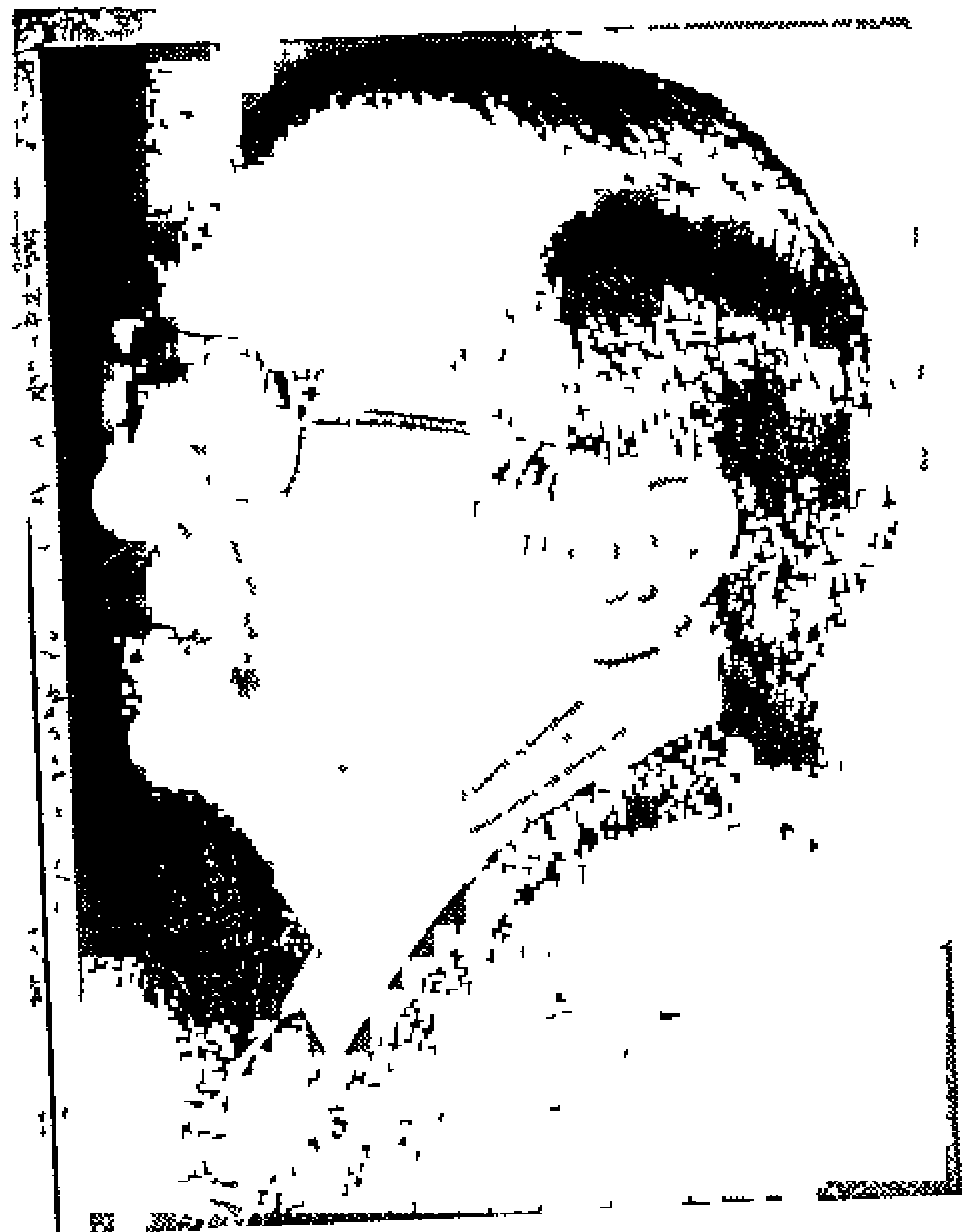
Months of simmering tension between the minister and the auditor-general over the accounts, which Mr Maduna claimed involved a R170-million theft the auditor-general had helped cover up, a claim Mr Kluever found to be untrue, boiled over in Mr Maduna claiming this week that Mr Kluever was not a proper accountant

Committee chairman Ken Andrew labelled Mr Maduna's personal attack on Mr Kluever "uncalled-for and outrageous" and deserving of severe censure

National Party finance spokesman Theo Alant said Mr Maduna's behaviour and his questioning of the qualifications of Mr Kluever were "shocking"

Mr Maduna had violated his right to free speech in Parliament, and the constitution allowed nobody to interfere with or attack the independence of institutions like the auditor-general

"It appears as if the African National Congress, speaking through Mr Maduna, is launching an attack to discredit the auditor-general because he is not willing to sacrifice his independence "



KLUEVER

# Kluever hits back at Maduna after attack

(183)

**Stephané Bothma and Wyndham Hartley**

BD 15/8/97

PRETORIA — SA politicians found it unpleasant to be held accountable for public spending, despite their having fought for transparency during constitutional negotiations, Auditor-General Henri Kluever said yesterday

Reacting to a renewed attack on him by Mineral and Energy Affairs Minister Penuell Maduna, Kluever said the auditor-general and Finance Minister Trevor Manuel were two of the most unpopular people in the country "This shows that we are doing our jobs," he told an SA Beyond 2000 conference organised by Pretoria University

Sapa reports Kluever said any allegations that he had deliberately tried to mislead Parliament could lead to legal action He believed Maduna had "got his facts wrong"

"I have been in the civil service all my life and I have never stolen a bloody penny," Kluever said

Parliament's public accounts committee chairman, Ken Andrew (Democratic Party), called for Maduna to be severely censured for his "personal" at-

Continued on Page 2

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## Kluever

BD 15/8/97

Continued from Page 1

(183)

tacks on the auditor-general.

Andrew, whose "watchdog" committee works side by side with the auditor-general, said the attack was "uncalled for and outrageous". He said Maduna's claims about the auditing of the Strategic Fuel Fund's accounts would receive his committee's attention soon.

Kluever broke away from a prepared speech to respond to claims by Maduna on Wednesday that a R170m "loss" from SA's strategic oil stock had been "neatly tucked away".

Kluever said all parties had favoured transparency during constitutional talks, but "they are now finding that being held accountable and having the light of transparency shining on them is not so pleasant"

Regarding questions Maduna raised about his accounting qualifications, Kluever said the criteria for the auditor-general were set out in the constitution, which required a knowledge of state finance, administration and auditing The auditor-general's function was simply to check, on Parliament's behalf, on the probity, effectiveness, efficiency and economy with which public money was spent "To fulfil this function efficiently, the auditor-general must be able to audit and investigate without fear or favour"

Kluever said although the empowerment of the auditor-general was strengthened by the constitution, this had been achieved only after the Constitutional Court had ruled that the first draft constitution did not adequately safeguard the auditor-general's independence. "Certainly, the specific politicians responsible for the last minute regressive provisions in the first version of the new constitution signalled the intention of the executive to try to restrict the independence o the auditor-general"

Despite the audit functions, strong constitutional position and the effi cient office the auditor-general hac built up, the roots of accountability as part of democracy were still shallow

The auditor-general's office stood by the findings of its special audit on the Strategic Fuel Fund, and said i Maduna had evidence to prove other wise, he should show his facts It said Kluever's academic qualifications in cluded honours degrees in economic and political science

See Pages 11 and 1
Comment: Page 1

# Chemical giants set sights on SA group

(183)

ST(BT) 17/8/97

### Multinationals are lining up to contest Dow's bid for Sentrachem, writes SVEN LUNSCHE

A BIDDING war for control of Sentrachem is looming after some of the world's leading chemical multinationals hinted they were interested in buying the JSE-listed chemical group

Business Times understands that Sentrachem was approached by a number of multinational corporations on Friday A counter-bid to the R10 50 a share offer by US group Dow Chemicals was not yet on the table, but sources indicated that higher offers could be forthcoming soon

Likely candidates and names bandied about in the market include US group Monsanto, UK's Zeneca, Japan's Sumitomo and Swiss group Rhone-Poulenc

The board and management of Sentrachem, with the notable exception of 39% shareholder Sankorp, rejected Dow's offer on the basis it did not provide a fair value of the group

The board's rejection means the R2-billion Dow bid is now a hostile one Any new bidders are likely to drive the price up from Dow's R10 50 offer

Monsanto, a St Louis-based group with a market capitalisation of $14-billion, has most to lose from a successful bid for Sentrachem by Dow

Monsanto produces glyphosate, the world's top-selling herbicide, used in the production of its most successful product, Roundup Roundup contributes about half of its $1-billion operating income.

Monsanto has an 85% to 90% share of the world market for glyphosate but its patent on Roundup expires at the end of the decade, opening the market to other contenders

Analysts say that Dow's game plan is to provide the financial muscle to build up the two Sentrachem subsidiaries with the ability to boost production of glyphosate — US-based Hampshire and Sanachem

"By buying Sentrachem, Monsanto forestalls a future price war and at the same time gains a foothold in the small, but lucrative, African market," says one analyst

In November last year Sentrachem announced a $75-million expansion plan at Hampshire to boost production of glyphosate with a view to manufacturing Roundup by 1999

Similar motives are attributed to the other bidders — access to agri-chemical production facilities, particularly at Hampshire, and to the SA market

Hampshire appears to be the trump card for the Sentrachem managers and directors who rejected the bid They feel strongly that a R10 50 offer severely undervalues Hampshire's contribution "If Hampshire were to be listed in New York it would trade at a price-earnings ratio of about 15 Dow's offer values it at nine," says one analyst who believes that an offer of R11 50 to R12 would get a more favourable reception

Sentrachem's second largest shareholder, Old Mutual (with 20%), has indicated it will not accept the Dow offer but is involved in negotiations with Dow

"We would look at other offers for Sentrachem with interest," says assistant GM, investments, Roddy Sparks

A spokesman for Dow in Europe said the group believed its offer was fair value, and would not comment when asked if Dow would raise its bid should there be competing offers But analysts say a higher offer by Dow in a competitive bidding situation "is almost a foregone conclusion"

# FW denies oil scam

Sowetan 18/8/97

(183)

LEADER of the National Party and former president Mr FW de Klerk has denied that he was aware of any coverup involving the Central Energy Fund, a subsidiary of the Ministry of Mineral and Energy Affairs

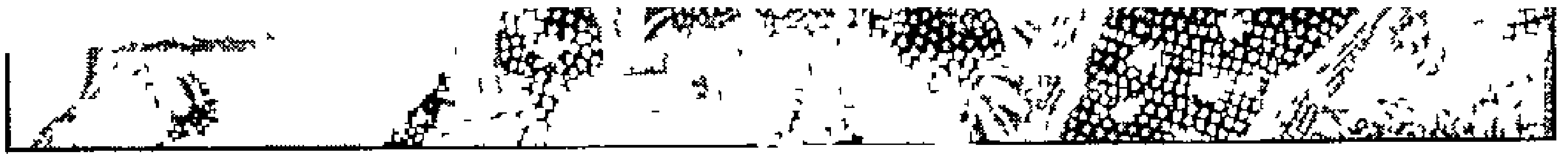
Last week, Energy Minister Mr Penuel Maduna accused the previous government of irregularities related to an unaccounted amount of R170 million in the CEF's coffers

While dismissing suggestions that he was personally involved, De Klerk said there was nothing unusual about the non-disclosure of information relating to CEF

He said it was "regular practice in the framework of the law, as it then was, to treat all information related to oil as secret," in order to shield sensitive sanctions-busting activities

"I reject the insinuation that I was party to a coverup of irregularities in the strongest possible terms," he added — *Sowetan Reporter*

● See page 11



# Maduna scents blood in AG battle

Sowetan 18/8/97 (183)

## Accounting squabble sheds new light on apartheid's murky oil deals

**By Mathatha Tsedu**
Political Editor

MINERAL and Energy Affairs Minister Penuel Maduna is a man who does not step back from a fight

Those who know him say he is like a hound – once he smells blood, he will not stop until he has his prey safely between his teeth Maduna has now taken on the mighty auditor-general Henri Kluever

In what many see as a bite he might not be able to chew Maduna has accused the AG of a lack of transparency and sloppy auditing of books of the Strategic Fuel Fund and the Central Energy Fund in 1994

And as accusations and counter-accusations fly, with Kluever getting backing from many quarters, threatening legal action or resignation, the embattled Maduna has released documents detailing – and in some cases substantiating – his accusations

At the centre of the dispute is an amount of R170 million reflected as a loss in SFF audited statements prepared by the top accounting firm of Price Waterhouse

The Price Waterhouse statements were the subject of a meeting between deputy auditor-general JAJ Loots and SFF executives on February 9 1994, where the advisability of publishing the statements as they stood was discussed

A copy of the minutes of this meeting indicates that the bureaucrats were concerned about the impending loss of top-secret status for oil deals, which were shielded from all public scrutiny during the apartheid era

Loots suggested that the new policy of transparency and the lifting of the United Nations oil embargo would make it difficult "not to publish the statements'

Loots added 'SFF is asked in the light of the present circumstances to provide reasons why the statements should not be published, or provide alternative statements which could be published"

The minutes do not indicate which route was chosen by the SFF delegates When the statements were given to Parliament four months later, however, the R170 million "loss" was not mentioned – an omission that Maduna found suspicious

Kleuver counterattacked with a special report tabled in Parliament last week In it the AG said the amount was not a loss but the result of a 1993 change in accounting policy which facilitated the transfer of oil reserves from Ogies to Saldanha without reflecting "the historic costs at which those oil quantities were originally recorded"

> **❛ Nothing in writing, no-one will disclose anything ❜**

"The R170 093 000 does not represent a loss or theft of oil or a transfer of oil to any other person," Kleuver said 'It is simply an accounting entry'

In the same report, Kluever attributes the non-disclosure of this information to secrecy provisions then in force, adding that he obtained clearance in this regard from then president FW de Klerk on May 5 1994, five days before De Klerk vacated office

Probing deeper Maduna has raised the issue of the oil tanker Salem whose cargo of crude was illegally off-loaded at the SFF's Saldanha Bay facility before the ship was deliberately sunk near Senegal in January 1980

SFF officials, including CEF general manager Kobus van Zyl, were allegedly involved in the theft of the oil, for which the Salem's owners were to bill their insurers as if the ship had gone down fully laden

An amount of R6,8 million was paid to SFF officials by Shell A handwritten letter dated October 24 1994, believed to be from Van Zyl, says he and one Roy must advise Shell ' what to do with the money"

"In view of transparency we must find a way which will not disclose the origin of the money No one will disclose anything Nothing in writing In doing it this way Shell gets acknowledgement from the top and we have the money but we do not disclose the origin in the book"

Maduna has suspended Van Zyl and demanded to know why this anomaly involving R6,8 million was not included in the relevant audit report

Kluever countered that he had only learnt of the Salem affair in June this year 'The transaction which is referred to was not included in the normal audit tests," he said, and was thus "not brought to the attention of my office or my agent '

Kleuver was referring to the fact that auditing is a process of random selection, not a complete check If a portion containing irregularities is not selected, they might never be spotted

The AG acknowledged that the R6,8 million had been erroneously entered in the books as income from Shell This had not, however occasioned 'further query ' from his office as 'the amount was so small, less than one percent" of the total R1 7 billion sales for the year

Maduna has also raised the loss of R5,2 million in a crude oil freight hedging contract entered into in contravention of SFF policy

Freight hedging is an arrangement whereby oil suppliers are locked into making future deliveries at the prevailing exchange rate – a type of deal intended to shield South Africans against potential falls in the value of the rand

In this case, however, the currency firmed and the SFF found itself facing serious losses The contract was then cancelled, costing the country R5,2 million

To Maduna's ire, this loss was "hidden ' in the books as expenditure for training

Loots conceded that this was "erroneous," adding that the official responsible had been "reprimanded"

Maduna told *Sowetan* his department was queried by Kluever's office for an amount of R119 094 of unauthorised expenditure for 1996

"We have to submit explanations for R119 094 while those who spent R5,2 million in 1994 in direct violation and then tried to hide it are merely reprimanded R6,7 million is not recorded as unauthorised because it is too small in 1994, but R119 094 in 1996 has to have explanations

● African National Congress chief whip Max Sisulu is to table a motion tomorrow asking the Public Protector and an ad hoc committee to look into the row

# Kluever wins support of commission

(183)

BD 18/8/97

**Wyndham Hartley**

CAPE TOWN — The African National Congress-led audit commission has backed Auditor-General Henri Kluever in the row between him and Mineral and Energy Minister Penuell Maduna It is to obtain legal advice on whether Maduna was in breach of the constitution with his accusations against Kluever last week

The commission is the statutory body established to exercise oversight on the work of the auditor-general Its decisions emerged yesterday when the full text of the resolution taken at its meeting on Friday became available

MADUNA

The resolution of the commission, which is headed by ANC MP Barbara Hogan, expressed unqualified support for the integrity and competence of Kluever and his staff

It draws the attention of Speaker Frene Ginwala to rule 99 of the National Assembly and the possibility that Maduna's attack on Kluever in the house on June 18 was a contravention

Section 181 of the constitution says of the office of the auditor-general that "other organs of state must assist and protect these institutions to ensure their independence, impartiality, dignity and effectiveness" and "no person or organ of state may interfere with the functioning of these institutions"

In another development at the weekend ANC chief whip Max Sisulu said he would introduce motions in the National Assembly tomorrow calling on the public protector to investigate the allegations made by Maduna. Sisulu would also call for the establishment of a committee of Parliament to investigate.

Maduna claimed Kluever was involved in the cover-up of the theft of millions, if not billions, from the Strategic Fuel Fund

The constitution provides that the public protector and the auditor-general can be removed from office only by a two-thirds vote of the National Assembly acting on a recommendation from a special committee

The audit commission also resolved to approach President Nelson Mandela to bring some relief to the damage being done to the auditor-general's office through statements made to the media during the row

Sunday newspaper reports said Kluever had threatened to resign and had also said he would definitely take legal action against Maduna for the statements he made He promised Parliament his full co-operation in resolving the matter

# Maduna to tell his side of fuel fund row

CT 19/8/97 (183)

**POLITICAL STAFF**

PARLIAMENT'S powerful public accounts committee is to summons Mineral and Energy Affairs Minister Mr Penuell Maduna to hear his side of his dispute with Auditor-General Mr Henri Kluever over the alleged theft of R170 million from the Strategic Fuel Fund

Committee chairman Mr Ken Andrew said last night that Maduna would be questioned and asked to share the information in his possession with the committee.

"The questions will be formulated at our meeting next Monday," Andrew said

"The minister has indicated that he has some information about these matters and we'll request (this) so we can evaluate the (Auditor-General's) report in the normal way"

**CALLED TO ACCOUNT:** Penuell Maduna

Andrew said that, given the nature and profile of the dispute, it was "likely" that a formal hearing would be held to resolve the matter

The committee met Kluever, senior members of his team and auditors from Price Waterhouse yesterday

Andrew said this meeting had been part of committee procedure "We went through some documentation and detailed explanation of how the (R170m) was handled"

The committee would take cognisance of any decision taken by the National Assembly to deal with the dispute, Andrew said

The ANC is to ask Parliament today to approve a motion that Public Protector Mr Selby Baqwa and a special all-party parliamentary committee investigate the dispute between Maduna and Kluever

A spokesman for the office of ANC chief whip Mr Max Sisulu confirmed yesterday that a motion would be tabled in the National Assembly today.

The National Party chief whip asked yesterday for a special debate to discuss Maduna's attack on Kluever

Other opposition parties have called on Parliament to censure the minister

Parliament's audit commission has expressed its unqualified support for the integrity and competence of Kluever and his staff

Kluever has threatened to resign and take legal action against Maduna

**OIL INDUSTRY** *After-tax return 'is hardly in line with fat-cat perception'*

# Fuel makers paid R13bn taxes

CT (PBR) 19/8/97 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — South Africa's oil industry, excluding Sasol, paid R13 billion in duties and levies and another R600 million in income tax to government coffers last year, the SA Petroleum Industry Association (Sapia) said in its annual report released yesterday

"Its cheques to the Receiver bankroll a significant portion of state expenditure Sapia members account for 1 percent of GDP, yet collected about 20 percent of the government's indirect taxes," Sapia said

The annual report said its members' turnover for the year was R37,5 billion, of which R20,3 billion was spent on products and services, leaving a total value added of R17,2 billion During the year its payroll costs stood at R1,2 billion

But the association again raised the issue of rise-regulated refining margins The refining margins are determined according to an agreement between the industry and the government which is supposed to ensure the industry a 15 percent return on assets

**REVIEWING THE YEAR** *From left, Penuell Maduna, the energy minister, Colin McClelland, Sapia's director, and Dennis Poole, the chairman of Sapia* PHOTO LINDSAY YOUNG

Sapia said yesterday the industry's after-tax return on assets moved up to 7,9 percent last year from 6,4 percent in 1995, which was "hardly in line with public perception of a fat-cat industry These returns, which are lower than inflation and the return on bank deposit, do not adequately reward investment in the industry"

Sapia said last year's rise in the return on assets was caused by windfall profits on stocks because of a rise in the oil price It said if the stock profits were excluded, the return on assets was 4,5 percent

Earlier this year Sapia and Penuell Maduna, the energy minister, clashed over the refining margin and the industry's profitability Speaking at a Sapia function last night, Maduna said he was negotiating with the oil industry around a new regulatory framework This would include the possibility of a margin increase, he said

(83)

# No increase in margins for oil refining

BD 19/8/97

**Edward West**

MINERAL and Energy Affairs Minister Penuell Maduna yesterday ruled out any increase in margins for the oil refining industry until a new system of regulation was put into place

He said at the launch of the SA Petroleum Industries' Association (Sapia) annual report in Pretoria yesterday that three years ago the oil refining industry had demanded a 3c/l marketing margin increase to be granted in terms of the regulations of the former government

Maduna conceded that oil industry returns, as reflected in the Sapia annual report, appeared "rather low"

He suggested that oil refiners adopt cost-saving measures to improve returns until such time as new regulations were in place "The country requires a new regulatory system as a matter of urgency," he said.

Maduna invited the industry to participate in a forum which would include all roleplayers in a bid to reach agreement on regulatory matters

On the latest spat between Maduna and auditor-general Henri Kluever, in which the minister accused Kluever of covering up the theft of millions of rands from the Strategic Oil Fund, Maduna said he was confident there would "come a time when Kluever and I will make peace"

Sapia chairman Dennis Poole said the oil refining industry was more than concerned to see its rate of return falling below the inflation rate Responding to Maduna's comments about cutting costs, he said the CEOs of SA's oil refiners would not have jobs if shareholders discovered they were not continuously cutting cost structures

The annual report showed the decline since 1993 in the aggregate financial returns of Sapia members, which include all the major oil refiners barring Sasol, was apparently arrested last year with net income after tax rising to R1,4bn from R800m in 1995

The failure of government to approve the margin increase had resulted in depressed marketing returns, which remained below 10% for the industry

# Queries ‘within Maduna’s rights’

BD 19/8/97 (183)

**Linda Ensor**

CAPE TOWN — The African National Congress (ANC) insisted yesterday that Mineral and Energy Minister Penuell Maduna was “perfectly within his rights” to raise questions about the Strategic Fuel Fund’s accounts with Auditor-General Henri Kluever

Spokesman Ronnie Mamoepa said the ANC remained convinced it would be “improper” for Parliament to accept the special auditor-general’s report on the fund, tabled last week It explained that the R170m Maduna alleged was lost or stolen during strategic oil transfers could be accounted for as a book entry

The ANC fully supported investigating the management and auditing of the fund by the public protector and a special parliamentary committee. “The ANC remains surprised by the notion that because of the magnitude of amounts involved, there exists no need for a further inquiry by the auditor-general We believe the management and auditing of public funds, irrespective of amounts involved, require equal and critical attention from the auditor-general’s office,” Mamoepa said.

Meanwhile, Audit Commission chairman Barbara Hogan clarified that the commission had not, at its meeting on Friday, discussed the merits or demerits of Kluever’s actions with regard to the R170m, and had not attacked him, as reported in Business Day yesterday His actions would have to be the subject of a special probe All the commission did, Hogan said, was express its unqualified confidence in Kluever’s ability and competence Parliament would have to decide whether Maduna, in attacking Kluever’s integrity, had breached the constitution.

Maduna maintained his stance yesterday A spokesman for his office said he would issue a statement on the latest developments soon Maduna was also understood to be seeking a meeting with Mandela to discuss the dispute.

A joint parliamentary standing committee on public finance subcommittee decided after a four-hour meeting yesterday to investigate the fund. Maduna would probably be asked to present the independent auditor’s reports he claimed to have so that the committee could evaluate the auditor-general’s report

# Zuma's health bills worse now — DP

BD 20/8/97 (183)

**Jacob Dlamini**

CAPE TOWN — The Democratic Party (DP) yesterday accused Health Minister Nkosazana Zuma of trying to impose centralised control of health care after two controversial bills, withdrawn amid fierce opposition in June, were retabled in Parliament yesterday.

DP spokesman Mike Ellis said the bills would give Zuma a great deal of power and authority to draw up legislation on her own and without consultation with various stakeholders.

Ellis said the bills tabled yesterday were worse than the versions withdrawn in June following vociferous opposition from the pharmaceutical industry and other interested parties.

If they became law, the new bills would give Zuma control of statutory health bodies, Ellis said.

He said in terms of the proposed new legislation, Zuma would have the power to approve the composition of the Medicines Controls Council and the right to fire the council's registrar.

The Medicines and Related Substances Control Amendment Bill and the Pharmacy Amendment Bill are designed to improve access to affordable health care by lowering the price of medicines.

The Medicines Bill retains key provisions regarding the fast-track registration of essential drugs, the parallel importing of drugs, and the prohibition of the bonusing and sampling of medicines.

The bill also contains provisions designed to give the health department director-general powers to grant licences for the dispensing of medicines. The Pharmacy Amendment Billincludes, among others, a measure intended to open the ownership of pharmacies to people other than qualified pharmacists.

Parliament's health committee is scheduled to hold a round of hearings on the bills, during which pharmacy industry stakeholders will be asked to make submissions

Ellis said he hoped opposition parties would form a united front to oppose the proposed new health-care legislation.

"There is a trend in this bill that gives the health minister more powers than has been the case before," Ellis said.

"We believe that no minister should have the right to draft legislation which affects the lives of other people on her own, and we plan to oppose this legislation."

media publications, documents, discussions, meetings and workshops

- skills development whereby professional and lay participants in the process are assisted to develop their expertise for use within and beyond the process,
- logistical support whereby interested and affected parties are assisted financially, or in kind to meet transport, catering, communication and other requirements enabling them to become active and full participants in the process and
- an empowering approach whereby there is appropriate process design and facilitation so that the power imbalances which are caused by varying access to knowledge, skills and experience are actively countered

(2) Public meetings will be an integral component of public participation in the coastal policy formulation process In order to facilitate public participation in the process, the coast has been divided into six regions Regional co-ordinators have recently been appointed to manage the policy formulation process in each region The regional co-ordinators will be responsible, *inter alia* for facilitating public meetings and events and assisting in capacity building and training programmes in their region

A Briefing and Orientation Event was held from 12 - 14 August 1997 to introduce the regional co-ordinators to coastal zone management the environmental policy context in South Africa and the history of the Coastal Management Policy Programme Public meetings have not yet been scheduled but will definitely be held during the last quarter of the year

*13 Dr K RAJOO – Health [Question standing over]

**Subsidies to Sasol/Mossgas discontinued**

*14 Dr K RAJOO asked the Minister of Minerals and Energy

(183)

Whether he or his Department has considered discontinuing the granting of subsidies to (a) Sasol and/or (b) Mossgas if not, why not, if so, what are the relevant details? N1574E

The MINISTER OF MINERALS AND ENERGY

(a) and (b) No as Cabinet on 6 December 1995, resolved that the synfuels protection floor-price be phased-down to $16 0/bbl by July 1999 based on the Arthur Andersen report recommendations

**SA goods: under-invoicing/flight of capital**

*15 Mr M F CASSIM asked the Minister of Finance

(1) Whether his Department has compared reported South African export figures with the reported figures relating to imports of South African goods and/or services by South Africa's major trading partners with a view to detecting under-invoicing and/or the flight of capital, if not, why not, if so, what are the relevant details,

(2) whether he will make a statement on the matter? N1575E

The MINISTER OF FINANCE

(1) No The export figures of South Africa are not comparable with the import figures of its trading partners, for the following reasons

- Some of our major trading partners use different national subdivisions of the International Tariff Headings of the Harmonized Commodity Description and Coding System of the World Customs Organisation
- South Africa's exports are recorded at free on board (FOB) values whereas most of our trading partners use cost, insurance and freight (CIF) values for Customs duty purposes
- Fluctuating exchange rates and timing differences make it difficult to compare export values in one country with import values in another
- Statistics are not published per exporter or importer in the importing country Only totals per country per tariff sub-heading
- Goods produced in the member countries of the SA Customs Union (SACU) move freely across in terms of the Agreement and complicate the comparison of trade statistics with other countries

(2) No statement will be made

**Slimes dumping at minedumps**

*16 Mr D M BAKKER asked the Minister of Minerals and Energy †

(1) Whether his Department has given a certain company its approval to continue with slimes dumping at minedumps bordering Fleurhof, Mzimhlope and/or Meadowlands, if not, what is the position in this regard, if so, (a) for what reasons and (b) who was consulted in this regard,

(2) whether he will make a statement on the matter? N1576E

The MINISTER OF MINERALS AND ENERGY

(1) The Director Mineral Development (Gauteng Region) of the Department of Minerals and Energy granted Mining Licence No ML 7/96 to Consolidated Main Reef Mines and Estate Limited (CMR) on 22 November 1996 Said licence covers the reclamation of several mine residue disposal sites as well as the recommissioning of the CMR tailings dam complex for the disposal of mine residues emanating from the reclamation process Actual reclamation of the tailings dams and sand dumps concerned and the recommissioning of the CMR tailings dam complex was, however, made subject to the approval of Environmental Management Programmes (EMPs) in respect of each site The EMP for the recommissioning of the CMR tailings dam complex was approved on 16 May 1997 by the said Director, subject to compliance with certain suspensive conditions CMR now has the right to commence with the deposition of mine tailings A joint appeal by the Gauteng Department of Agriculture, Conservation and Environment and the Western Local Council and an appeal by the Fleurhof Civic Association were made to the Director-General Minerals and Energy to reverse the approval of the EMP Those appeals are currently under consideration Such appeals are first lodged with the said Director-General and if his decision is unacceptable to the aggrieved parties, that parties have the right to lodge an appeal to me

*Reasons for approval of the EMP*

(a) In deciding on the approval or not of the relevant EMP the said Director based his decision on a careful consideration of the positive and negative environmental, economic and other impacts which would directly and indirectly be caused by the recommissioning of the tailings dam complex

The major considerations in favour of the recommissioning were the following

- Mine tailings disposal sites in and around Johannesburg are major sources of water and air pollution and they occupy valuable land in prime development areas in and around the city Reclamation of these disposal sites removes diffuse sources of dust and water pollution which impacts on a wide geographic area and consolidates these in a single, managed disposal site such as the CMR complex Although dust and water pollution will undoubtedly emanate from the CMR complex, the impact will be substantially less than that cumulatively caused by sand dumps and tailings dams within the city area
- In as far as the reclamation of residue disposal sites is dependent on the availability of sufficient, accessible disposal space for the resultant mining residues, allowing the recommissioning of the CMR tailings dam complex allows the applicant to continue its operations for a further ±10 years and will result in the clearing of up to a further 1000 hectares of land within 10 kilometres of the Johannesburg CBD The clearing of this land not only makes much needed residential, industrial and commercial land available for development, but also creates numerous job opportunities which may result from the development of such land According to CMR, the continued employment of 650 people is, furthermore, dependent on the recommissioning of the CMR complex
- The financial/fiscal factors that were taken in consideration is that premature closure of the applicant's reclamation activities due to a lack of disposal space will result in an estimated loss of foreign exchange of R2 billion, calculated at R200 million/annum in gold sales over ten years, the loss of approximately R180

Hansard

the Commission The Commission independent and separate from any party, government, administration, or any other functionary or body directly or indirectly representing the interests of any such entity

The Department does not have any authority to take any steps following the Auditor-General s findings concerning the financial affairs of the Commission

However, the Director-General and the Chief Executive Officer of the Commission work in close co-operation with each other and constantly discuss matters relating to the Commission The Department of Justice is rendering every possible assistance required by the Commission to fulfill its functions in compliance with the prescripts applicable to the Commission

(2) In my view the Commission and the Chief Executive Officer of the commission render an outstanding service and, there is no reason for any action on my side Both the Department of Justice and the Chief Executive Officer endeavour that all prescripts are complied with

*14 Dr B L GELDENHUYS – Foreign Affairs †
[Question standing over ]

**Pharmacies monitored for counterfeit drugs**

*15 Mr M F CASSIM asked the Minister of Health

(783)

(1) Whether her Department or any State agency consistently monitors pharmacies with a view to establishing whether such pharmacies keep counterfeit drugs in stock, if not, why not, if so, (a) how and (b) what are the further relevant details,

(2) whether she or her Department has ascertained that only authentic medicines are available from retail and government outlets, if not, why not, if so, what are the relevant details? N1968E

The MINISTER OF HEALTH

(1) Routine inspections of pharmacies and other facilities where medicines are manufactured, kept or stored, are performed in terms of the Pharmacy Act and the Medicines and Related Substances Control Act

Inspections by the Pharmacy Council are done independently of the Department of Health, utilising the Council's own inspectors

The Director-General Health, appoints inspectors in terms of the provisions of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) for the enforcement of the Act

The purpose of the inspections is to ensure compliance with the requirements of the Medicines Control Act, the Foodstuffs, Cosmetics and Disinfectants Act and the Pharmacy Act

The Medicines Control Council also makes use of a firm of private investigators, whose personnel assist with particularly difficult inspections

Counterfeit medicines identified are seized and sent for analysis, and criminal charges laid against the suspects in terms of the Medicines Control Act

(2) The Medicines Control Act, prohibits the sale of unregistered medicines The Medicines Control Council evaluates each application for registration of a medicine for safety, efficacy and quality The inspectors, inspect all applicants, manufacturers, laboratories and wholesalers on a regular basis to assess compliance with current Good Manufacturing Practice (GMP), Good Laboratory Practice and Good Wholesaling or Distribution Practice

Random samples of medicines (final products and raw materials) are taken and tested at an independent laboratory for compliance with the specification for identity, assay and other parameters

Medicines available on the market may only be manufactured in accordance with the registration dossier, as approved by Council Regular compliance inspections, where this is verified, are performed by the inspectors

The combination of GMP inspections, compliance inspections and testing of samples result in assessment and assurance that only authentic medicines should be available in the country

When any counterfeit medicine is identified, immediate action is taken to initiate a full investigation and withdrawal of the product from the market The World Health Organisation is further informed of the identified counterfeit products Once again, where a case can be made, criminal charges are laid

**Petrol "routers"**

*16 Mr M F CASSIM asked the Minister of Minerals and Energy

(1) Whether his Department had uncovered the existence of so-called "routers" who offer to supply petrol to recognised dealers at considerably lower cost than such dealers will be able to obtain petrol from recognised suppliers, if not,

(2) whether he or his Department will consider undertaking an investigation to establish whether such a practice exists, if not, why not, if so, what are the relevant details? N1969E

The MINISTER OF MINERALS AND ENERGY

(1) No

(2) Yes The Service Station Rationalisation Plan which is a voluntary agreement between the Department of Minerals and Energy, the organised service station industry and the oil companies promotes the orderly and economic distribution of fuel and it addresses such practices Should the relevant information be made available, an investigation could be considered

**Maluti magisterial district: pensions**

*17 Mr G Q M DOIDGE asked the Minister for Welfare and Population Development

(1) Whether she or her Department took any steps to ensure that pensioners in the Maluti magisterial district of the Eastern Cape received their pensions after the Eastern Cape government stopped payment on all First National Bank cheques payable to pensioners in Maluti, if not, why not, if so, what steps,

(2) whether, with reference to a certain press report, a copy of which has been furnished to her Department for the purpose of her reply with the purport that cheques to the value of more than R1,5 million had been stolen from the Eastern Cape government, she or her Department has taken any steps to inform pensioners that these cheques had been stolen, if not, why not, if so, what steps,

(3) whether she will furnish an explanation in regard to the theft of the said cheques if not, what is the position in this regard, if so, what are the relevant details,

(4) whether she or her Department intends taking any steps aimed at preventing a recurrence of such thefts, if not, why not, if so, what steps,

(5) what is the exact amount involved in the theft of these cheques? N1970E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT

(1) Yes, a total number of 25 cheques were stopped at the banks and cheques to the value of R940 were re-issued This amount includes the payment due to pensioners for a two month period, but excludes back pay These cheques have been re-issued, because of their geographical location These pensioners will receive their cheques during the September pay period,

(2) no, no incidences of stolen cheques have been reported in the Eastern Cape Province, however, the Department needs to obtain a more complete picture and is in the process for further investigation by the Department and to ensure whether a criminal case has been opened and by whom,

(3) no, only when more information is available,

(4) yes the Department is presently investigating the media report,

(5) nil

during which the stations must be brought up to the standards prescribed

Note Although the questions were directed to me it should be noted that in terms of the Constitution, the Provincial Administrations are the executive authorities for road traffic

**St Lucia: "World Heritage Site"**

*27 Mr J CHIOLÉ asked the Minister of Environmental Affairs and Tourism †

(1) Whether any steps have been taken with a view to declaring St Lucia as a "World Heritage Site , if not, why not, if so, what steps

(2) whether the Dukuduku forest will be included therein, if not, why not, if so, what are the relevant details? N1789E

The MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

(1) The Department of Environmental Affairs and Tourism has initiated the necessary steps to submit a nomination to have St Lucia Wetlands inscribed on the List of World Heritage Sites The Department informed the World Heritage Centre in writing at the end of July 1997 that it intended submitting the nomination before 31 October 1997 The Department is currently studying the nomination to make sure that all the relevant information is included The nomination will be submitted as soon as this task is complete

(2) The Dukuduku State Forest is included in the area that is to be nominated to have St Lucia Wetlands inscribed on the List of World Heritage Sites The Natal Parks Board, affected community and the Kwa-Zulu/Natal Minister of Indigenous and Environmental Affairs are involved in ongoing negotiations to arrive at a resolution, that will suit all parties, concerning the portion of land that will be incorporated into the Park and from which the community will have to be moved, and the benefits that will accrue to the community in exchange for the land

**Properties acquired for land distribution**

*28 Dr E A SCHOEMAN asked the Minister for Agriculture and Land Affairs

Whether any properties have been acquired by his Department in the Somerset East district for the purpose of land distribution if so, (a) what amount was paid for each property, (b) in which area is each located, (c) what is the nature of each such property and (d)(i) how many breadwinners are accommodated in each case and (ii) what are the conditions attached to the lease or purchase of these properties? N1790E

The MINISTER FOR AGRICULTURE AND LAND AFFAIRS

(a) Prinsloo R3,870 million
Karkotskraal R1,950 million

(b) Somerset East Municipal District

(c) Prinsloo - Dairy farm, grazing and irrigation
Karkotskraal – Grazing and irrigation

(d) (i) 388, the two farms are to be managed as a unit

(ii) The Department of Land Affairs will be the owner of the farm and the agency agreement is to ask the local authority to manage the farm on our behalf and will also be responsible for the collection of any levies and manage and maintain all fixed and movable assets

**Report on Independent Broadcasting Authority made public**

*29 Mr J J DOWRY asked the Minister for Posts, Telecommunications and Broadcasting †

Whether the report of an independent auditing firm, the name of which has been furnished to his Department for the purposes of his reply, with regard to the financial management of the Independent Broadcasting Authority, will be made public if not, why not, if so, when? N1791E

The MINISTER FOR POSTS TELECOMMUNICATIONS AND BROADCASTING

The Auditor-General is responsible for the auditing of the Independent Broadcasting Authoritys record of accounts and financial statements and reports thereon from time to time in terms of standing procedures

However, an independent firm of accountants has been appointed by the Authority to

- Stabilize the current financial management position,
- Provide management and Council with relevant and reliable financial information to enable them to manage the Authority effectively, and
- Ensure implementation of defined financial controls and procedures

The accounting firm reports to the Council of the IBA and also provides the Department of Communications, which is working with the IBA to ensure proper financial and administrative control, with regular progress reports

These steps follow a resolution on 19 May 1997 by the Standing Committee on Public Accounts calling on this Ministry to ensure that an interim financial management capacity is set up in the offices of the IBA without compromising its autonomy as provided for in the Constitution

In accordance with paragraph 8(d) of the First Report of the Standing Committee on Public Accounts (SCOPA) dated 28 May 1997 the IBA should report to the Committee on progress made by not later than 30 September 1997

**State subsidies to Mossgas** 183

*30 Mr A H NEL asked the Minister of Minerals and Energy †

(a) What amount in State subsidies has been paid to Mossgas since production began in 1992 and (b) in terms of what procedures and/or regulations are subsidies being paid to Mossgas at present? N1792E

The MINISTER OF MINERALS AND ENERGY

(a) A total amount of R1 208 4 million has been paid to Mossgas in the form of tariff protection and synthetic fuel product price compensation payments

The Cabinet also approved on 28 February 1996 to grant guarantees to the amount of R910 million for the development of the FA Satellite gas fields to protect the reserves of South Africa

(b) Tariff protection and synthetic fuel compensation payments are made to Mossgas from the Equalisation Fund in terms of a Cabinet decision [1993] and resultant Ministerial Notices served on CEF (Pty) Ltd

**Invitation to congress of Free State Agricultural Union**

*31 Dr E A SCHOEMAN asked the Minister for Agriculture and Land Affairs †

(1) Whether he received an invitation to the congress of the Free State Agricultural Union on 12 and 13 August 1997, if not what steps does he envisage taking in respect of his relationship with this union, if so,

(2) whether he attended this congress, if not why not, if so what are the relevant details? N1793E

The MINISTER FOR AGRICULTURE AND LAND AFFAIRS

(1) No I have no record of ever receiving an invitation from the Free State Agricultural Union and I do not envisage taking any steps in respect of my relationship with that union

(2) Falls away

**Large-scale mechanisation on farms research**

*32 Mrs M J BADENHORST asked the Minister for Agriculture and Land Affairs †

(1) Whether he or his Department has done any research or had any research done to determine whether existing labour legislation and other legislation applicable to farmers in the agricultural sector promotes large-scale mechanisation on farms, if so, what are the relevant details if not,

# Fuel costs lead MIF to urge new regulatory system

BD 21/8/97

(183)

**Edward West**

FUEL retailers were being crippled by spiralling costs, and a new regulatory system was urgently required to prevent the loss of small businesses and jobs, the Motor Industry Federation (MIF) said yesterday

MIF spokesman Johan Scholz said a survey of fuel retailers undertaken by the federation with the University of Potchefstroom showed that 98% of respondents were suffering financial losses.

The MIF has had to appeal to dealers not to shut down their forecourts in protest against a lack of government action It has also asked for a new regulatory system in a structured manner

Scholz said reasons for fuel retailers' financial dilemma ranged from high rental costs charged by the oil companies and growing labour costs

Dealers reported rental increases of nearly three quarters during the past year while some oil companies prescribed the size of staff complements in terms of retailers' volume sales.

Other costs such as security services — which could cost a fuel retailer R40 000 to R60 000 a year — and high finance costs, added to the retailers' problems.

Scholz said government's failure to increase marketing margins for the oil companies appeared to have resulted in them shifting overhead costs, such as advertising, to fuel retailers.

Part of the reason for lower sales volumes being experienced by smaller fuel retailers was the growth of multiservice retailers financed by large oil companies.

Fuel retailers receive a 18,1c/*l* margin from government following a 1,5c/*l* increase in October 1995 and a 1c/*l* increase in April that year.

Scholz said the system in which government lifted dealer margins to a zero under- or over-recovery on the fuel price, was one of the flawed aspects of the regulations

"Who wants to operate a business with zero return? Every business should be able to build up reserves to bring it through tough times like these," he said

The MIF has strong views against fuel industry deregulation. It believed, for example, that small businesses would be lost to larger groups, forecourt jobs would be lost, private sector collusion could result in the longer term and that petrol prices in rural areas would escalate.

"We would like to think deregulation is off the cards for now We are just looking for a system where there is no free-for-all," said Scholz

A British Petroleum (BP) spokesman said small fuel retailers had been particularly hard hit by slow fuel sales, high interest rates and labour costs, and the fact that fixed margins had come under pressure from the higher fuel prices

"When you're a small businessman and your gross margin is close to 9%, it begins to become difficult to cover inflationary costs and a 19% interest rate," he said

Large multiservice petrol stations were being built by oil companies to increase the average throughputs for the dealers and oil firms, the BP spokesman said

Fuel retailers had applied to the mineral and energy department for a margin increase.

However, as the department had said there would be no margin increase for oil companies pending a policy review, it was not likely that the application from the retailers would succeed

Nevertheless, the department might feel inclined to increase retail margins to prevent possible job losses, the BP spokesman said

Friday August 22 1997

# Making medicine more affordable

(183)

**STAFF REPORTER**

Star 22/8/97

The new Medicines Bill tabled in Parliament this week is aimed at making medicine more affordable to the public, says Dr Olive Shisana, the Director-General of Health

The bill introduces several cost-cutting measures, including substituting generic medicines for more expensive brands and the licensing of dispensing doctors.

In a statement yesterday, Shisana said legislation would promote medicines which contained the same active substances as the innovator medicines prescribed by doctors.

"We believe that the new bill (called The Medicines and Related Substances Control Amendment Bill) will reduce the cost of medicines and at the same time protect the public against harmful products"

The bill also provides for the parallel importation of drugs under strictly controlled circumstances Imports would have to meet exactly the quality standards as medicines already registered in SA

# Iran still SA's top oil supplier

(183) CT (BR) 22/8/97

**Jonathan Rosenthal**
Industrial Editor

Johannesburg — Iran remained the largest supplier of crude oil to South Africa at 9,3 million tons a year, figures released this week by the South African Petroleum Industry Association (Sapia) showed

However, competitive pricing had pushed Kuwaiti oil exports to South Africa up five times to 2,86 million tons last year

This is despite statements last year by Penuell Maduna, the minister of mineral and energy affairs, that South Africa should become less dependent on oil supplies from Iran

The Sapia annual report showed Iran remained by far the largest supplier of crude oil to South Africa, although its sales dipped to 9,3 million tons from 11 million tons the previous year

A Caltex spokesman said much of the fall could be attributed to a US trade embargo on Iran, which prevented Caltex from importing Iranian crude

Caltex, which had previously run its Cape Town refinery on about 80 percent Iranian crude, had replaced much of the tonnage with Angolan crude, pushing imports from that country up to 910 000 tons from 120 000 tons in the previous year But, the spokesman said, imports from Angola had declined this year

The Kuwait Petroleum Corporation (KPC) disputed the figures this week, saying it had sold about 50 percent more oil to South Africa than Sapia report indicated Reuter reported that a KPC official claimed the association's figures were incorrect

Imports from the North Sea dropped off sharply, down to 540 000 tons from 1,39 million tons, as did imports from Saudi Arabia, which fell to 380 000 tons from 1,1 million the previous year Both falls were attributed to less competitive prices

The Caltex spokesman said Saudi Arabia was also adjusting its pricing formula and was likely to take greater market share over the next year

The list of oil supplying countries is still largely dominated by producers selling heavier grades of crude, which indicates that South Africa's oil refiners are continuing to exploit the lower prices of heavier crude grades

# Public protector to investigate fuel fund

BD 22/8/97

(183)

**Linda Ensor**

CAPE TOWN — The African National Congress (ANC) pushed a motion through Parliament yesterday requesting that the public protector investigate the affairs of the Strategic Fuel Fund, despite the vociferous opposition of minority parties

Auditor-General Henri Kluever said he accepted his responsibility and accountability to Parliament and would co-operate fully with Public Protector Selby Baqwa.

The man at the centre of the row, Mineral and Energy Minister Penuell Maduna, was absent for much of the heated debate on his derogatory comments about Kluever and his report on the fund, which Maduna claimed did not disclose a missing R170m

The Democratic Party (DP) said it was unconstitutional for one constitutionally created, independent body, the public protector, to investigate another, the auditor-general

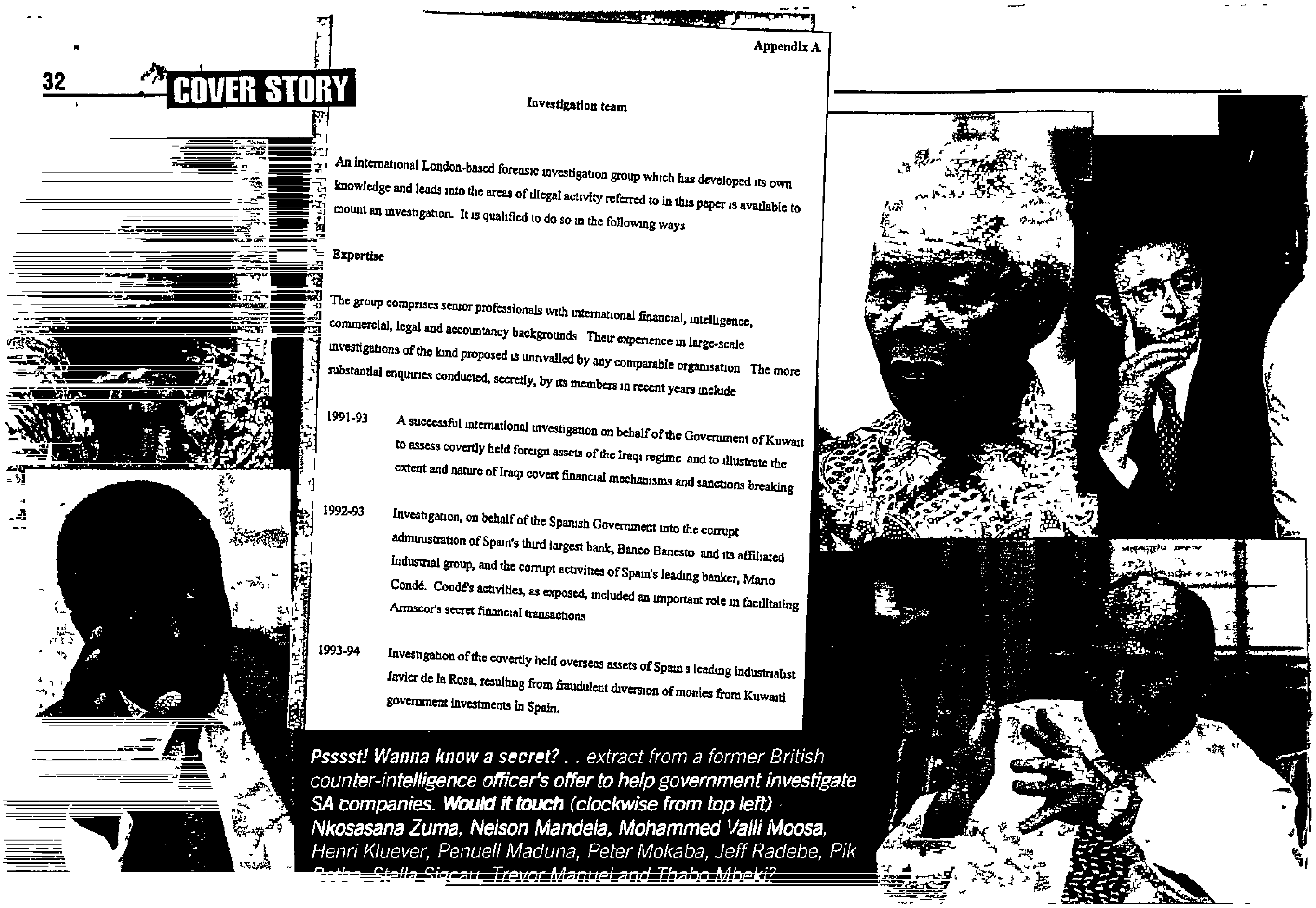
The adopted motion, proposed by ANC chief whip Max Sisulu, said the public protector would investigate "the alleged irregularities with regard to the affairs and financial statements of the Strategic Fuel Fund Association" It would also investigate if Kluever's reports were "correct and proper"

Another ANC motion was adopted to establish a parliamentary committee to advise on whether Maduna "acted appropriately"

DP MP Douglas Gibson accused Maduna of having "recklessly undermined" the auditor-general with his comments "The ANC is kicking up dust to protect a minister who has made a fool of himself in public "

Sisulu said the matter should be removed from the political arena and placed in the hands of an impartial, independent body He denied it was unconstitutional for the public protector to investigate the auditor-general, saying he had the power to investigate "any conduct in state affairs"

A National Party motion calling on President Nelson Mandela to relieve Maduna of his duties on the grounds of his "unfounded allegations" against Kluever was defeated



Appendix A

**Investigation team**

An international London-based forensic investigation group which has developed its own knowledge and leads into the areas of illegal activity referred to in this paper is available to mount an investigation. It is qualified to do so in the following ways

**Expertise**

The group comprises senior professionals with international financial, intelligence, commercial, legal and accountancy backgrounds Their experience in large-scale investigations of the kind proposed is unrivalled by any comparable organisation The more substantial enquiries conducted, secretly, by its members in recent years include

1991-93 A successful international investigation on behalf of the Government of Kuwait to assess covertly held foreign assets of the Iraqi regime and to illustrate the extent and nature of Iraqi covert financial mechanisms and sanctions breaking

1992-93 Investigation, on behalf of the Spanish Government into the corrupt administration of Spain's third largest bank, Banco Banesto and its affiliated industrial group, and the corrupt activities of Spain's leading banker, Mario Condé. Condé's activities, as exposed, included an important role in facilitating Armscor's secret financial transactions

1993-94 Investigation of the covertly held overseas assets of Spain s leading industrialist Javier de la Rosa, resulting from fraudulent diversion of monies from Kuwaiti government investments in Spain.

*Psssst! Wanna know a secret? . . extract from a former British counter-intelligence officer's offer to help government investigate SA companies.* ***Would it touch*** *(clockwise from top left) Nkosasana Zuma, Nelson Mandela, Mohammed Valli Moosa, Henri Kluever, Penuell Maduna, Peter Mokaba, Jeff Radebe, Pik Botha, Stella Sigcau, Trevor Manuel and Thabo Mbeki?*

**POLITICS AND BUSINESS**

22/8/97 (183)

# Bewitched by the

Populist feelings may overwhelm truth, harming business, which needs bridges to government

The unresolved conflict between Mineral & Energy Affairs Minister Penuell Maduna and Auditor-General Henri Kluever has taken on ugly resonances One is that the perceived gulf between the new black elite and the "old guard" — in business, the public service and elsewhere — is growing

It is particularly in business's often fraught relationship with the ANC-led government that the dispute can cause the most damage And considering his portfolio encompasses two key components of the economy — minerals and energy — it is unfortunate that Maduna, according to some in the private sector, has not been able to forge links that would boost confidence in his ministerial credibility

That reflects on government's ability to manage the economy to achieve its Growth, Employment & Redistribution goals

Maduna is playing a political game in what should be largely a technical field

Equally unfortunate, however, is the fact that the oil sector has a long and messy history For this reason, Maduna's stance — his sense that he has inherited a poisoned chalice — has support within influential ANC circles Such backing may prove more powerful than opposition critics suspect, given the template of this kind of survival laid down by Health Minister Nkosazana Zuma in different circumstances

The Kluever-Maduna rift — irrespective of its merits — appears to be exacerbating tensions between government and the private sector Some probing questions have also been raised about the competence of the AG's office to uncover corruption

This is why ANC insiders and Ministers believe Maduna's allegations of theft and mismanagement have a ring of truth There is speculation that he may yet unveil information that could prove him right And there is the experience of Ministers in other departments, where corruption and cover-ups emerged as the old guard retreated

A senior adviser in Deputy President Thabo Mbeki's office says "even where there were no political machinations, the atmosphere of secrecy allowed these guys to do anything they wanted and hide it behind the cloak of national security"

Environmental Affairs & Tourism Deputy Minister Peter Mokaba goes even further He believes there is something "murky" in what Maduna has discovered and is pre-

# past

FM 22/8/97 (183

pared to lay his "neck on the block" that something nefarious has been going on in Mineral & Energy Affairs

Mokaba points out that four top officials in Satour, including one with 20 years' service, have been suspended on corruption charges "These things happened over years," he says "If the AG had been so good, these people would have been apprehended a long time ago In (my) department we have uncovered illegal ivory sales and gun-running by army officials and we have handed this information to the AG These things are happening across the board and unless we investigate thoroughly, as Maduna is doing, we will never really know what happened in the past "

This kind of mistrust underpins Maduna's position, lending specific charges an aura of generality And it permeates a number of other departments

The *FM* has been told that a "substantial number" of top officials will leave Provincial Affairs & Constitutional Development because of mistrust between them and their new leaders The director-general of the ministry was former apartheid spymaster Neil Barnard, fired last year by Mohammed Valli Moosa within a week of taking over

In Public Works, where there was visible conflict between Minister Jeff Radebe and the DG he ultimately fired, suspicion is rife that systematic looting took place and that the evidence has been removed

One adviser says "there is mounting disquiet in government that the old order hoodwinked us We decided to look ahead and forget the past, maybe that was a mistake "

A member of President Nelson Mandela's staff says that when he arrived at the Union Buildings in 1994, all he found was a wall picture and one document in the desk No other documentation was available He adds that when Maduna took over from Pik Botha, computer equipment and files were missing

In Public Enterprises, an adviser to Stella Sigcau says there has always been suspicion that public corporations were used for "all sorts of things, including kickbacks, but we do not have evidence "

He adds that perhaps audits into what government actually owns would help — "but no documentation of that kind has ever been found "

So it goes Kluever is almost certainly aware of the bad blood between old and new — and of the emotional influence this could have on his position in the Maduna imbroglio

For this reason alone, the support registered last week for Kluever by the ANC-dominated audit commission with oversight of the AG's work may not adversely affect Maduna's Cabinet position Indeed, it soon became apparent that the commission simply expressed confidence in Kluever's "competence and integrity" — the dispute, as such, would have to be addressed by parliament

The commission also gave notice that it would "approach the President for assistance in ending the exchanges in the media, which is damaging to the important principle of support and assistance between the various organs and institutions of State "

The ANC is pressing for the creation of a special parliamentary investigative committee into the Kluever-Maduna affair — operating in concert with the Public Protector The National Party (NP) objects to such a move since the AG and the Public Protector are both established in terms of the same section of the Constitution

Clearly, however, parliament is the appropriate vehicle for an examination of the issue Maduna said this week that there would "come a time when Kluever and I will make peace " But the Minister's accusations hang ominously in the air

Maduna is also reported to be seeking Mandela's intervention That the Minister welcomes such high-profile examination of the dispute — at one stage he asked for a judicial inquiry — indicates the seriousness with which he views the matter It will not be that easy to make "peace "

In such a fraught situation, it may well prove difficult for the parliamentary committee to reach decisive clarity on whether the "missing" R170m from the Strategic Fuel Fund Association (SFF) was theft or a more commonplace book entry And it is highly unlikely the investigators will be able to pin down *why* Maduna chose to escalate his initial allegations of misappropriation into a personal attack on the integrity of the AG Nor should its findings preclude a far-ranging investigation of the old government's oil dealings before 1994

The Truth & Reconciliation Commission has exposed the ghastliness tolerated by the Nationalist securocrats, but its remit is limited to politics whereas economic manipulation and mismanagement arising from "the conflicts of the past" also cry out for transparency

The dramatic allegations that Maduna made on June 18 this year relate to the books of the SFF, a wing of the Central Energy Fund (CEF) The most important in money terms, and in its implications for the competence and integrity of the AG's office, was an item of R170m relating to stocks of crude oil held and dealt in by the SFF This amount, Maduna noted, comprised more than 21% of the trading profit for the financial year to March 31 1993

Maduna's specific charge was that this item reflected a loss because of theft by people associated with the SFF

Maduna also referred to a mysterious payment of R1,9m by Shell to the CEF in 1994-1995, relating to the scuttling of the *Salem* tanker in 1980 The suggestion here would be that irregularities in SA's oil dealings date to the sanctions era — and that, in Maduna's view, the murk has endured

Following the Minister's allegations, the CEF suspended GM Kobus van Zyl on full pay Maduna also said he had brought in an outside auditing firm to recheck the affairs of the SFF, which had employed Price Waterhouse to audit the books

The response of the Auditor-General was to produce a special report on the SFF, tabled on August 11 This again stated that the "missing" R170m was the result of a stock adjustment at the two storage locations of Ogies and Saldanha

The amount of the Shell transaction was correctly entered but incorrectly described as a sale Given its modest size relative to total transactions, it was not investigated further

In response, Maduna challenged Kluever's qualifications, saying he had established that the AG was not an accountant and claiming he was a party to the cover-up of the theft of the R170m The AG's office replied that Kluever's qualifications and experience comply fully with the requirements of the Constitution, in terms of which he holds office

Kluever's public service culminated in his appointment as AG in January 1993 for a seven-year term His qualifications include honours degrees in economics and political science

Last week, at a media briefing in Pretoria, Maduna claimed that an earlier version of the AG's report on the SFF, prepared by Price Waterhouse, did not mention the R170m — which amounted to an insinuation that the firm could be part of a cover-up For a Minister normally known for his taciturnity, Maduna has started to shoot from the hip — and the NP and Democratic Party were accordingly this week seeking a parliamentary motion of censure

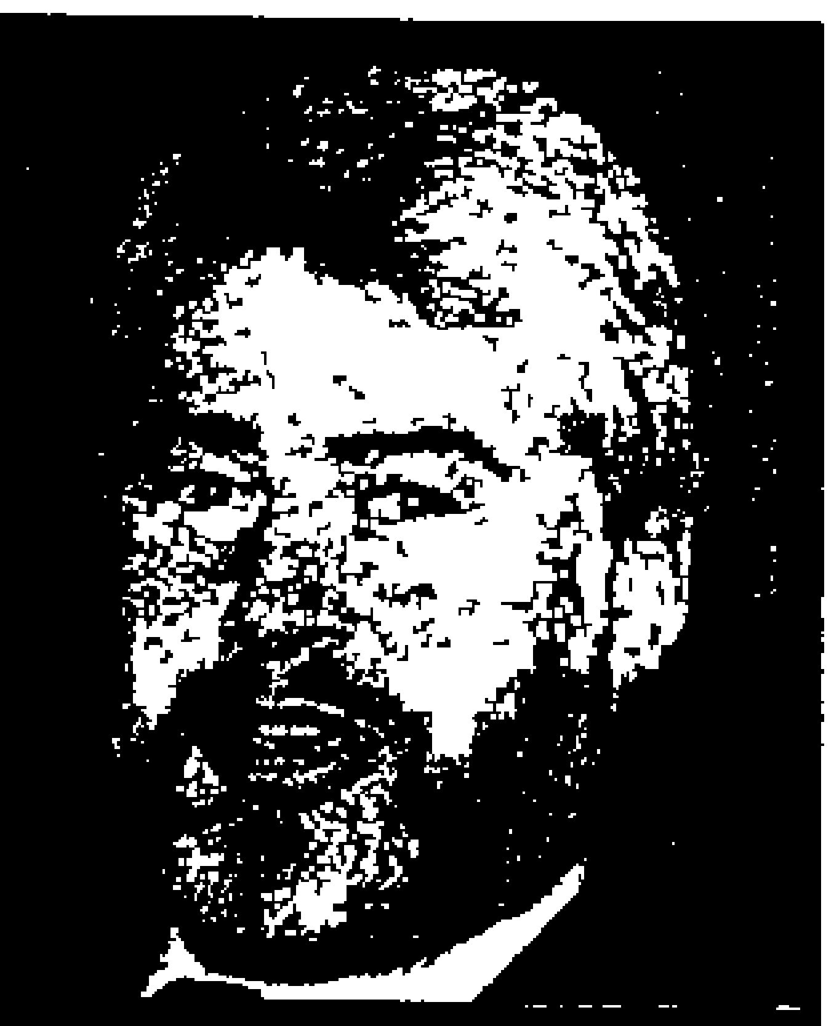
Kluever has indicated he might seek legal redress against Maduna's accusations This might be a positive move, removing personal accusations from the fray and leaving them to the judgment of the courts It is hardly parliament's function to deliberate on matters of alleged defamation

But let there be no doubt Maduna's claims have struck a nerve He may be wrong or incompetent or may not understand the issues — an argument advanced by the National Party's Maans Nel, who shadows Maduna's portfolio But more is at stake symbolism enters, with Kluever, as a representative of the old guard, "a thorn in Maduna's flesh," as Nel adds

This political interface between the old and the new quivers with such tensions That is bad for the climate in which growth-orientated investment largely needs to come from the private sector

[illegible] government's [illegible] programme may have himself gone beyond [illegible] and entered the political process [illegible] vulnerability to political pressure [illegible]

STEVEN FRIEDMAN
Director of the Centre for Policy Studies



The previous government was also reluctant to dismiss Ministers So this government is not worse than its predecessor A Minister is duty-bound not to impugn a public official recklessly But if Maduna is unable to substantiate his allegations, his head must roll

JOHN KANE-BERMAN
Director of the Institute of Race Relations

Indeed, as Jenny Cargill, director of BusinessMap, a business intelligence group, puts it "There is a growing gap between government and business, with the ANC feeling increasingly suspicious towards business This is hardly conducive to achieving economic transformation Therefore, the actions and performance of someone like Maduna counter the chances of success There is a growing feeling within business of the need to establish some form of strategic discussion between business and government But it is not yet clear what form such discussion should take"

Part of the problem is that when a popular Minister — like Maduna — comes to be seen as behaving counter to the "chances of success," a small step into populism can save his political hide As government has shown in its inability to make Nedlac work, repeated accusations of its opponents' agendas helps to cover up the splits and divisions within the ruling party

That party, the ANC, is more than halfway through its term and its commendable long-range economic goals may well be prejudiced by, firstly, tensions within the tripartite alliance which will surface at the party's national congress in December and, secondly, possible voter defections in the 1999 election

The danger is that in such a climate, any objective assessment of the merit or otherwise of Maduna's charges — and of the efficacy of the AG's office — will be compromised by populist feelings That is bad news for business, which, as Cargill says, desperately needs bridges to government and to feel secure from economic recidivism by the ANC

Maduna — consciously or not — may have simply stirred up post-rainbow antagonisms as a means of fighting out of a tight political corner But those antagonisms are real

Peter Wilhelm & Justice Malala

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PENUELL MPAPA MADUNA

## ANC insider leads the charge

**The Minister** of Mineral & Energy Affairs is not widely known outside ANC circles but is close to party leadership

Maduna (45) received a junior law degree from the University of SA and a Masters from Wits University In 1987 he was a visiting scholar of constitutional law at New York's Columbia University

He went into exile in 1980 and became a founder member of the ANC's Department of Legal & Constitutional Affairs He also participated in the earliest meetings with white South Africans and was present at the famous 1987 Dakar meeting He played a key role in drafting the ANC's constitutional guidelines

He was one of the first two ANC officials sent back to SA to launch the "talks about talks" process in 1990

He served as Deputy Home Affairs Minister until taking over at Mineral & Energy Affairs last year

Maduna has survived at least four attempts on his life

He is highly regarded by some within the party for "astuteness" but described by others who knew him in exile as a "political lightweight" and a "nondescript bureaucrat"

Industry sources describe him as "impossible to get to"

Maduna is married and has three children

Justice Malala

(183)

# The oilman in Maduna's corner

M+G 22-28/8/97

**Mungo Soggot**

A man who has shot to prominence as the state's chief oil-trader is a key figure in Minister of Mineral and Energy Affairs Penuell Maduna's ongoing battle with Auditor General Henri Kluever  The confrontation between the minister and the auditor general is fast developing into a constitutional crisis with both sides refusing to back down

Brian Casey, deputy general manager of the Strategic Fuel Fund (SFF), has confirmed that he checked Kluever's credentials the day after the auditor general formally and publicly scorned Maduna's long-running probe into the SFF Casey has become considerably more influential since his boss, Kobus van Zyl, was suspended earlier this year by Maduna

Casey contacted the South African Institute of Chartered Accountants and the Public Accountants Board to ask whether Kluever was a registered accountant  Maduna's camp then used Casey's findings (that Kluever is not) in a blistering personal attack on him

Maduna's decision to use Casey is intriguing given that Casey owes his prominence at the SFF to Maduna's decision in March to suspend Van Zyl. The minister has since then failed to offer the public any evidence against Van Zyl.

Asked why he made the inquiries about Kluever, Casey said from London this week  "I was instructed to establish who was qualified and what qualifications were held by the various parties  One carries out instructions as directed by the relevant authorities "

Casey declined to say who had instructed him, but Maduna's special adviser, Walter Gcabashe, said he did not find it surprising that Casey had made the inquiries  "He [Maduna] could have asked anyone "

Kluever has indicated that he might sue Maduna for defamation and his office was this week instructed by its lawyers not to talk to the press  Kluever has 24 years' experience in state expenditure and was appointed by Parliament

Casey joined the SFF two-and-a-half years ago and was trained by Van Zyl, who has still to be given reasons for his suspension.

In June, Maduna told Parliament of several alleged improprieties his auditors had unearthed at the SFF and accused the auditor general's office and its agent, Price Waterhouse, which checks the SFF's books, of participating in a cover-up  This triggered last week's special report by the auditor general to Parliament

One of Maduna's allegations is that people linked to the SFF lost or stole R170-million in oil  The auditor general and Price Waterhouse say Maduna is referring to a book entry relating to a transfer of oil stocks  They briefed the parliamentary portfolio committee on public accounts on Monday

Casey said  "If anything, mine has been a peacekeeping role, rather  than anything where I would be seen to be assisting to the detriment of any one particular party "

# Zuma's battle of the Bills

(183)

**CYRIL MADLALA**
**Political correspondent**

ST 24/8/99

A SHOWDOWN is looming between the Minister of Health, Dr Nkosazana Zuma, and pharmaceutical manufacturers over three controversial laws she is proposing

The laws were withdrawn from Parliament in June after severe criticism from the industry, the medical profession and opposition parties.

Zuma has resubmitted the Bills to cabinet, which approved certain changes before they were tabled again in Parliament this week.

The three laws are the Medical, Dental and Supplementary Health Services Professions Amendment Bill, the Medicines and Related Substances Control Amendment Bill, and the Pharmacy Amendment Bill.

The Pharmaceutical Manufacturers' Association and opposition parties say the laws do not protect patents. They are also unhappy that Zuma wants to allow the importation of some medicines should they be cheaper.

Inkatha's spokesman for health, Dr Ruth Rabinowitz, says: "She is waging all-out war on the private sector by over-regulating and ignoring patent rights."

The association, which represents 43 multinationals, says infringing patent rights would drive these companies away.

There are also fears that parallel importation would result in a flood of counterfeit medicines.

The director general of health, Dr Olive Shisana, says. "The government has compromised — now it is the industry's turn."

## COMPANIES

# Health care sector reeling in ‘terrible year’

([illegible])(183) BD 27/8/97

**Ingrid Salgado**

THE pharmaceutical and medical sector had a “terrible” year, underperforming the Johannesburg Stock Exchange (JSE) industrial index by nearly 20% since January, analysts said yesterday.

The downward trend was expected to continue, primarily due to uncertainty about the health care legislative environment “The fundamentals are not in the right direction,” UBS Securities analyst Steven Kahanovitz said

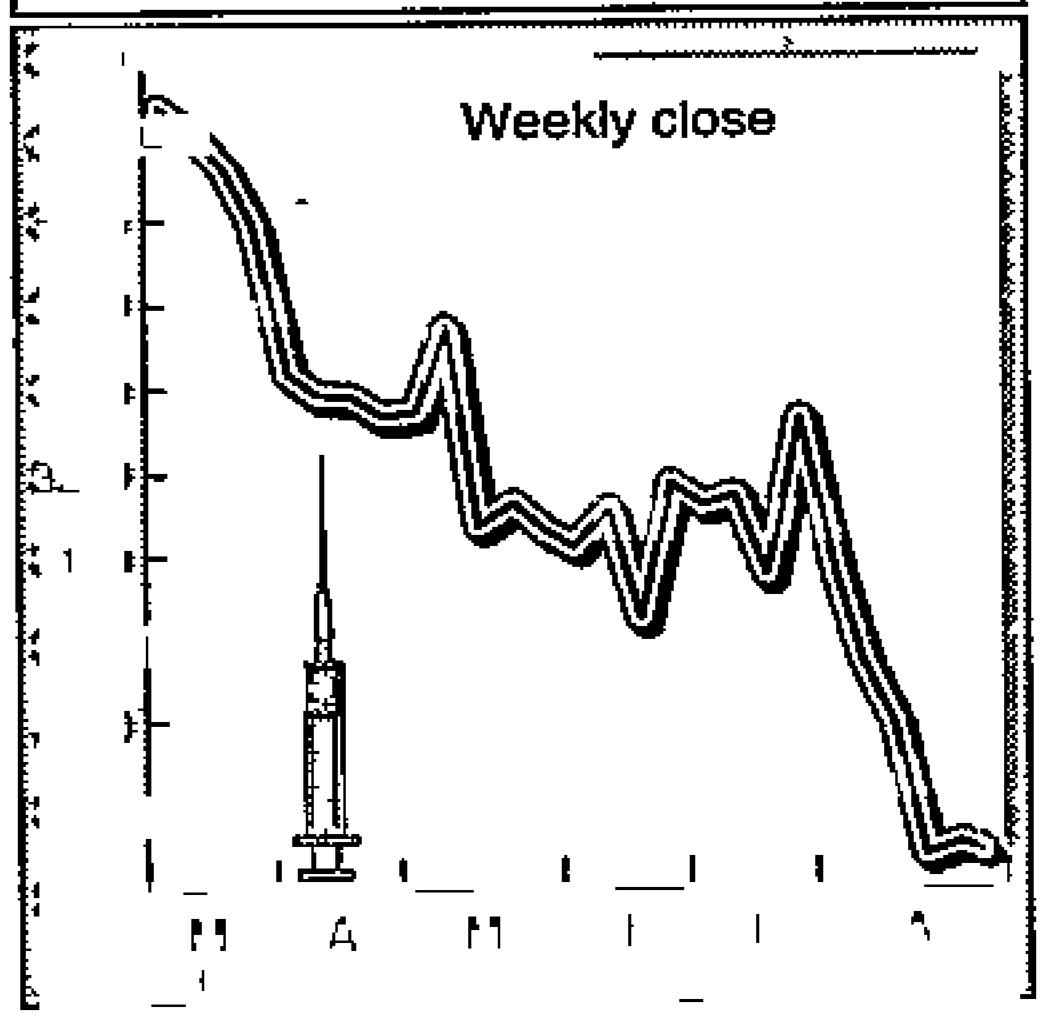
The sector took another knock on the JSE yesterday, losing 4,6 points to close at 2 974,3 points, as most shares lost a portion of their value Analysts pointed out that many of the losses were made on small volumes

The biggest losers in percentage terms were pharmaceutical products company Alliance, which lost 20c to close at 190c, medical and surgical equipment supplier Macmed, which shed 25c to end at 425c, and medical, pharmaceutical and consumer products operation Medhold, 2c lower at 41c

Hospital and surgical equipment supplier Aukland was unchanged at 395c at the close of trade, but took a battering earlier on. Investec Securities analyst Melanie da Costa said there was no fundamental reason why the share price had dropped “It’s probably just following the trend in the sector” Aukland’s results, due in two weeks time, would not disappoint the market, she said

A smaller loser was Netcare, whose share price has fluctuated over the last few weeks after it bought out hospital group Clinic Holdings Netcare ended the day 3,5% lower at 198c

**Pharmaceutical & medical index**



Pharmaceutical heavyweight SA Druggists lost 50c to end at R32 An analyst said this anticipated poor financial year results

Kahanovitz said health care groups were not only going through big changes, but were also in the “painful process” of not knowing what the precise changes were

Zuma’s proposal to allow for the parallel importation of drugs would not affect most firms listed in the sector, he said Multinational pharmaceutical groups would be hardest hit, listed drug firms SA Druggists and Adcock Ingram could also suffer to some extent

Kahanovitz said Zuma’s “bottom line motivation” to reduce health care costs was “sound” Another analyst said there was no reason why medical equipment suppliers ought to be affected by Zuma’s proposals Yet the atmosphere of uncertainty led the market to “always assume the worst”

Exceptions s yesterday were cosmetics group Carson, whose operations were “unrelated” to sectoral activities, analysts said The share gained 20c to R19,30 Medi-Clinic, Medex, Adcock and Presmed shares were unchanged

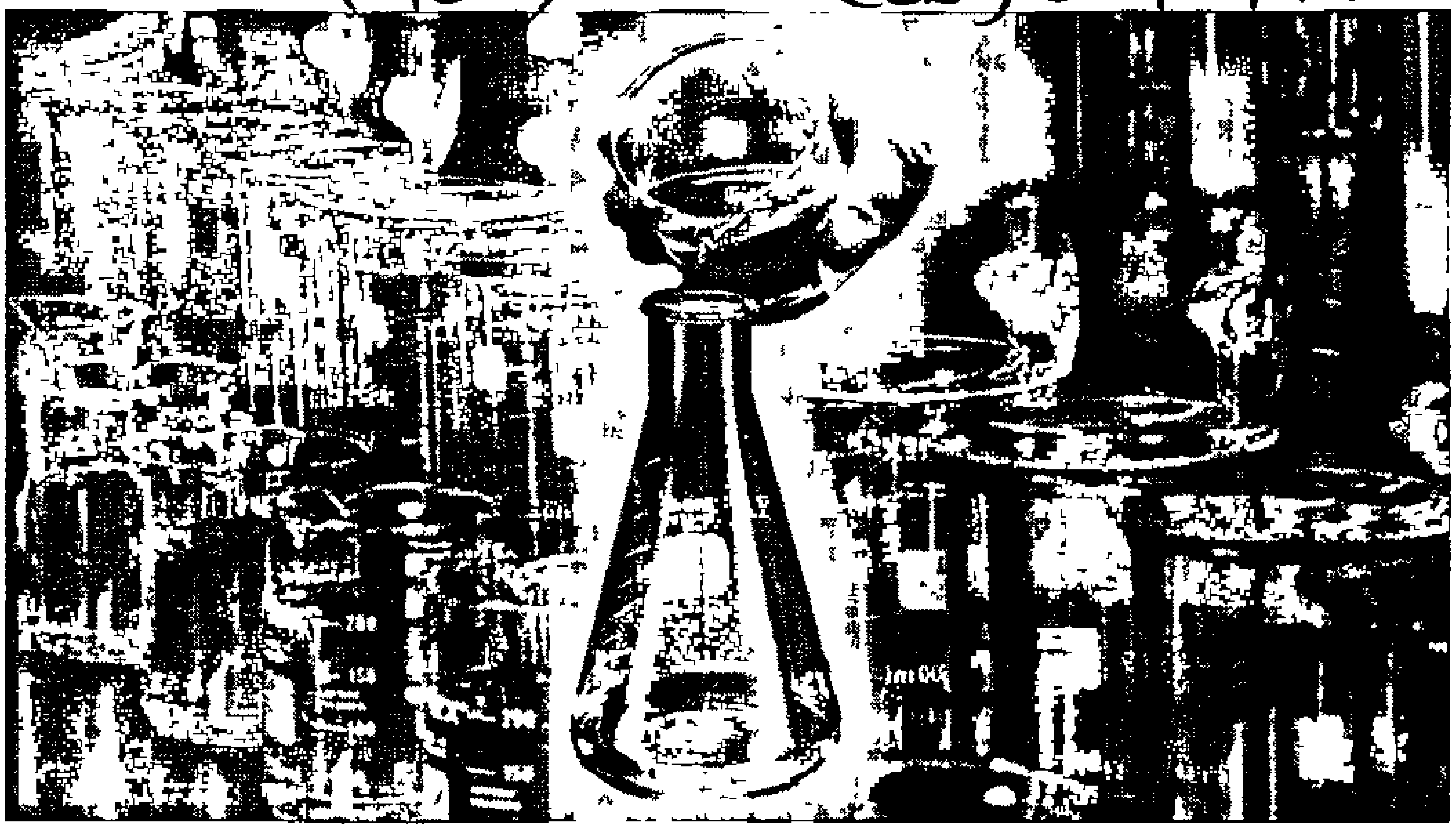
(172)

## SENTRACHEM

# Delaying tactics pay off

(183) CT(BR) 27/8/97

**ANN CROTTY**



Johannesburg — As John Job, Sentrachem's chief executive, walked out of last Friday's meeting with senior Dow executives in Michigan, his Dow counterpart remarked "Look forward to working with you in the future"

Considering Job had been instrumental in adding R247 million to Dow's cost of acquiring 100 percent of Sentrachem, this seemed a generous gesture.

The more so as analysts had speculated that Job's position and that of some of his senior colleagues were likely to be on the line in the event of a successful bid by Dow In typical American style it was felt that someone would have to take the rap for Sentrachem's appalling performance in recent years. And as Dow appeared keen to get 100 percent of Sentrachem, Dow would want to put its own stamp on the company — and put in on with vigour.

FS /

Given that Dow is one of the most highly regarded companies in the global chemical industry — it is used by Sentrachem in benchmarking exercises — analysts believed the closer the involvement by Dow executives the better for Sentrachem

But as another member of the South African negotiating team remarked "Whatever Dow's views were to begin with, Job conducted tough negotiations and has probably gained their respect."

Job doesn't use the term negotiate, preferring instead to use the rather strange American-sounding phrase: "We dialogued them"

"From the time they formally issued the first offer the Sentrachem board had two weeks to consider the position. During this period we assumed a dialogue with them." As Job explains, it is difficult to use the term negotiate when the only negotiating factor the board had was its recommendation to shareholders.

In terms of the Securities Regulation Code, the Sentrachem board was obliged to "circulate its views on the offer" within two weeks "The board's recommendation was the only card it could play," said Job, who added that there were a tremendous number of things happening in the two week period

The board had to look at the offer in terms of its own recovery plans for the group, it had to reach a consensus view (two Sankorp directors had excluded themselves from the process because of a conflict of interest), and it had to consider the likelihood of other parties being interested With all these factors in play Job said the best tactic was to use all the time available.

The board had come in for some criticism for not making its recommendation earlier and leaving shareholders without direction for a crucial period of the process It has to be said that the response document issued on Monday could have been knocked off in a matter of hours which means the two-week delay was a tactical one. As it happens, it was a successful one.

During this period there were reasonably firm indications that other parties were interested One was apparently interested in a full bid, another appears to have only been interested in getting hold of Old Mutual's 16 to 20 percent stake, presumably to use as a negotiating ploy with Dow

Old Mutual's decision not to accept R12 a share for its stake and instead try and improve the Dow offer was instrumental in securing the higher offer for all shareholders. This magnaminity cost Old Mutual about R8 million but should be seen in the context of an environment in which the big local players regularly bump up against each other and in which some relationships are worth not squeezing the last cent out of a deal. And no doubt, if Old Mutual had been unable to get satisfaction from Dow, the R12 offer was still on its horizon.

It was probably fortunate for the Sentrachem board the issue was resolved when it was The five-page response document sent to shareholders on Monday did not contain much that would have encouraged shareholders to stick with Sentrachem as it was. The board's strongest argument was that the initial Dow offer did not "adequately represent the value of Sentrachem's businesses nor contain an appropriate premium for control"

(183)

☐ Oil

## Sasol explains fuel figure discrepancy

Sasol yesterday said the bulk of its oil imports came from Kuwait under long term supply contracts, making up the difference between oil import figures published by members of the South African Petroleum Industry Association (Sapia) and those published by Kuwait. Last week Sapia released figures indicating its members had imported 2,86 million tons of crude oil from Kuwait last year. But the Kuwait Petroleum Corporation said its exports to South Africa the [illegible] 0 percent higher during the period. Sasol confirmed it was a large importer of Kuwaiti crude and had recently renewed a long term supply contract with Kuwaiti pro [illegible] al Johannesburg

CT (BR) 28/8/97

# Maduna's approach may spell a slide towards a typical African one-party state

(183) BO 28/8/97

As the row over the Central Energy Fund rages, the Democratic Party's **Kobus Jordaan** provides some background to a man at its centre — Mineral and Energy Minister Penuell Maduna

GOT to know Penuell Maduna about 25 ars ago as an extremely bright and ar- ulate SA Students' Organisation activist uring my lecturing days at the University Zululand.

His passion for boxing came through in e fancy footwork and shadow boxing of any fiery speeches — a trait he has rpetuated since he moved to Parliament 1994

When he was appointed mineral and ergy affairs minister it was crucial that did some serious "boxing" regarding the ultibillion-rand industries that became s responsibility

He already had on his table a consensus aft minerals policy, a well-advanced ergy white paper and a recommendation om the International Energy Agency that ost of the functions of the Central Energy und (CEF) be scrapped on the grounds at they were wasteful and obsolete

Early in February, I was informed by an tremely reliable source that Maduna had id he had irrefutable evidence the NP vernment had channelled millions of nds into secret bank accounts locally and erseas

He subsequently denied these allega- ons, and I accept his denial

I, as the Democratic Party spokesman on inerals and energy, decided that the best ay of pursuing the matter was through the rtfolio committee on minerals and ergy

On March 12 the committee was briefed by all stakeholders falling under Maduna's jurisdiction — except the CEF At that meeting and on numerous other occasions, I reiterated my request for information. The committee was eventually briefed by the fund on May 21 — the day of the debate on Maduna's vote in Parliament.

In the meantime, Maduna virtually disappeared underground.

The committee never saw him and from all sources in the industry one heard rumours of him being the "most inaccessible minister of all time"

He surfaced a few times and then only to drop a bombshell or two

☐ At the end of March he suspended Kobus van Zyl, GM of the fund, pending the outcome of an internal audit he had requested in February; and

☐ Early in May he was reported to have launched a scathing attack on multinational oil companies operating in SA, accusing them of transfer pricing and maintaining a stranglehold on the domestic oil industry The result of these pronouncements was that the share prices of local oil companies plummeted

A couple of days later, in a reply to a DP question, he said. "I plan to appoint a multidisciplinary and expert planning group in the near future and (to) develop a government position for discussion with major stakeholders "

Since pronouncements like some of the above run contrary to government's growth, employment and redistribution strategy, and can only do damage to the economy, I decided that the hour had come to flush Maduna out

MADUNA

After his marathon maiden speech which included reference to, inter alia, a stronger government involvement in the oil industry and the possibility of major intervention regarding mineral rights, I, knowing him, threw out a bait — which he eagerly took.

In his reply (May 21), he volunteered information about a handwritten letter "from a person, whose name I will give to this House whenever I am pressurised to do so, by someone called Roy dated 24 October 1994" Maduna then made reference to the Salem affair, the nonreflection in the books of the CEF and that this was only one of many letters he had "captured"

I then decided that the best way to "pressurise" Maduna in the House of Assembly was through a question to the deputy president, and to inquire whether he had been informed, whether he would be prepared to make names public, etc

On June 18 Maduna replied himself and the gist of his reply was

☐ Theft of R170m took place (We can now see what lay behind the fig leaf, ie the theft of R170m of stock),

☐ Overpayment for Egyptian crude,

☐ The auditor-general did not do his work properly and Maduna "as a humble Bantu, could not rely on them"

In a special report to Parliament, the auditor-general categorically stated that "we have been unable to identify any cases where we have failed to any material extent to do our duty to Parliament in relation to matters raised by minister Maduna"

On his return from overseas last week, Maduna made a vehement attack on the auditor-general, accused him of flagrantly violating the law, and also questioned his qualifications

It is clear that Maduna has flagrantly ignored the provision of clause 181 of the constitution which inter alia states that state institutions which support constitutional democracy — such as the auditor-general — should be protected by other organs of state and that no person or organ of state may interfere with them.

From all the above, it is clear that Maduna does not trust the auditor-general and his office

Such a situation cannot be tolerated in our young democracy It is crucial that Parliament must ensure that the truth is established as soon as possible, and once that is done, ensure the necessary disciplinary steps are taken without fear or favour

If this approach by Maduna is a symptom of the African National Congress trying to maintain itself by means of improper interference and control of independent institutions, it spells the end of democracy and a slide towards a typical African one-party state

☐ *Jordaan is an MP and DP spokesman on mineral and energy affairs*

# ‘Petronas is a shining example for SA’

BD 28/8/97 (183)

**Samantha Sharpe**

CAPE TOWN — SA should welcome Malaysian state-owned oil company Petronas as a shining example of what could be achieved through the restructuring of state assets, Minerals and Energy Minister Penuell Maduna said yesterday

He said at the official opening of Petronas’s Cape Town offices that the Malaysian company’s formation by an act of parliament and subsequent strong financial performance showed the potential for SA

Maduna said Petronas’s decision to invest in SA through its acquisition of a 30% stake in energy company Engen was evidence that an oil giant could be led by people other than white males

Meanwhile, Petronas chairman Azizan Zainul Abidin said the group had targeted SA as a main centre of its global activity He said Engen gave the group a strategic alliance committed to developing SA’s petroleum industry

# Iscor surprises with steely performance

**David McKay** BD 28/8/97

IRON and steel producer Iscor exceeded analysts' forecasts of 11c-14c headline share earnings for the 12 months to June, posting a figure of 15,2c against 25c a year earlier

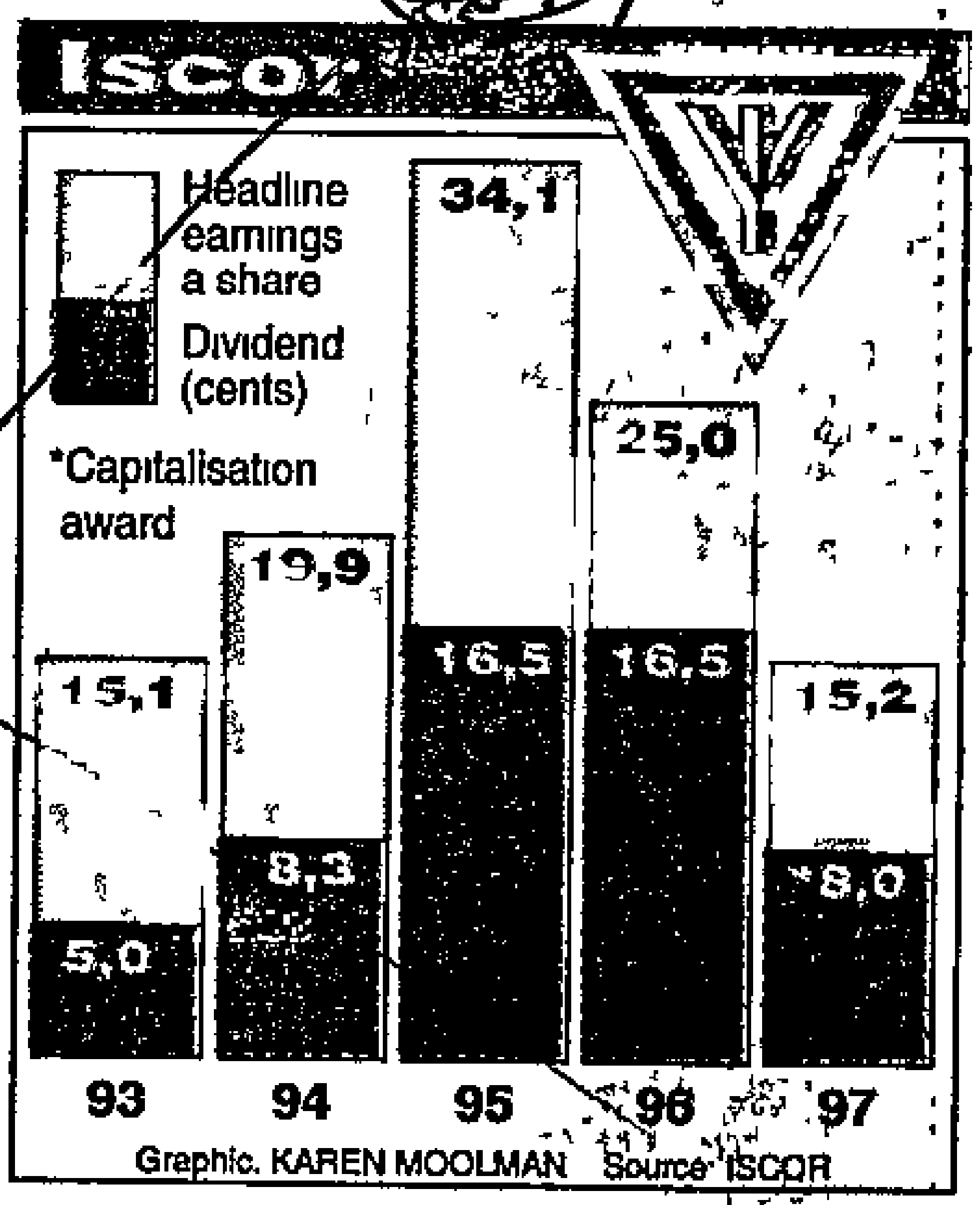
Analysts questioned whether the company had finally put its production and financial woes behind it

Executive chairman Hans Smith said an outstanding performance at the Vanderbijlpark works in the last part of the year accounted for the higher than forecast earnings

The current year's results would be better as losses from the Pretoria works had been staunched In addition, output at the Vanderbijlpark works had stablilised.

He said the Sishen-Saldanha railway link, where bottlenecks had held Iscor's iron ore exports back in the past, had been eased.

Smith said lower iron ore exports, production interruptions at Vanderbijlpark and weaker steel markets, had caused Iscor's net operating income to drop 21% in the period.



Graphic. KAREN MOOLMAN Source: ISCOR

"The year had been more difficult than expected," he said.

Iscor's steel division suffered a two-thirds drop in net operating income

Continued on Page 2

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# Maduna to be asked for clarity on policy

**Linda Ensor** (183) BD 28/8/97

CAPE TOWN — Parliament's mineral and energy affairs committee, concerned at a lack of communication from Mineral and Energy Minister Penuell Maduna, would call him to give clarity on policy and explain issues arising from his budget vote, the committee decided yesterday.

The committee was seriously concerned that Maduna had not yet already done so, and felt it imperative that the minister — who has also long been sought by industry leaders for interviews — brief it.

Committee chairman Duma Nkosi was given a mandate to seek an interview with Maduna to impress upon him the seriousness with which the committee viewed the matter.

Meanwhile, the public enterprises committee has held closed briefings over the past week to discuss political

Continued on Page 2

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# Maduna

BD 28/8/97

Continued from Page 1 (183)

conflicts between ministers over the control of public enterprises Sources said the conflicts were having a detrimental effect on their performances.

For example, Denel was being "run into the ground" because of the conflicting policies imposed by the ministers of public enterprises, defence and trade and industry. Conflicts between the transport department and public enterprises over management of the air industry had been detrimental to the sale of SA Airways

Management needed to have clear lines of authority and policy The way forward, the source said, was to hold public hearings with directors-general on how to synchronise policy development without involving management of the public enterprises

"The regulators must be separate from the entities One cannot interfere with the management and administration of a parastatal by using policy as an instrument"

See Page 18

# Fuel producers stretch capacity

(183)

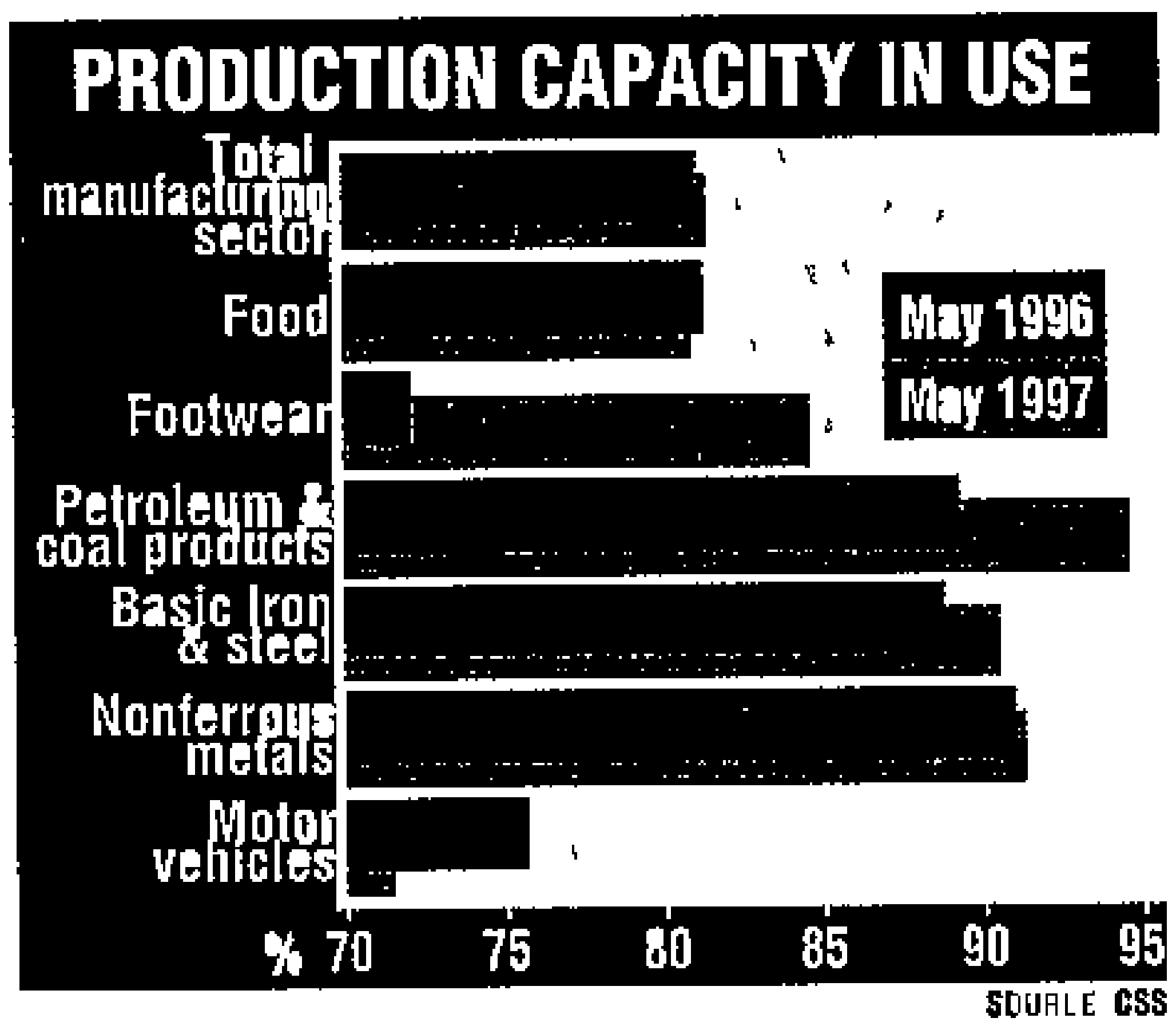
They're using 95% of their resources

FM 29/8/97

**Manufacturers**, overall, don't seem to be using much more of their production capacity than they were this time last year Capacity utilisation for the three months to May 1997 was 81,3%, compared with 80,7% for that period last year

In May 1995, 57,2% of the capacity that stood idle was unused because of insufficient demand for manufactures This year, the figure was 66,3% It suggests there's little threat of demand-driven inflation

But some sectors are under more pressure than others Econometrix's Tony Twine warns the 94,5% utilisation of petroleum & coal manufacturing capacity is "uncomfortably high, even though we're not seeing much growth in automotive fuel demand" He says unless government makes "a fairly rapid decision" on restructuring the petroleum industry, the economy could face a serious capacity constraint in two to three years


PRODUCTION CAPACITY IN USE

SOURCE CSS

On the other hand, motor industry capacity use was down to 71,4% in May, from 78,1% in November New vehicle sales volumes were mildly positive during the year to May, so Twine attributes the trend to changes in demand for locally manufactured parts For example, there was a "bulge" in motor industry capacity utilisation at the end of last year, possibly caused by the buildup to the launch of the new Toyota Corolla

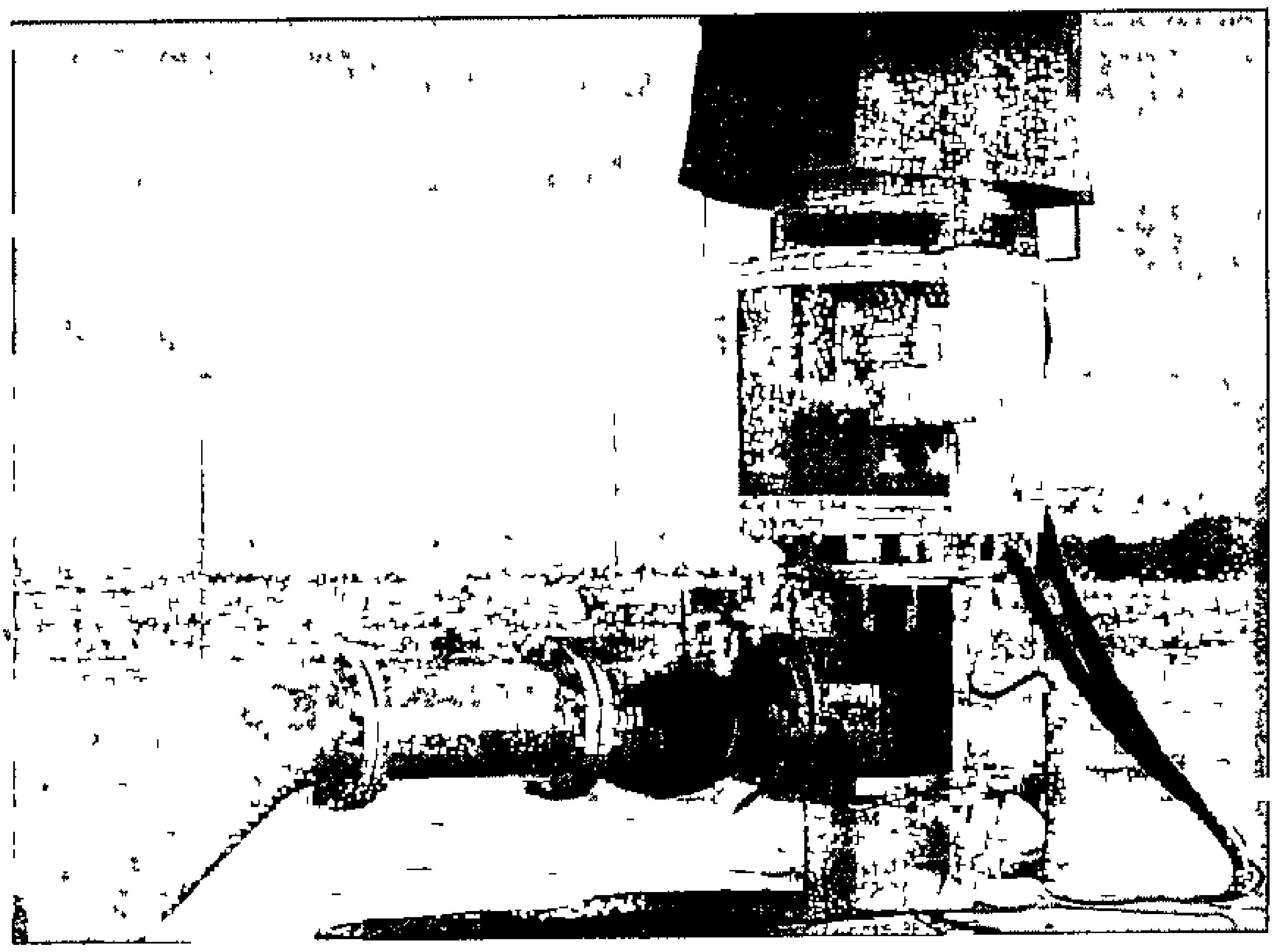
The surge in footwear is hard to explain, but it could signal better competitiveness The Central Statistical Service suggests producers, who complained of competition from cheap exports in May 1996, may have adapted their goods to the market ■

# Oil ministry in troubled waters

(183)

M+G 29/8-4/9/97

*It's the minister vs the auditor general.* **Mungo Soggot** *describes the background to their conflict*



**Underground business Past transactions seem to be at the root of the present conflict, including the sale of oil from this Ogies storage facility**

The job of securing oil for South Africa during the apartheid years gave enormous power to the men who ran the Strategic Fuel Fund (SFF) They worked with the security establishment, were licensed to engage in secret deals involving billions of rands, and reported to a Cabinet minister who sat on the all powerful State Security Council

These men were also paid to heed the whims of oil merchants willing to break the boycott Kobus van Zyl, the general manager of the SFF, once had to accompany several ostriches on a sheikh s Gulfstream jet bound for Oman The sheikh, who was offering oil to South Africa, wanted ostriches, and Van Zyl dutifully complied Such commitment had its drawbacks "They kept shitting all over the plane," recalled Van Zyl

The job also provided an ideal backdrop for skullduggery Over the past four years, however, the SFF has changed dramatically It has been transformed into a normal company, with a strong emphasis on full disclosure and sound accounting

It is part of the Central Energy Fund (CEF), the holding company for the state's oil assets which now publishes annual financial results

The changes were pushed through by Roy Pithey, who retired as chair this year Pithey is highly respected in the South African petrochemical industry The SFF has gradually turned into a commercial oil trading operation, using the massive storage tanks at Saldanha Bay and its trading unit in Sandton Last year it turned in a profit of R220-million

But in March this year it all came to an end at least as far as Van Zyl was concerned The Minister of Minerals and Energy Penuell Maduna, decided he had found enough dirt on the burly oil man and suspended him on "probable cause". Maduna had a few weeks earlier recruited a team of private auditors, Ntsaluba Nkonki Sizwe, to peruse the SFF's accounts. Maduna used the firm's preliminary findings — six weeks' work — to justify ousting Van Zyl.

From the start there has been scepticism about the "preliminary findings", especially as Van Zyl has yet to be officially told why he was suspended. The allegations are there, but so far the minister has revealed neither motive nor witnesses nor a body

Maduna and his advisers have shrugged off such scepticism, unveiling yet more alleged irregularities But in pursuing this strategy, Maduna has met an adversary far better armed than Van Zyl to fight back he is now engaged in a full blown brawl with Auditor General Henri Kluever

Kluever audits the SFF s books with the international accounting firm, Price Waterhouse So when Maduna started raising points about the SFF's accounts, questions followed about Kluever's work In a special report to Parliament Kluever cursorily dismissed three allegations of financial impropriety which Maduna has levelled at the SFF (see accompanying story)

The minister, who has excluded Kluever's office from his investigation, has accused the finance watchdog of participating in a cover-up of impropriety If Maduna is right — and there has been roguery on a grand scale in the state's oil business — it will be acutely embarrassing for Kluever One private-sector auditor, who has worked closely with Kluever's office, says its legalistic approach sometime s meant it was glad not to peer into areas guarded by secrecy legislation

This could provide Maduna with his opening The auditor general's defence of the extraordinary allegation that he helped hide the theft of R170-million of oil was also a touch hamfisted and confusing in his special report

On the other hand, the cards seem stacked against Maduna, who has even resorted to dispatching one of Van Zyl s underlings at the SFF to investigate Kluever s qualifications If the minister is wrong it will be an example of ministerial incompetence rivalling the Sarafina affair

The minister s motivation and parameters for his probe are unclear While he publicly ousted Van Zyl, he has not pursued any of the members of the SFF board who authorised such oil deals. Maduna s auditors only contacted Van Zyl's superiors after his suspension and his office has conceded that there is no evidence that Van Zyl gained personally

Maduna has also concentrated on examining the commissions paid in oil deals — instead of asking more fundamental questions about how to manage South Africa's strategic stockpile and its energy-import vulnerability

If Maduna did ask such questions he would probably be forced to conclude that there remains little need for the SFF This would not fit in with his plans for a large South African oil company and rob his department of a vital source of revenue

And if Maduna's probe is about purging wayward management in the state oil business it is surprising that, as a lawyer, he has not been more methodical When pressed, he has made his allegations but has yet to commit any of them to paper His office has also been uncomfortable discussing when the probe will be wrapped up

Some believe the minister has developed a reputation for intolerance where the old guard is concerned and these analysts believe it possible that he has merely embarked on a witch hunt Whatever he initially intended his probe has ended up providing the setting for a constitutional battle Kluever is protected from attack by other organs of government. The Constitution stipulates that a two thirds majority in Parliament is needed to oust him Opposition parties fought hard for this provision when the Constitution was being certified by the Constitutional Court For as a key watchdog body, the auditor general is a vital check against untrammelled ANC rule

Maduna's party has so far not questioned his judgment One ANC MP agreed there was an unfortunate racial twist to the fight with Kluever She said Maduna and his auditors had been angered by the reference to "struggle accountants ' made in the *Mail & Guardian*'s Krisjan Lemmer column, and said this should be borne in mind when assessing his antagonism towards Kluever

Parliament has passed a motion that public protector Selby Baqwa will investigate the SFF and Kluever s performance choosing not to refer the matter to the portfolio committee on public accounts chaired by the Democratic Party s Ken Andrew

Kluever has publicly said he welcomes Baqwa's intervention Maduna s office insists that Ntsaluba Nkonki Sizwe s report originally due out in May has been completed and will soon be presented to the president's office The report is rumoured to be 700 pages long

Back at the SFF, which also manages the huge oil storage tanks at Saldanha Bay and Ogies, the oil trading division that Van Zyl headed, has lost two of its four traders to international firms in an atmosphere of declining morale

Considering Maduna s lack of progress on virtually all aspects of his portfolio it is surprising that even if he has a case he did not pass the task of investigating apartheid oil trading to the truth commission

Van Zyl meanwhile, is sitting at home wondering what he did wrong He might have expected such treatment from ostriches, but not from his political masters

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# Accusations of an angry minister

(183) M+G 29/8-4/9/97

Minister of Minerals and Energy Penuell Maduna has listed three specific allegations in Parliament at the Strategic Fuel Fund (SFF) and its suspended general manager Kobus van Zyl

● In Parliament in June Maduna said that SFF officials had participated in the theft of R170-million of crude oil He said he had discovered a letter from Price Waterhouse which audits the SFF's books, referring to the loss of R170 million

The minister was adamant he had discovered a major swindle "They will have to say how, short of a big fire, they lost stock to the tune of R170 million," he told Parliament

It beggars belief that if R170-million in oil was spirited away, Price Waterhouse would have calmly referred to it in a note It is more likely that Maduna was referring to a book entry SFF officials say that the oil in question was sold off from the Ogies storage tanks where the SFF has gradually wound down its strategic stockpile The proceeds were used to buy oil that was housed at Saldanha Bay.

That oil was initially valued at its purchase price but then re-valued at the much lower cost of the Ogies oil it replaced. The Ogies oil had been bought [illegible] years earlier

All in all it was what the auditor general described to the media as a conservative accounting policy But in the special report to Parliament the auditor general offers an obscure explanation the "loss was merely the final result of various complex calculations leading to bookkeeping entries that were recorded in order to implement the change in accounting policy"

● When Van Zyl was suspended in March, the ministry said it was investigating two contracts to buy oil from Egypt Both contracts involved a "middleman ' oil trading company called Interstate which arranged the deal with the Egyptian General Petroleum Company Interstate received a commission for its work, but as Kluever pointed out in Parliament, also paid the SFF a commission for each barrel of oil it used from the deal.

Commissions are commonplace in the international oil business. In a 1992 contract, the SFF paid 6c for each barrel of oil it received, and Interstate paid SFF 5c per barrel of oil it obtained from the deal with the Egyptians

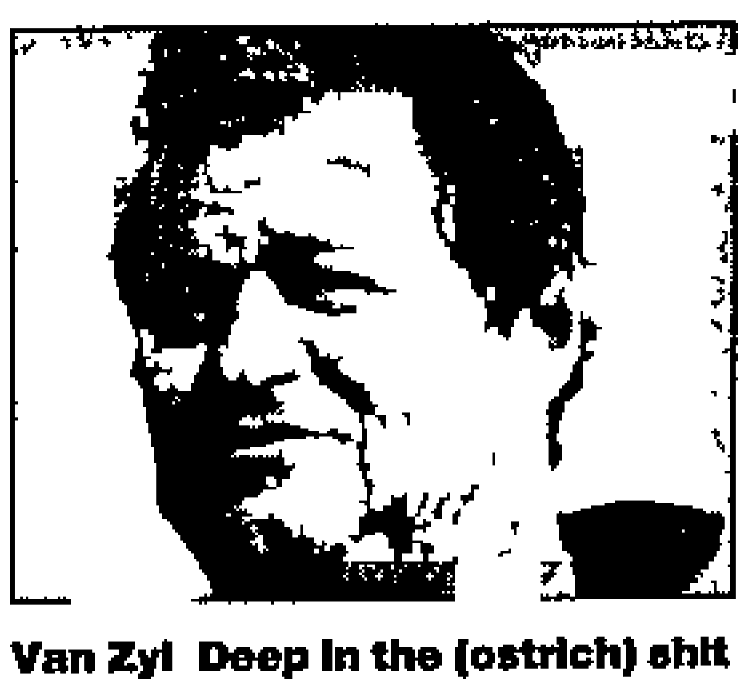
In 1996 the contract was renegotiated on the same terms apart from an extra 1,5c premium paid by the SFF This was built into the new contract because the Egyptians were running low on the type of crude oil the SFF wanted, SFF officials say

Maduna told Parliament "They will have to say why they paid 7,5 c to certain people when these monies were not due and payable "

The minister has never said that Van Zyl, or anyone else, stole any of the money He has also avoided saying the SFF received a commission from Interstate

● Maduna has also referred to an October 1994 letter from Van Zyl to Roy Pithey, former chair of the Central Energy Fund, in which Van Zyl suggested that the nature of a R6,8-million payment from Shell be kept secret The money stemmed from an insurance payment made to Shell in 1994 to compensate it for the sinking of one of its ships in 1980 Before it sank, the ship had been stolen by rogues who off loaded the crude oil in Durban to the SFF

The SFF had to reimburse Shell when it emerged that it had bought the company's stolen oil. When Shell was finally paid out by insurance in 1994 it reimbursed the SFF Maduna questioned the need for secrecy which was standard practice at the SFF, referring to Van Zyl's words "We again agreed on secrecy "



**Van Zyl Deep in the (ostrich) shit**

**ENERGY** *Call for state co-operation*

# Maduna looks to private sector for integration

CT(BR) 29/8/97 (183)

**CHRISTO VOLSCHENK**

ECONOMICS EDITOR

Cape Town — Penuell Maduna, the mineral and energy affairs minister, said this week he wanted the integrated state energy company, currently being formed from the existing state energy assets, to work closely with the private sector

"We want a vibrant relationship between the new state company and the private sector to unlock the value of the state's existing asset base for the benefit of the whole community," he said

In his maiden speech to parliament earlier this year, Maduna said the government would create an "integrated energy company" out of its assets in the Central Energy Fund (which includes Mossgas, Soekor and the Strategic Fuel Fund) and the state-owned energy assets controlled by other state entities

•The integrated company could later be listed and a minority share be used for black economic empowerment, he said

This week Maduna said the process of deciding how to consolidate all the state's energy interests into a single energy company was "making slow progress"

"Officials in the department of minerals and energy are investigating the options, and in November Soekor's board will also present its view of how it should be done," he said

One option would be to form a holding company with subsidiaries to hold the different interests, he said

"Some energy interests of the state are a drain on the fiscus We want to turn them into well-managed entities which can hold their own against private sector competition and operate independently of the state's purse strings"

He said South Africa could learn a lot from Petronas, Malaysia's state-owned energy company He said the professionally managed group was profitable and did not rely on the state to keep it afloat

However, Maduna said "Petronas might be a model to learn from but might not be the best example to copy We have our own circumstances and should develop our own approach"

Another decision that had to be taken was whether the state energy company should be involved in upstream and downstream activities

Maduna said black economic empowerment was not the main reason for restructuring the energy interests into a single entity, but was an important spin-off

"We are investigating how the private sector could be pulled in to work with the state company and the chosen model will be taken to cabinet for approval," Maduna said

# Public spotlight falls on controversial health bills

CT 2/9/97 (183)

**CARNITA ERNEST**

THE Portfolio Committee on Health will hold public hearings on three bills this month. They are the Medical, Dental and Supplementary Health Service Professions Amendment Bill, the Pharmacy Amendment Bill, and the Medicines and Related Substances Control Amendment Bill

The three bills deal with issues relating to the implementation of the National Drug Policy and the reformulation of the Medical and Dental Council and the Pharmacy Council

The bills were originally tabled in May, but because of concerns raised during the committee hearings the Minister of Health withdrew them from Parliament in June In particular, concerns about the procedures followed by the Department of Health were raised by all three councils, who stated their displeasure at not being consulted on the final versions which were tabled in Parliament

The Portfolio Committee, after it heard inputs from the department and the council, requested the department to meet with the Interim Pharmacy Council and the Medicines Control Council, in order to resolve the impasse.

Improvements to the bills relate to technical and legal aspects This is particularly the situation with the Pharmacy Amendment Bill and the Medicines and Related Substance Control Amendment Bill As a result of comments made at the public hearings in June, additional changes have also been incorporated The fundamental principles underlying the bills remain unchanged.

The Medical Dental and Supplementary Health Services Professions Amendment Bill allows for increased representation of persons elected by the Committee of University Principals and the Committee of Technikon Principals Another new addition is a clause providing for community service The powers to regulate community service is vested in the minister

This clause was included as a result of the huge outcry related to vocational training proposed by the Interim National Medical and Dental Council (INMDC) Previous proposals for vocational training are currently being investigated and might be drafted into future regulations.

During the public hearings in June regarding the Pharmacy Amendment Bill there was much debate around the issue of ownership of pharmacies, especially in relation to the legal and practical ramifications. The current bill has improved the wording of the clause relating to ownership, allowing the minister to prescribe who may own a pharmacy

The Medicines and Related Substances Control Amendment Bill still provides for parallel importation, "generic substitution", and the prohibition of bonusing and sampling To minimise the possibility of differing interpretations, definitions of technical terms have tightened. Under the new provisions, parallel imported drugs will have to be registered to ensure their safety and quality This resulted from the concern raised at the public hearings about the possible importation of poor quality drugs as well as possible violation of intellectual property rights In relation to intellectual property rights, the clause which prohibited the use of "brand names" in state tendering procedures has been removed from the current bill

As can be expected, when dramatic policy changes are being proposed, this health legislation has been surrounded by controversy It is particularly troubling that major stakeholders such as the relevant statutory councils and medical interns complained to the portfolio committee that they had not been sufficiently consulted by the department before the earlier amendment bills were introduced In contrast, concerted efforts have been made to increase public involvement in the legislative process by the Portfolio Committee on Health.

Unfortunately the National Department of Health has not achieved sufficient consensus before submitting its proposals to Parliament. It is hoped that this experience would point to the critical need for thorough consultation before legislation is processed

The question still remains, however, whether the Department will secure greater ownership of its policies and legislation before they are finalised. The issue of community service also sticks out.

❑ *Carnita Ernest is a research intern with the National Progressive Primary Health Care Network (NPPHCN)*

**COMPILED BY IDASA'S POLITCAL INFORMATION AND MONITORING**

# Mossgas costs R1,2bn

(183) BD 1/9/97

[illegible] of R1,2bn in [illegible] production in 1992, according to Mineral and Energy Affairs Minister Penuell Maduna.

In a written reply to a question in Parliament on Friday he said that the money comprised tariff protection and synthetic fuel product price compensation payment.

The cabinet also approved in February last year guarantees to the amount of R910m for the development of satellite gas fields, said Maduna.

In recent years the venture has been criticised as a "white elephant", with calls for government to halt its subsidies.

The government has previously attempted to sell off Mossgas, but a lack of interest from the private sector and [illegible] government departments over the project [illegible] apparently [illegible] the attempt. — Reuter.

ANALYSIS

# Long-term view a must for fuels policy revamp

Mineral and Energy Minister Penuell Maduna is right to question SA's liquid fuels policy, argue **Riaz Jawoodeen** and **Sulaiman Said**

BD 3|9|97

(183)

THERE has been a recent flurry of articles in the media related to minerals and energy policy and the investigation of the Strategic Fuels Fund. During the debate the real issues have become obscured for party political reasons

The article by Kobus Jordaan (Maduna's approach may spell a slide towards a typical African one-party state, Business Day, August 28) is both perplexing and misleading Its point of departure is irrelevant as the minister's personal knowledge is not important to policy matters

Jordaan suggests that the new minister had a ready-made package in the form of "a consensus draft minerals policy, a well advanced energy white paper and a recommendation from the International Energy Agency that most of the functions of the Central Energy Fund (CEF) be scrapped on the grounds that they were wasteful and obsolete"

The "consensus" draft minerals policy proposed the concept of dual ownership rights The objection to this concept by the new minister is that the "consensus" excluded black participation and this was raised during the budget speech.

Monopoly ownership of mineral rights allows, ad infinitum, for vast areas to remain unexplored and underdeveloped, preventing any free economic activity occurring, especially among historically disadvantaged communities

It would serve Jordaan well to read the five pages on liquid fuel policy in this "well advanced energy white paper" This section of the white paper discloses that the editorial committee failed to address key policy issues

The major deficiencies of the white paper dealing with liquid fuels are

☐ It remains trapped in the ideology of apartheid This is emphasised by the fine-tuning of existing apartheid regulations as well as the fact that it does not address the issue of deregulation from apartheid regulations It is basically a racist document as it upholds the status quo of the past,

☐ It displays little coherence in its proposals and depends on loose agreements in its expectation of a market-based and competitive liquid fuels industry;

☐ The draft effectively encourages the exclusion of new players while pretending to change the basis for the entry of new players This would discourage new investment and confine new black players to a marginalised role, and

☐ The transitional phase in the restructuring process achieved the most stakeholder consensus Yet the draft white paper fails to arrive at a programme reflecting the transitional phase

It is in this light that Maduna rejected important sections of the "well advanced white paper"

Jordaan states that the portfolio committee met the CEF In that meeting questions posed by MPs to the CEF were of a historical and administrative nature

At no stage did any member raise the suspension of Van Zyl, or what vision the CEF had as a state utility in a new SA. These are the questions that the country expects to be raised in the portfolio committee Yet Jordaan chooses the media above the portfolio committee to suggest that most functions of the CEF be scrapped.

The International Energy Agency (IEA) report is caricatured by Jordaan The report does not suggest that most CEF functions be scrapped. The report recommends restructuring and privatisation of state assets

It is also perplexing that a ministerial suggestion to form a multidisciplinary task group to develop government policy options runs contrary to the Growth, Employment and Redistribution strategy The opposite is true, in that a truly visionary white paper produced by a specialist task team could ensure government fiscal savings

There should be no principled objection to any party exposing corruption via overpayment for Egyptian crude, or a lack of proper accounting practice for the reporting of financial losses of public companies to Parliament, or corruption in the form of recoveries concerning the Salem oil deal fiasco of the former government

However, it is dishonest for a member of Parliament to suggest that the share prices of the local oil companies plunged because of the minister's criticism of the multinational oil companies The minister's remarks about the multinational oil companies had no direct bearing on the share prices of local oil companies

Out of the 10 oil companies operating in SA, only two local oil companies are listed The share of one company has been unaffected. The fall in the share price of the other oil firm occurred through investment issues like profitability and refining operations This share price has since increased

It is equally misleading for an MP to suggest it was the minister who suspended Van Zyl when it was the CEF board on probable cause Also, the minister did not merely suggest in Parliament the theft of R170m Rather he sought an explanation the loss of R170m

The special report by the auditor-general to Parliament is contradictory The auditor-general admits that the Salem recoveries' recording of R6 784 754 was wrong, but dares to suggest that it was an insignificant amount that did not warrant mentioning The Egyptian deal could be flawed and the R170m loss owing to a change in accounting practices He does not admit these issues were not reported to Parliament

Recording the R170m loss as "stock transfers and the changing of accounting process" must be explained in detail to Parliament Failing this, a cover up for theft or incompetence could be assumed

The criticism levelled by the minister in relation to the functioning of the auditor-general's office does not support the claim that "Maduna's approach may spell a slide towards a typical African one-party state" The issues Jordaan pointed out indicate the contrary — that is, a sharp, but healthy democratic debate

Jordaan's article is reflective of much of the populist claptrap that characterises the minerals and energy portfolio committee

During the past few years policy has developed from one fiasco to the next

A cursory glance at policy activities concerning the liquid fuel industry shows a classic incapacity for delivery in this sector A few examples to demonstrate

☐ The liquid fuels industry task force was formed without substantive black participation and without any coherent programme for the restructuring of the liquid fuels industry;

☐ The Arthur Andersen report on Sasol protection alienated the bulk of industry, and the task force collapsed. Thus the supposed vehicle to achieve industry restructuring proved itself ineffective in its only major accomplishment,

☐ Government's green paper restricted choices and displayed little inclination towards abandoning the status quo, as it opts for the regulatory framework which functioned a siege economy, and,

☐ The Lambrechts evaluation report failed to reflect accurately stakeholder positions or provide a solution to policy disagreements because of internal inadequacies

Jordaan and the parliamentary portfolio committee have merely contented themselves with petty party politics over the trivial when the committee is not engaged in study tours This occurs while industry and other concerned sectors await the policy outcome begun three years ago

MADUNA

Politicians need to realise successful economies are not developed in that manner

The development of far-sighted policies is crucial to investor confidence which constitutes an essential component of an economic boom which this nation requires if it is to deliver social development to the populace and not once again be embroiled in civic conflict

☐ *Jawoodeen and Said work at the Institute For Policy and Social Research in Cape Town* good faith and intentions of Stockholm and Cape Town," Carrard said.

short list of Athens, Buenos Aires, Cape Town, Rome and Stockholm.

to help IOC delegates interested in vis-

# Maduna under fire over audit of fund

BD 4/9/97

(183)

**Wyndham Hartley**

CAPE TOWN — Mineral and Energy Minister Penuell Maduna came under fire again yesterday when it was revealed that his private audit investigation into the Strategic Fuel Fund had cost R776 875,20 and was never put out to tender.

This emerged when Maduna's deputy, Susan Shabangu, told the National Assembly that Nkonki Sizwe Ntsaluba was the firm of chartered accountants hired by Maduna without reference to any tender board procedures The audit investigation was incomplete and had already cost R776 875,20, and Maduna had given his approval for a full R1m to be spent on the investigation

It was on the strength of this incomplete investigation that Maduna recently accused Auditor-General Henri Kluever of being incompetent, if not involved in a cover-up of the theft of R170m from the fund

His accusations in Parliament and in public have led to an investigation by the public protector of the attorney-general's work on the fund and a special parliamentary committee to look into whether Maduna was in contravention of the constitution and Parliament's rules

Shabangu was replying to a question from Democratic Party MP Kobus Jordaan, who asked why this company was selected. Shabangu said it was because Nkonki Sizwe Ntsaluba was recommended to Maduna as having "well-qualified and thorough accountants".

Jordaan said this amounted to a "flimsy" reason for selecting the company, and asked whether state tender board requirements had been met Shabangu said they had not.

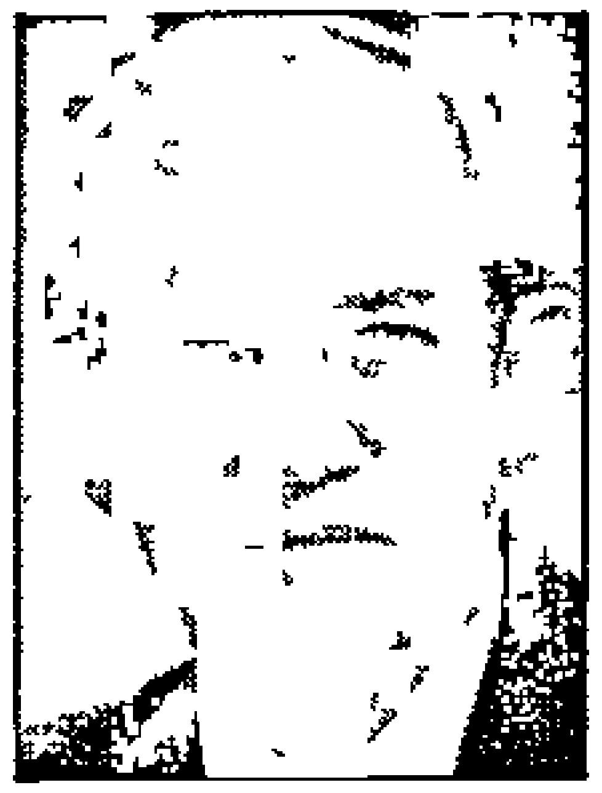
Shabangu confirmed that the initial report from Nkonki Sizwe Ntsaluba had been forwarded to Public Protector Selby Baqwa as a result of Parliament's decision to ask the public protector to investigate Kluever's reports on the fund

Opposition parties contended that it was unconstitutional for the public protector to be asked to investigate the auditor-general and that this task belonged with Parliament's public accounts committee.

The special committee of Parliament will investigate whether Maduna transgressed the constitution by attacking the auditor-general when he is required, as an organ of state, to give support to the auditor-general. It will also investigate whether he was in conflict with rule 99 of Parliament in attacking an official of state without using a substantive motion.

DP leader Tony Leon asked whether it was competent for the minister to authorise such expenditure without observing tender board procedures. Shabangu refused to answer and said this was a new question and should be put in writing on another occasion.

Maduna is in Switzerland with President Nelson Mandela



# An unhealthy state of affairs

Star 5/9/97

(183)

## Zuma's troika of bills affects everyone, yet she need not take any views into account, writes Mike Ellis

One of the most obvious things which distinguishes a democracy from a dictatorship is that in democracies decision-making involves a balance of power between the government and other interest groups. In dictatorships there are no curbs on the state's authority

Gradually South Africa's Government is amending the rules of the game so it fits more and more into the category of governments accountable to no one. This is particularly obvious in Health Minister Dr Nkosazana Zuma's efforts to control health care.

Zuma's troika of health bills allows her to decide on some crucial aspects of health care without considering the views of any other body and without being subject to requirements of reasonableness or fairness The bills give her the power to make decisions which in all likelihood will not survive Parliament's scrutiny

Although the legislation will affect the health care of everyone, the minister need not take the views of anyone into account in making her decisions One has to ask how much her relationship with Cuba, and her apparent ideological attachment to Cuba's authoritarian government, has to do with her stance

The Medical, Dental and Allied Health Services Bill will allow Zuma to implement her controversial community service for doctors plan. The only restraint which Zuma faces in deciding on the length of this service, where it should be performed and conditions of work is that she should consult the Interim Medical and Dental Council. This is a formality, because she is under no obligation to accept their advice

The Health Professions Council is tasked with deciding if a doctor qualified outside South Africa will be permitted to register in SA But its discretion is "subject to any regulation which the minister may make" – so effectively it has no discretion at all.

If these powers were not already extravagant enough, the bill goes on to say "the minister may after he or she deems it in the public interest, amend or repeal any regulation or rule made in terms of the act" This probably allows her to overrule the already minimal requirement to consult the council. Effectively, the minister will be able to chop and change the legislation at will and without reference to Parliament or any other representative body.

The pattern is repeated in the Medicines and Related Substances Control Amendment Bill, which states a new council can be formed "subject to the approval of the minister" At a bare minimum modern administrative law requires public officials to contain their decisions within the bounds of reasonableness and certainty Yet this bill places no obligation on the minister to ensure her decisions are reasonable, nor must she provide justifications.

The minister is also given the power to appoint, and to revoke the appointment of, a registrar of medicines. The only constraint is the purely decorative obligation to consult the council. She also appoints the members of an appeal committee, created to give anyone aggrieved by a Medicines Control Council decision a means of addressing their complaint. Her only limitation is that the qualifications of the members of the appeal board are prescribed

The bill goes on to give the minister the power to "prescribe conditions for the supply of more affordable medicines in certain circumstances" This power is to be invoked unilaterally and without even the figleaf of consultation Control over medicines is so important that it would not be exaggerating to say, if you lose control over medicines, you lose control over health care This bill ensures no interested party other than the minister will have any say on how or what medicines will be supplied.

Whatever good or evil may result from the exercise of her discretion, the power to exercise this discretion is unfettered and wide open to abuse, if not by her, then by any successors As with the previous bill, the minister may decide to amend any or all of these regulations if she wishes and she need only "consult" with the executive committee

This bill is likely to have immediate consequences The provision which allows the minister to ignore patent rights for drugs registered in SA probably contravenes SA's intellectual property laws, she has already been threatened with lawsuits by pharmaceutical companies if the bill goes ahead.

The minister is given yet another cluster of powers in the Pharmacy Bill, which allows her to prescribe who may own a pharmacy, under what conditions they may do so and under what conditions permission may be revoked For an issue as complex and contentious as this, it is astounding the minister should regard it as acceptable that she alone, without consulting even the Pharmacy Council, may make such decisions. Although the Pharmacy Council is rendered almost meaningless by this provision, she has still found it necessary to give herself the power to terminate the membership of any member of the council.

The minister is given extensive powers, among which is the power to increase powers she already has. The consequences in terms of democratic and transparent government are disastrous

The story does not end with these bills The real challenge to our private health care service as we know it will come when the National Health Bill, at present in its 9th draft, is tabled in Parliament either at the end of the year or early in 1998 Medical schemes, private practices, private hospitals and all other dimensions of private health care will be challenged by Zuma.

If Zuma grants herself the same powers in this bill as she is attempting to do with the three before Parliament, she will effectively be in complete and sole control of health care The DP will do its utmost to ensure this does not happen

■ *Mike Ellis is a Democratic Party MP*

# Maduna 'too secretive' on mineral paper

BD 5/9/97 (183)

**Louise Cook**

THE mineral and energy department's statement yesterday that it was making progress on a revised policy on mineral rights drew renewed criticism that Minister Penuell Maduna was being "too secretive" and slow in consulting role players

Department acting director-general Dick Bakker told delegates at an Institute of Quarrying conference at Olifantsfontein that Maduna had told the department to reconsider mineral policy documents Two teams had been appointed to work on solutions

Environment Monitoring Group project co-ordinator Peter Willis said public debate was now required "It is unnecessary for the minister to play his cards so close to his chest," he said

At issue was a draft green paper on minerals policy initiated by former minister Pik Botha. When Maduna took over in October, he failed to make the paper public or to invite comment, Willis said

Bakker said the minister was "uneasy" about major aspects of the green paper on ownership of minerals rights in SA Government wanted the injustices of the past dealt with Limited access to mineral rights had deterred potential foreign investment in SA

Large areas were sterilised because there was no obligation to explore or exploit the rights A mineral rights tax could be considered to solve this problem The public would be consulted,

Willis supported the idea of a tax, saying SA was one of the few countries where mineral rights could be owned by individuals

# Doctors rattle sabres over dispensing bills

(183)
BD 5/9/97

**Pearl Sebolao**

THE medical doctors' National Convention on Dispensing has threatened to disrupt health services if the health department goes ahead with three bills which prohibit them from dispensing medicines.

The proposed legislation in contention is the Pharmacy Amendment Bill, Health Professions Amendment Bill and the Medicines and Related Substances Amendment Bill.

Medical doctors and other stakeholders would, however, make their submissions to parliamentary health committee hearings which were scheduled to start next Thursday, but if the health department ignored their input they would have to act, convention chairman Norman Mabasa said on Wednesday.

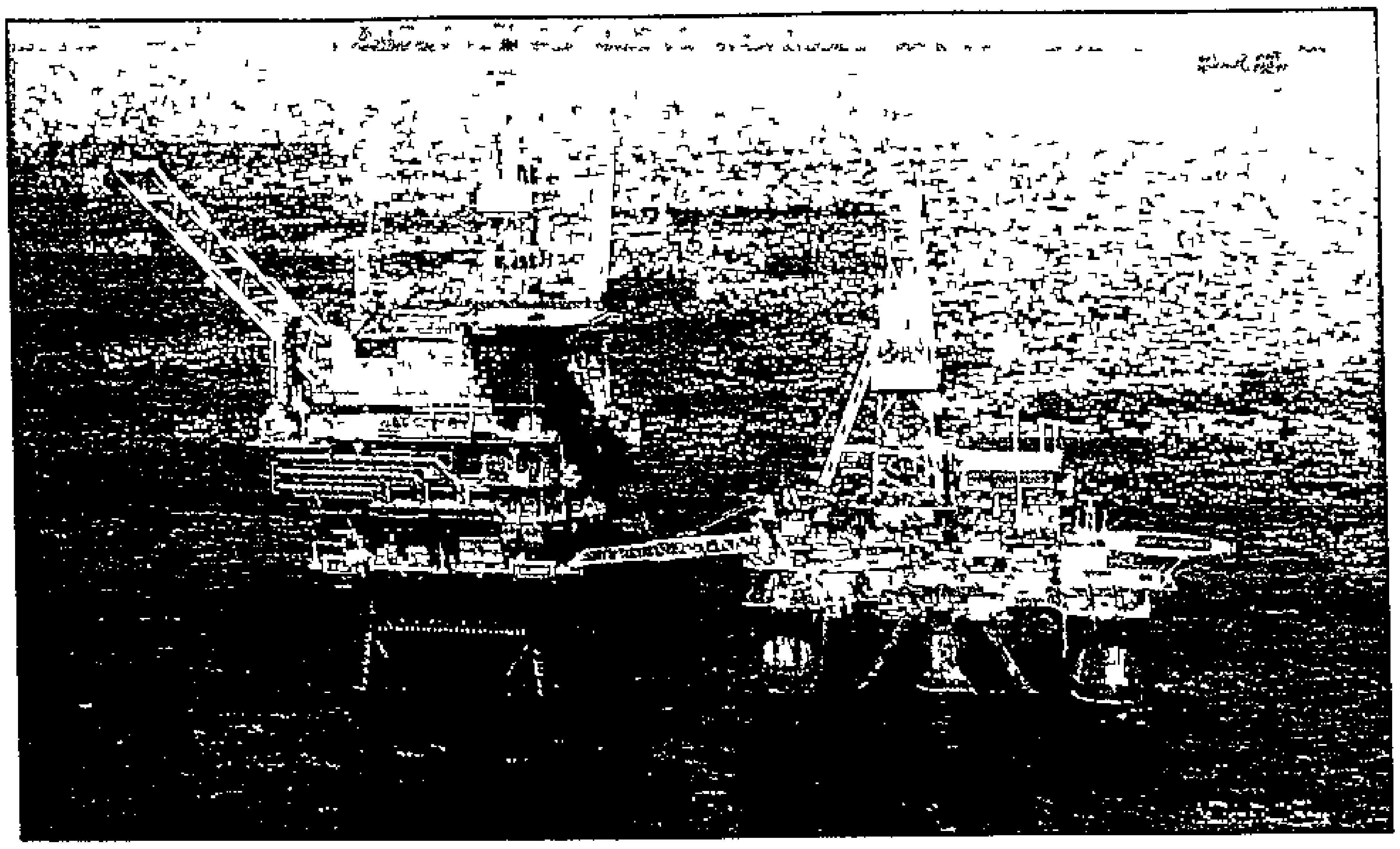
Mabasa said the convention adopted a resolution at a meeting on Saturday to embark on a series of actions including protest marches, the closure of private practices for a number of days and a refusal to render services at public health institutions.

A mass media campaign would also be planned to inform the public about the implications of the bills and to rally the support of the community, he said.

The convention — representing the Medical Association of SA, Medical and Dental Practitioners' Association, Family Practitioners Association and other associations — was consulting trade unions, the SA National Civic Organisation and the Black Consumer Organisations, who had endorsed the resolutions, Mabasa said.

The profession was determined to fight against those provisions which they felt discriminated against them, especially the repeal of section 52 in the Health Professions Amendment Bill which permitted doctors to dispense.

"We are greatly disturbed by the proposed Pharmacy Amendment Bill which would allow almost anybody to own pharmacies with the exception of doctors and dentists. We feel we are as able and competent as anybody else," Mabasa said.



**Mossgas** *still finding its sea legs*

MOSSGAS

# Vain bid to pour oil on troubled waters

(183)

FM 5|9|97

Pricing of product remains the bugbear. Oil companies jittery on synfuel subsidy issue in light of exports and Gatt regulations

Forget the Central Energy Fund and Strategic Fuel Fund Association. The thorny issue of the pricing of Mossgas's petrol and diesel has again grabbed the oil industry's attention.

Matters have been complicated by Auditor-General Henri Kluever's special report on the oil industry. He says — "in the interest of the taxpayer and the motorist" — he has investigated the commercial arrangements between Mossgas and the industry to establish the reasonableness of the payment of subsidies for synthetic fuel by the Equalisation Fund.

This provisionally amounted to a cumulative total of about R523m for the financial year to March 31 1997. Uncertainty about this issue resulted in a qualification of the audit opinion on the accounts for the year ended March 31 1996.

The AG says the Department of Mineral & Energy Affairs regards this issue as a commercial matter. It relies on ministerial directives to justify the continued payment by the fund to Mossgas of the difference between in-bond-landed-cost (IBLC) prices and Africa netback prices (the effective export price of Mossgas's products).

The amount of the retroactive price adjustment owing by industry to the fund for the period covered by an interim agreement (October 26 1993 to October 25 1994) remains unresolved. Depending on the interpretation, this could range from R5m to about R60m. But Sapia director Colin McClelland says the interim amount of R5m was repaid to the Central Energy Fund in May. The oil industry therefore regards this issue as resolved.

Sapia's latest annual report makes the point that the oil companies' offtake of Mossgas output has never been backed up by any statutory obligation. Nor has it been motivated by any commercial gain. The industry remains willing to purchase Mossgas's output on a basis which neither advantages nor disadvantages its members.

McClelland says sometimes oil companies have exported 95 octane and imported 93 octane to balance supply and demand. There is a surplus of refining capacity for diesel (as opposed to a shortfall for petrol), which naturally leads to an incentive to export diesel.

Mossgas CEO David Day argues that the oil companies are being subsidised through the Equalisation Fund to the extent of R120m per year. On May 20, 1996, former DG of Mineral & Energy Affairs Gert Venter told the oil companies to pay IBLC prices for Mossgas products from June 1, 1996 and to claim any proven hardship from the fund.

McClelland says in the light of Venter's "directive," the industry was not prepared to accede to this without further discussion, given that the "directive" had no statutory basis.

Day says the position since October 1995 is that the oil companies have been buying Mossgas petrol at export-related prices and selling it on the local market at IBLC prices (about 9c higher), while importing additional product (though at lower octane) to balance supply and demand for the various octanes.

Since then, Mossgas has been invoicing the oil companies on the basis of IBLC prices, but they have paid only the export price portion (ANB). So Mossgas has claimed synlevy from the fund. The basis of the AG qualification is that a critical condition for payment of the subsidy — that the oil companies must be able to prove loss of refining throughput — has not been followed up, says Day. He claims the oil companies have refused access to their records on the issue.

Why should it make any difference whether Mossgas gets part of its payments from the oil industry or from the fund? There would be no direct financial consequences, but companies receiving government subsidies expose themselves to penalties from the World Trade Organisation. Proof of receipt of a government subsidy could harm exports of chemical co-products.

McClelland dismisses the argument that there would be disadvantages for Mossgas claiming the subsidy as it in any event gets a subsidy from the fund when IBLC prices are below the subsidy floor price — as at present. This is in addition to the subsidy here in dispute. What's more, all oil companies trading internationally are subject to the same Gatt constraints as Mossgas regarding receipt of subsidies. Hence their continuing refusal to accept subsidies from the fund.

McClelland sums up the oil industry's position since Mossgas started producing — that it is simply not prepared to be put in the position of receiving payments from the fund as a result of buying product from Mossgas. These would be seen as subsidies in the industry — whereas it is Mossgas that needs a subsidy.

The AG's report concludes by urging the department to consider new ways of resolving this deadlock, considering the issue from all perspectives, particularly those of the motorist and the taxpayer. **Robin Friedland**

**SASOL**

# High octane fight spills across the forecourts

(183)

Are oil giants attempting to get shot of the Blue Pump? They say no, but Sasol is fighting them in the courts

FM 5/9/97

In a pending court battle Sasol is attempting to save the estimated R100m it makes annually from sales of its Blue Pump petrol

The company is seeking an interdict in the Cape Town High Court to force oil giant Caltex to honour the so-called Blue Pump agreement

Sasol's claims are detailed in affidavits of case number 8839/97 However, examination of the file reveals that the notice of motion and all affidavits are missing The extreme sensitivity of the affair has seen both Caltex and Sasol decline to make copies of any of these missing documents available to the *FM*

A party to the action says the missing papers include an allegation that Caltex offered to upgrade service stations — on condition that its operators withdrew Sasol's Blue Pumps

Sasol is not allowed to operate its own service stations Under the Blue Pump agreement, which dates from the Fifties, Sasol undertakes not to directly market its petrol in opposition to the oil companies' brands In return, it has the right to install its Blue Pumps on oil companies' and independent dealers' forecourts Sasol's share of the petrol market may not exceed 9,23% of the 11bn litres of fuel sold annually in SA

An industry expert says "Under the Blue Pump agreement none of the oil companies could force a dealer to refuse to have a Blue Pump on his forecourt But dealers have been pressurised Oil companies, allegedly, have been saying 'If you ask Sasol to remove their pump your rental might not go up as much as we think it should, and we will do this or that renovation for you '

"Caltex is the big bully They've really put the screws on their dealers to have the Sasol pumps removed

"Sasol is concerned because they're dropping back on market share as a result "

Caltex chairman and MD Mike Rademeyer was not available for comment His assistant Pierre Mynhardt says "There is no campaign by Caltex to pull out Sasol's Blue Pumps The two parties have placed different interpretations on certain provisions in the Blue Pump agreement That is, I think, what has prompted Sasol to take the action it has

"Blue Pumps have been removed on a continuing basis over many years," says Mynhardt 'Caltex cannot remove a Blue Pump Sasol's agreement is with an operator at a site It's an agreement which Caltex is not party to In so far as Blue Pumps are installed or removed at service stations, that action is done on the instructions of the service station operator

"We are talking to Sasol and things are at a rather sensitive stage There have been subsequent developments but we don't want to discuss them, we don't want to do anything that could jeopardise our discussions "

So why is Sasol seeking an interdict against them? "If you find out you can let me know as well," responds Mynhardt

Blue Pumps are to be found in service stations in Gauteng, Mpumalanga and the North-West The industry estimates that Sasol has now lost 15% of its Blue Pump outlets and its total number of pumps could be down to around 1 000 Sasol declines to give figures

*Sasol MD Peter Cox* Blue Pump *blues?*

Vic Fourie of the SA Motor Traders' Association, which represents service station operators, says his association is "dealing with the issue in-house with the oil companies on behalf of our members " The matter is "highly sensitive and definitely not for the press "

On a background note Fourie says "In most cases the oil companies own the filling stations, which are operated by dealers In terms of their agreements with the oil company they may or may not have a Blue Pump on their premises

"In other cases, where the dealer owns the premises, they are tied up with another sales agreement with the oil company, which can place pressure on the dealer not to have a Blue Pump on the premises

"If a dealer says to Sasol he doesn't want a Blue Pump, then he doesn't have to have it "

Last year Sasol increased its Blue Pump sales by 1,1%, but market share in the marketing region decreased by 0,3%

In its 1996 annual report Sasol said the reduction was due mainly to "difficulties experienced in installing Blue Pumps at new service stations, the introduction of unleaded petrol and the removal of existing Blue Pumps from service station forecourts "

In a brief statement, Sasol confirms "There is an issue between Sasol and some of the oil companies regarding the restricted installation and undue removal of Sasol Blue Pumps at service stations Sasol has initiated legal proceedings to resolve the matter "

Viv Cornaldi, Sasol's petrol retail manager, amplifies "Ultimately the oil companies control the Blue Pump networks and they are frustrating our rights under the Blue Pump agreement

"They're doing things which we consider to be beyond the pale, below the belt

"They won't honour the agreement They're making it difficult for us to do what the agreement allows us to do It's extremely frustrating for me to do business this way "

**Jack Lundin**

# Analysts full of optimism at Sasol's good health

(183)

BD 8/9/97

FUEL-from-coal producer Sasol is set to post a healthy full-year profit this week because of the weak rand and its technological advantages in the synfuels and chemicals sectors, say analysts Analysts polled forecast a dividend in a tight range of 150c-155c and a fully diluted earnings a share figure in a range of 400c-412c

No consensus figure was available as analysts were working off varying base-earnings figures as a result of the company's change in accounting practices and tax policy over the past year Industry sources said the correct EPS figure for last year would be in the 331c range

Analysts said Sasol would show benefits from the weaker rand against the dollar and would receive its main boost from synfuels Strong volume growth was expected for its other divisions, excluding mining Sasol's costs are mostly rand-based, its prices dollar-based

One analysts said "It is a fantastic long-term story The prospects are very positive on all fronts They've got unique technology with a window of opportunity they will have to exploit, and they are doing that very intelligently Going forwards, I see it becoming a worldwide technology player rather than an emerging market company"

Sasol announced in July its technology unit had formed a global gas technology alliance with four international companies to develop new technology for the conversion of natural gas to synthesis gas.

Its petroleum division has formed an alliance to explore for oil and gas in Mozambique and it has signed a memorandum of understanding for construction of a full-scale gas-to-liquids plant in Qatar Analysts said Sasol was gaining increased credibility as it shook off the legacy of its sanctions-busting role

The firm had showed it was prepared to flex its muscles in the international field by leveraging off its competitive technological base, analysts said. "It is a local company that's just started becoming global," one analyst said. "There has been a lot of interest in Sasol from offshore . I definitely think there is still some re-rating to come"

Another stock watcher said: "I think they are five years ahead of anyone else in the industry."

Sasol is due to release its year results today. — Reuter

# Small-plant legacy just one hindrance

## The local chemical industry is being forced to reassess its role in the face of competition from abroad, writes **Ingrid Salgado**

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BD 8/9/97

THE imminent arrival of Dow Chemical Company in SA has turned the spotlight on the local chemical industry, which is emerging from isolation and protectionism under the previous government to face the reality of international competition.

In the past, import tariffs pushed up raw material prices and a focus on import replacement led to the building of small-scale plants with capacities geared to local demand Locally processed goods were on the whole less competitive in export markets

Now the question is to what degree local industry has adapted to become a member of the global community. "That is difficult to answer, because the sector is so diverse. The short answer is that we do not yet have the economies of scale necessary to be truly competitive," says Deutsche Morgan Grenfell analyst Jeff Thomson

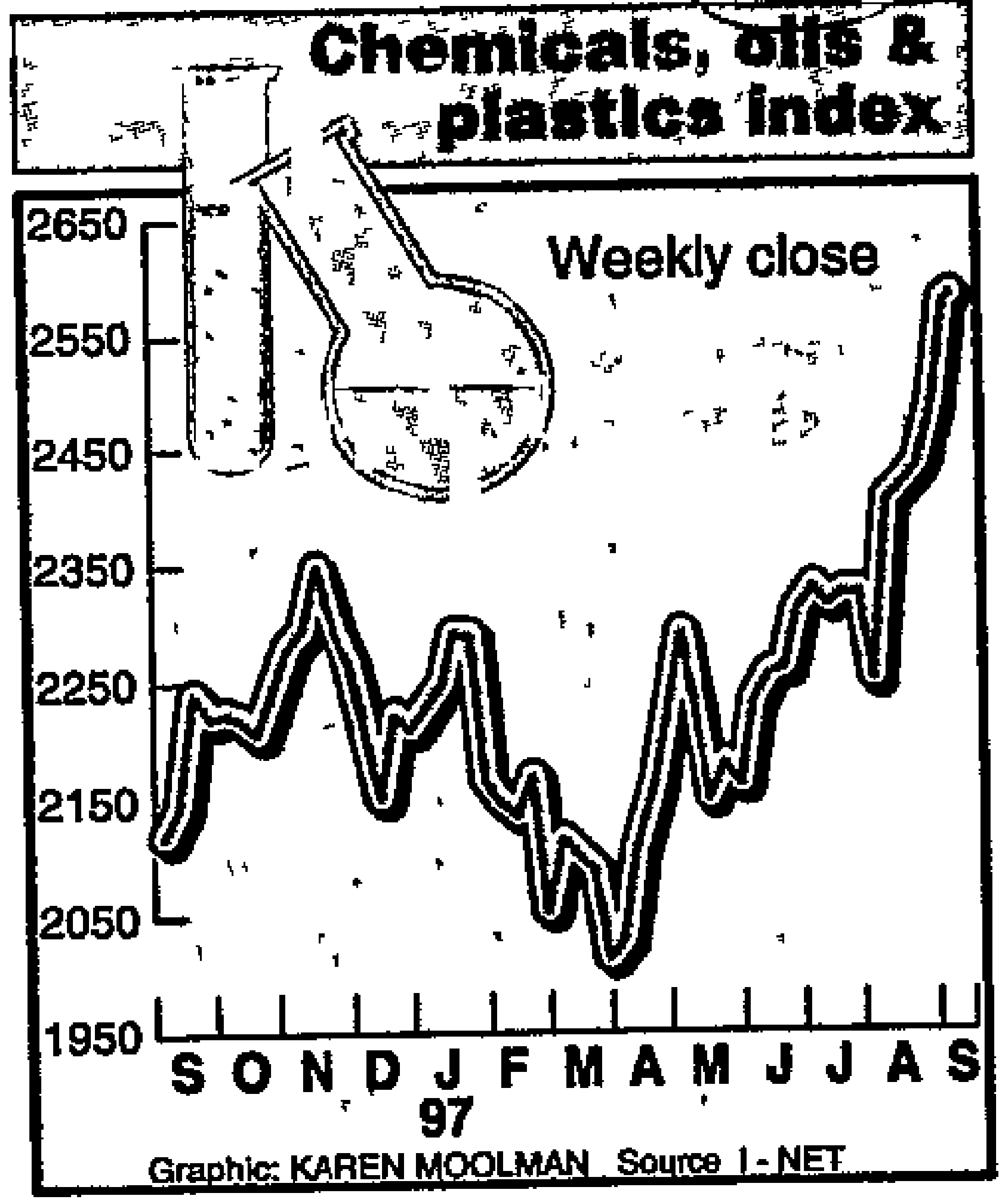
According to HSBC Simpson McKie analyst Campbell Parry, there are four important yardsticks by which to measure competitiveness in the chemicals industry These are cost advantages — such as access to favourable feedstock prices, technology considerations, product differentiation; and service factors, including marketing and sales advantages

SA's weakness lies in service, he says Technology advances, too, have been poor but are improving, while there are certain competitive advantages in terms of product differentiation due to SA having been an isolated market

But its strength lies in feedstock prices, with the synfuel sector acting as a major source of chemical feedstocks and intermediates in SA A case in point is Polifin, a joint venture between petrochemicals giants AECI and Sasol.

Polifin's feedstock costs are "among the best in the world", Parry says The group's operating margins have hovered consistently about the 25% level, very high by world standards and due primarily to cheap feedstock from parent Sasol Sasol is SA's major success story "Sasol is world class by virtue of its technology It is on a big international drive and is seeing itself more as a global player," Thomson says.

Value-adding division Sasol Chemical Industries also stands to benefit from low-cost feedstocks



Chemicals, oils & plastics index

Graphic: KAREN MOOLMAN Source I-NET

AECI, although its performance has been mixed in the past, is showing promising signs of a turnaround.

On the reverse side of the coin lies is Sentrachem, whose "record speaks for itself", analysts say The group posted a R217m attributable loss in the six months to February, after forward cover losses at agricultural chemicals subsidiary Sanachem and subsequent restructuring charges.

Dow's offer to buy the group for more than R2,3bn is likely to awaken sleeping sectors of the local industry to the reality of global competition. More joint ventures and greater rationalisation to reduce costs will be the result

The Dow-Sentrachem deal is not a perfect example of chemicals interests merging to reduce costs and remain viable — the buyout is primarily a good business opportunity for Dow in the agricultural chemicals arena, and US subsidiary Hampshire is a major drawcard. However, the US group's presence will shake up the local market and make it aware of the "cold winds of competition", analysts say.

For example, it remains to be seen whether Dow will take a stake in Project 2003, Polifin's proposed R7bn ethylene cracker and downstream plants, scheduled to come on stream in 2003

While Polifin would be happy to have Dow on board — it has been seeking an international partner and originally offered Sentrachem a 15% stake in the project — there is nothing to stop Dow pre-empting Polifin with a similar venture on its own. But this is unlikely.

ING Barings analyst Paul Carter says scope for rationalisation is largest in the downstream oil sector SA oil refineries run counter to a global trend of overcapacity, a legacy inherited from the late 1980s when returns from this sector were good and resulted in substantial capital investment.

Although SA is currently a net importer of petrol and additional refinery facilities are being investigated, margins at the marketing and retailing level are low Analysts expect a major shake-up of the downstream oil industry within 12 to 18 months.

Less movement is expected on the speciality chemicals side. Although multinational Hoechst recently disinvested from its polyester business and turned its attention to the more profitable pharmaceutical industry, there is no noticeable trend towards steering clear of downstream activities.

Parry does not believe that joint ventures on the chemicals side will escalate by global standards.

"In a sense SA has already gone through that cycle," he says, pointing to Safripol, the Hoechst SA and Sentrachem joint venture, and Polifin

Nonetheless, SA will have to keep abreast of worldwide rationalisation trends or it could find itself caught up in an international rearrangement of the industry without participating.

*Upgrade for Natref refinery and pipeline*

# R1,6bn tag for Sasol's expansion

CT(BR) 10/9/97

(183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Sasol, the petrochemical company, said yesterday it planned to embark on a R1,6 billion expansion of the Natref refinery at Sasolburg and a new oil pipeline to increase its refining capacity by 33 percent to about 120 000 barrels of oil a day

Pieter Cox, the managing director of Sasol, said yesterday a proposal would be placed before the boards of Sasol, which owns 64 percent of the refinery, and Total, its joint venture shareholder, before the end of the year

About R850 million would be spent increasing the refinery's capacity in an upgrade which also aimed at improving the yield of saleable product to about 90 percent, he said The expansion would take at least two years to complete

A further R750 million would be invested in a dedicated crude-oil pipeline from Durban to Sasolburg to supply the refinery

Petronet said last night its existing crude-oil pipeline, which lacked the capacity to supply an expanded Natref refinery, would be reconfigured to carry refined petroleum products

Cox said most of the funding for the pipeline was likely to be provided by Sasol and Total, though Petronet, the pipeline operator in Transnet, would also have a role in it

A well-placed industry source suggested that a black-empowerment group would also take an equity stake in the pipeline

Sasol, however, declined to speculate on the pipeline ownership, and would only say that the refinery expansion was yet to be approved by the boards of the two oil companies

A Johannesburg oil analyst said the expansion was probably as motivated by financial considerations as by Sasol's desire to forestall an expansion at one of its competitor's refineries

"Sasol doesn't want to see the other guys increasing their capacity because that could threaten synthetic fuels in the future," the analyst said

Industry sources also raised questions as to how Sasol might dispose of its increased production The company is unable to directly enter the retail market except through "blue pumps" situated at its competitors' service stations

Sasol's relationship with the rest of the oil industry is governed by an agreement that prohibits Sasol from having its own outlets in exchange for guaranteed sales of synthetic fuel

Colin McClelland, the director of the South African Petroleum Industry Association, said the increase in refining capacity would add close to 5 percent to the country's present capacity, and would accommodate a single year's growth in petrol demand

The association estimated that, if no new capacity came on stream, South Africa would experience a shortfall of up to 1,5 billion litres of petrol and 6 million litres of diesel by 2000

☐ **Business Watch, Page 20; and Sober mood, Page 33**

*Full-year earnings grow 21% despite loss of R700m in subsidies*

# Sasol in a sober mood

CT (BR) 10/9/97 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Sasol, the petrochemical and synthetic fuel-from-coal producer, yesterday reported a 21 percent rise in full-year earnings to 421c a share, but warned of only a "modest" increase in earnings for the present financial year

The largest contributor to Sasol's operating profit for the year to June 24 remained synthetic fuels, which increased its contribution to group operating profit by 28 percent to R1,9 billion in spite of a R700 million decline in the subsidy it received

Sasol received R76 million in "tariff protection" during the year after receiving R803 million the previous year

Pieter Cox, the managing director of Sasol, said yesterday that Sasol Synthetic Fuels had held its operating cost increase to 5 percent during the year

Sasol Chemicals notched up a 25 percent increase to R1,1 billion in its contribution to group operating profit Chemicals, which strips out higher-value chemicals from Sasol's synthetic fuel stream, warned of weakening commodity prices in the coming year but said volume growth would translate into "satisfactory profit growth"

Sasol Oil, Sasol's refining and liquid fuels marketing company, also increased its contribution by 26 percent to R668 million This was on the basis of increased refinery throughout and a 17 percent fall in the dollar-based cost of refining a barrel of oil

Sasol Mining contributed R219 million to group operating profits, a fall of 28 percent on last year's figures, in spite of a marginal increase in the quantity of coal mined It suffered from heavy rain and increased costs at its ageing underground mine near Sasolburg

Sasol shares lost 200c to close at R64 yesterday

☐ **Business Watch**

***CAUTIOUS*** *Pieter Cox, the managing director of Sasol, warns of modest earnings in the next financial year* PHOTO JOHN WOODROOF

# Parallel importing of drugs aims to lower prices — Zuma

(183)

**Jacob Dlamini** BD 10/9/97

CAPE TOWN — Government would not introduce the parallel importing of drugs if pharmaceutical companies agreed to sell the state patented drugs at competitive prices, Health Minister Nkosazana Zuma said yesterday

Plans to introduce parallel importing had been prompted by government's aim to lower the price of medicines by encouraging the use of generic medicines

She denied that her plans would violate World Trade Organisation regulations, saying the parallel importing clause had been examined and pronounced satisfactory by the trade and industry department.

Zuma rejected suggestions that her relations with the pharmaceutical industry had deteriorated. She said only those companies dealing with patented drugs were unhappy with her plans while those responsible for producing generic drugs had welcomed them.

Zuma also dismissed suggestions that the government wanted to impose community service on newly qualified doctors She said medical students had asked for community service to be included in health reforms currently before Parliament

Zuma said the introduction of vocational training was a responsibility of the interim national medical and dental council While the council had temporarily shelved its plans to introduce the system next year, it remained its domain and she would be guided by it on the matter, she said

**Josey Ballenger** reports the National Interns Alliance has objected to Zuma's bill on compulsory community service due for discussion by Parliament's health portfolio committee tomorrow and Friday

The alliance, which said interns supported "the concept" of community service and restructuring the health service, objected to the lack of infrastructure at medical facilities, the "authoritarian powers" it claimed the bill would give the minister and the "late notification" of compulsory service from January

"The lack of infrastructure in the facilities where compulsory community service is meant to take place will result not only in the failure of delivery of health services to the community, but also destroy the medical delivery in the major centres such as Soweto and Atteridgeville," the alliance said

Press officer Dr Yair Safriel said "The minister has created the perception that if you put a doctor in a room, you will solve health problems But that is naive Medicine today is very infrastructure-based, even with something basic like laboratory tests and chest x-rays"

Safriel said the bill gave the minister powers to bypass the Medical and Dental Council and Parliament, which "sets a very dangerous precedent in a democracy" The alliance contended the bill will allow the minister to send practitioners "army-style to an area she chooses, irrespective of their wishes" and to lengthen their service indefinitely

# Dr Zuma's revolution gets under way

ARG 11|9|97

(183)

**JOVIAL RANTAO**
ARGUS CORRESPONDENT

**Nkosazana Zuma has started a revolution.**

The Health Minister intends to revolutionise the health system in South Africa to bring affordable, quality health to all South Africans irrespective of their economic status.

The Portfolio Committee on Health, chaired by African National Congress MP Abe Nkomo, will hold public hearings on the minister's three bills during the next 10 days, starting this afternoon

Once approved, the three pieces of legislation will enable the Government to redress past imbalances, where the majority of South Africans had little or no access to basic health care

Revolutions always elicit a strong response and Dr Zuma's was no different Soon after she gave notice that she would table the legislation, a torrent of opposition followed, mostly from political parties rival to the ANC, pharmaceutical companies and some medical practitioners.

Concerns that insufficient time was allocated for public hearings on the bills led to their withdrawal from Parliament The bills were amended to accommodate major concerns from stakeholders and have been approved by Cabinet and re-tabled in the National Assembly

The three pieces that Dr Zuma has tabled are.

- The Medicines and Related Substances Control Amendment Bill.
- The Pharmacy Amendment Bill
- The Medicine, Dental and Supplementary Health Service Profession Amendment Bill.

The objective of the Medical and Related Substances Control Amendment Bill is , among others, to enable Dr Zuma to parallel import drugs from other countries. Through parallel importation a product can be imported from a country where the same product, made by the same company, is available at a much lower price

The legislation would also force dispensing doctors to be licenced and discourage them and pharmacists from dispensing for a profit.

The Pharmacy Amendment Bill provides for the ownership of pharmacies by non-pharmacists The Department of Health has argued that many communities in rural areas and black townships do not have access to full pharmaceutical services. This is partly because individual pharmacists have found it not to be financially viable to set up practice in these areas.

The legislation seeks to make it possible for those people who have the ability to set up pharmacies in the under-served areas – but who are not pharmacists – to do so The only condition is that the pharmacy must be operated under full supervision and management of a qualified and registered pharmacist. The Medicine, Dental and Supplementary Health Service Profession Amendment Bill provides for compulsory community service for newly-qualified doctors, as a way of getting doctors to work in under-served areas.

According to the legislation, junior doctors would be required to do community service before being registered to practice.

Health Director-General Dr Olive Sishana said the measure was also a way to stop foreign countries from poaching newly qualified doctors and denying them a chance to contribute something to the SA taxpayer.

Dr Zuma has held discussions with medical interns, junior doctors, trade unions and other stakeholders about community service

# Doctors threaten clinics strike action

ARG 11/9/97 (183) ([illegible])

**JENNY VIALL**
HEALTH REPORTER

**Doctors who dispense medicine have threatened action if legislation is passed preventing them from doing so.**

This would include legal action and a work stoppage, which they say would overwhelm the crowded public clinics.

"We are very disappointed that the Department of Health will go ahead with the three health bills. They haven't changed their position at all," said Norman Mabasa, chairman of the National Convention on Dispensing, which represents 8 000 doctors

Dr Mabasa said the convention would make presentations to the portfolio health committee on the three bills, "but we don't believe they will make any difference".

New legislation would require doctors to do a course and apply for licences to dispense medicine.

"When we qualified we were allowed to dispense Can this law be applied retrospectively?" asked Dr Mabasa

"We are . looking at a period of mass action in which we will close our practices and refuse to do sessions at hospitals and clinics," he warned.

# Medical schemes and pharmacists agree at last

BD 11/9/97

**Pat Sidley**

(183)

MEDICAL schemes and the retail pharmacy industry have finally reached agreement on a new scale of benefits to reimburse the costs of medicines to medical scheme members.

The new scale of benefits, effective from January 1 next year, will affect about 7-million people who belong to medical schemes

Agreement between medical schemes and the retail pharmacy industry have been dogged by disputes.

RAMS announced yesterday that medical schemes would reimburse for pharmaceutical products according to a sliding scale using three tiers to its new reimbursement system

It will require considerable arithmetical ability on the part of members of medical schemes, and is aimed at providing incentives for the supply of cheaper generic substitutes in place of the more expensive brand name medicines.

Cheaper drugs, which cost pharmacists up to R30 a prescription item, will be reimbursed by medical schemes at that price plus a 50% mark-up.

Drugs costing between R30 and R80 will be charged at the cost price to the pharmacist plus a dispensing fee of between R15 and R24, calculated on a sliding scale

Drugs which cost more than R80 a prescription will be charged at their cost price plus a dispensing fee of R24

Announcing the agreement yesterday, RAMS policy director Dr Aslam Dasoo said RAMS had found it impossible to prise loose from pharmaceutical manufacturers the prices at which drugs left their factories The association had been forced to deal with the retail end of the industry only and would publish a list of its cost prices next week

# Health bills give Zuma unfettered powers

(183) CT 11/9/97

**THE TROIKA** of health bills introduced to Parliament by Health Minister Dr Nkosazana Zuma will have dire consequences for democratic and transparent government, argues **MIKE ELLIS.**

**DR NKOSAZANA ZUMA:** Bills to be introduced in Parliament could put her in complete and sole control of health care in this country if they are passed as they are now written

ONE of the most obvious things which distinguishes a democracy from a dictatorship is that in democracies decision-making involves a balance of power between the government and other interest groups, while in dictatorships there are no curbs on the state's authority

Gradually South Africa's new government is amending the rules of the game so that it fits more and more into the category of governments which are accountable to no one.

This is particularly obvious in Health Minister Dr Nkosazana Zuma's efforts to control healthcare.

Zuma's troika of new health bills allows her to decide on some crucial aspects of healthcare without considering the views of any other body and without being subject to requirements of reasonableness or fairness

The bills will give her the power to make decisions which in all likelihood would never survive Parliament's scrutiny Despite the fact that the new legislation will affect the healthcare needs of everyone in the country, the minister need not take the views of anyone into account in making her decisions

Indeed, one has to ask how much Zuma's close relationship with Cuba and her apparent strong ideological attachment to that country's authoritarian government has to do with her stance on these bills

The Medical, Dental and Allied Health Services Bill will allow Zuma to implement her controversial community service for doctors proposal The only restraint which Zuma faces in deciding on the length of this service, where it should be performed and conditions of work is that she should consult with the Interim Medical and Dental Council This is a formality, because she is under no obligation to accept their advice.

With regard to foreign doctors, the Health Professions Council is tasked with deciding whether a doctor qualified outside the Republic will be permitted to register in South Africa But its discretion is "subject to any regulation which the minister may make" Effectively, therefore, it has no discretion at all.

As if these powers were not already extravagant enough, the bill goes on to say "The minister may after he or she deems it to be in the public interest, amend or repeal any regulation or rule made in terms of the Act."

This probably allows her to overrule the already minimal requirement to consult the council. Effectively, the minister will be able to chop and change the legislation at will and without reference to Parliament or any other representative body

The pattern is repeated in the Medicines and Related Substances Control Amendment Bill It states that a new council can be formed "subject to the approval of the minister"

At a bare minimum, modern administrative law requires public officials to contain their decisions within the bounds of reasonableness and certainty Yet this bill places no obligation on the minister to ensure that her decisions are reasonable, nor must she provide justifications

The minister is also given the power to appoint, and to revoke the appointment of, a Registrar of Medicines The only constraint on her power is the purely decorative obligation to consult the council She also appoints the members of an appeal committee — created to give anyone aggrieved by a decision of the Medicines Control Council a means of addressing their complaint Her only limitation is that the qualifications of the members of the appeal board are prescribed.

The bill goes on to give the minister the power to "prescribe conditions for the supply of more affordable medicines in certain circumstances" This power is to be invoked unilaterally and without even the fig-leaf of consultation Control over medicines is so important that it would not be exaggerating to say that if you lose control over medicines, you lose control over healthcare.

This new bill will ensure that no interested party other than the minister herself will have any say on how or what medicines will be supplied in the future.

Whatever good or evil may result from the exercise of her discretion, the power to exercise this discretion is unfettered and wide open to abuse — if not by her, then by any of her successors

As with the previous bill, the minister may decide to amend any or all of these regulations if she wishes and she need only "consult" with the executive committee in order to do so

This bill is likely to have immediate consequences The provision which allows the minister to ignore patent rights for drugs registered in South Africa probably contravenes South Africa's intellectual property laws, she has already been threatened with lawsuits from pharmaceutical companies if the bill goes ahead.

The minister is given yet another cluster of powers in the Pharmacy Bill, which allows her to prescribe who may own a pharmacy, under what conditions they may do so and under what conditions permission may be revoked.

For an issue as complex and contentious as this, it is astounding that the minister should regard it as acceptable that she alone, without consulting even the Pharmacy Council, may make such decisions

Furthermore, although the Pharmacy Council is rendered almost meaningless as a result of this provision, she has still found it necessary to give herself the power to terminate the membership of any member of the council

In summary, the minister is given extensive powers, among which is the power to increase the powers which she already has The consequences in terms of democratic and transparent government are disastrous

The story does not end with these bills The real challenge to our private healthcare service as we know it will come when the National Health Bill, at present in its ninth draft, is tabled in Parliament either at the end of the year or early in 1998

Medical schemes, private practices, private hospitals and all other dimensions of private health care will be challenged by Zuma. If she grants herself the same powers to regulate in this bill as she is attempting to do with the three before Parliament now, she will effectively be in complete and sole control of healthcare in South Africa.

The DP will do its utmost to ensure that this does not happen

☐ *Mike Ellis is the Democratic Party's spokesperson on health He was last year voted the best opposition MP in Parliament by Sunday newspapers*

# Pharmaceutical firms, med-aids near accord

Star 12/9/97 (183)

## Three-tiered compromise on original idea for drugs pricing system seems to have found favour with main role players

**JANINE SIMON**
Medical Correspondent

Medical aids and the pharmaceutical industry finally appear to be nearing agreement on a new drug pricing system

Representative Association of Medical Schemes (RAMS) said this week the new system would be introduced on January 1 1998

It is a three-tiered compromise on the initial idea that the profit mark-up on all drugs be replaced with a professional dispensing fee.

The only dissenting voices come from a a group which queried one section of the compromise, and the United South African Pharmacies (USAP), whose chairman Julian Solomon said his 1 600 members had not yet seen the proposal, but that it appeared novel and worth consideration

RAMS said the new pricing structure was based on a new medical aid tariff list for drugs called the RAMS Recommended Pharmaceutical Scale of Benefits

This is a groundbreaking set of guidelines on how a medical aid should reimburse a pharmacist or other supplier for drug costs

According to the benefit scale, drugs which cost a retailer more than R80 will be sold with a R24 dispensing fee and drugs which cost the retailer between R30 and R80 will be sold with a dispensing fee calculated on an evenly-adjusted sliding scale.

**Current proposal politically acceptable**

Drugs which cost a retailer less than R30 will be sold with a 50% mark-up.

This proposal meant expensive drugs will become cheaper and cheaper drugs will not become more expensive, the RAMS said.

Earlier this year medical aids strongly attacked the pricing changes, saying the across--the-board introduction of a dispensing fee would dramatically increase the price of cheaper drugs and costs of medical aids with low-income members who relied on generic drugs

The RAMS said its current proposal was politically acceptable to all parties, economically equitable and set the correct prescribing and dispensing incentives.

However, some groups had expressed reservations about the proposed mark-up system for cheaper items. They had until year-end to present an alternative proposal, providing it did not increase the overall price for drugs wholesaling under R30.

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# Drug companies still on major collision course with minister

**BY JANINE SIMON**

Increasingly jittery pharmaceutical manufacturers and Health Minister Nkosazana Zuma remain on a collision course over the controversial new medicines legislation

The R10-billion industry says fundamental threats to its patent and intellectual property rights are still in the revised bill, threatening both its survival in the country, and consumer safety

Mirryena Deeb, executive director of the Pharmaceutical Manufacturers Association (PMA) said the PMA would have no choice but to challenge the Act 101 Medicines and Related Substances Control Amendment Bill in court.

However, health director-general Dr Olive Shisana said last week the department believed it was not contravening any existing international agreements.

"We believe we are on solid legal grounds on this issue," she said "We believe we are acting within the letter and spirit of existing international agreements and we have explained our position time and time again in discussions with the pharmaceutical industry about parallel importation "

Deeb claimed this week that Zuma appeared to be motivated by a movement gaining ground in the World Health Organisation, which advocated there be no patent protection for pharmaceuticals worldwide

The movement was based on a paper presented by a pirate pharmaceutical manufacturer in South America with a direct pecuniary interest in the matter, Deeb claimed

The bill was withdrawn in June and resubmitted in August, following widespread opposition, including from the industry, the Medicines Control Council and opposition parties.

But principles in the revised bill remain unaltered, and in some instances, are worse than the bill which was withdrawn, Deeb says

The industry was stunned that the minister was seeking in clause 15 C (a) of the new bill the power to abrogate all patent rights under the Patent Act at her discretion This was despite the fact that she had met with the American pharmaceutical industry and heard its grave reservations on how parallel imports would infringe intellectual property rights (TRIPS)

The PMA was concerned that the Cabinet was not aware of the scope of the proposals, as it could not possibly be ready to contemplate violating TRIPS

The bill proposed unequal registration and control standards as the minister would have the final say in the event of any dispute with the Medicines Control Council

It also gave the minister wide and undefined powers through unlimited authority to make regulations , Deeb said

Public hearings on the bill are scheduled for next week.

(183

FM 12/9/97

UNLEADED PETROL

# Time for a price rethink

Oil industry frets as consumption stagnates at 9% level

**The oil** industry is pressing government to increase the 4c/*l* price differential between unleaded and leaded petrol

Already R300m has been spent on special pumps, storage and distribution facilities for unleaded petrol — and the industry is seeing scant return on investment Initially estimated to grab 20% of the market within two years, sales of unleaded are still hovering at a mere 9% of total petrol sales since its introduction in May 1996

SA Petroleum Industry Association (Sapia) director Colin McClelland says "We originally asked for a 5% pump price differential to encourage sales — which boils down to about 11c/*l* at the current 220c/*l* price This was subsequently toned down to about 2% Had the 5% differential been introduced, we might have seen a 30% market penetration by now "

The introduction of unleaded fuel followed powerful lobbying by the motor industry, which felt it was being left behind global trends With unleaded already being subsidised to the tune of R164m/year, government is wary of committing itself to even higher tax subsidies for a product few consumers seem to want

Department of Mineral & Energy Affairs director of transport energy Theuns Burger says "We are looking at two other possibilities to help unleaded sales One is to increase the current 91 octane rating and the other is a massive product boost by the oil and vehicle manufacturing industries "

Sapia still feels a drop in price is the best bet "Our original agreement with government was that the price differential be reviewed within the first year, should a 15% minimum sales penetration target not be reached," says McClelland "With sales stagnating at the 9% level, there is now a need for an increased price differential to reach the targeted 20% penetration "

Government is not totally averse to the option In a communication to the National Association of Automobile Manufacturers of SA, Mineral & Energy Affairs says "the department is in principle not opposed to an increase in the tax differential, and therefore price differential, to promote the market penetration of unleaded petrol, nor is it indifferent to any distribution problems the industry may experience because of the lower than expected market penetration "

The department notes that unleaded petrol appears to be best accepted in "the more affluent areas " It says increasing the price differential could have the effect of "further increasing penetration in affluent regions, without solving the problems in the less affluent regions "

Burger says "about 80%" of all SA's motor vehicles could use unleaded without major engine modification "But the problem is mainly one of negative perceptions "

**Arnold van Huyssteen**

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HEDGE FUND SYMPOSIUM

# A must for the upwardly mobile

**Who's the** typical hedge fund investor? Fabio Pellanda, senior vice-president of Switzerland-based Banque Franck, says his clients are generally upwardly mobile and income-rich, working towards establishing capital The days of hedge funds being the preserve of aristocrats or "capital-rich industrialists of retirement age" are long gone

Pellanda is one of the speakers at the *FM* International Hedge Fund Symposium on November 19-20 "Clients have become interested in our ability to develop noncorrelated investments Whereas it is difficult for us to justify the allocation of single hedge fund investments, it has become acceptable for us to weave multi-adviser investment components into a balanced portfolio "

The *FM* International Hedge Fund Symposium takes place at Gallagher Estate, Midrand For details or to book, contact Global Conferences tollfree on 0800-222858, or contact the special website on

www hedgeconference co za ■

**ADCOCK INGRAM** (183)

# Counting the cost cuts

FM 12/9/97

Savings since the merger could contribute to better margins

**Judging by** the recent share price trend, the market expects bullish September year-end results from pharmaceutical giant Adcock Ingram These will be the first full-year figures since the merger with Premier Pharmaceuticals last October

At 2 070c, the price is up from the 12-month low of 1 630c set on November 11 The I-Net consensus of analysts' forecasts for 1997 EPS is 122c, up by 24% on 1996 In 1998, when more of the merger benefits are expected, EPS are forecast to rise about 21% to 147,9c

The group has almost completed a restructuring, which management calculates will cut about R100m from costs by financial 1998

In the longer term, Adcock expects to benefit from positioning itself in higher-margin industry sectors

The last big step — a pharmaceutical plant closure and shift of operations to the remaining two pharmaceutical factories — will occur early next year

Already, two pharmaceutical plants and one consumer product plant have been closed With the closure of the wholesale division in June, total retrenchments including support services have resulted in a 20% reduction in the total work force

Adcock initially estimated cost savings would be between R50m and R100m Now financial director Daryl Kronson says an estimate of about R100m includes the expense of the last plant closure Benefits of the restructuring, with an improved sales mix, are expected to result in a significant increase in the operating margin from the 21,6% at half-year

Kronson says that, unlike previous plant closures, large-scale retrenchments will not be necessary "Like our international competitors, staff will work shifts so that plants can operate longer hours," he says "We can't be competitive without streamlining operations Most employees of the closing factory will be offered jobs at the remaining two plants"

Infrastructure costs are lower and, Kronson says, after post-merger staff cuts, management will be kept lean **Michelle Joubert**

# WATCH OUT FOR THESE MEDICINES

ARG 19/9/97

(183)

**ADELE BALETA AND JILYAN PITMAN**

**Potentially dangerous stolen medicines, including prescription drugs, are being sold on the streets of Cape Town and other cities by hawkers with no medical knowledge.**

City police have confiscated some medicines on the streets of Cape Town, and at least one case is being heard in court.

The medicines, most of which have been stolen from state depots, are being sold from street corners and shopping centres countrywide for cut-rate prices Health professionals have warned the public it is hazardous to buy medicines from street vendors.

They said the drugs' shelf life may have expired even if their packaging indicated otherwise, because the contents could be counterfeit They could also be poor-quality generics.

The drugs could be harmful if taken without professional advice.

A pharmacist said medicines had to be kept in optimal conditions It was dangerous, for example, "to leave them in the blazing sun"

Some of the medicines include steroid creams, such as Betnovate, meant to treat skin conditions, being sold as skin lighteners These could damage the skin irreparably.

**Health hazard:** asthma pumps sold on streets

Hawkers are even selling asthma inhalers, which have to be bought at pharmacies. Medical experts warned that deaths due to asthma usually took place as a result of patients underestimating the severity of their condition, relying on inhalers when they needed more serious treatment.

An intricate web of illegal trading in medicines involving organised crime syndicates is costing the Government millions of rands

Bada Pharasi, the Health Department's chief director of medicines, registration, regulation and procurement, estimates that the cost of theft ranges between R50-million and a billion a year, but sources in the pharmaceutical industry said these figures were "too conservative",

Investigators into theft of medicines said scheduled drugs – those which require a doctor's prescription – were stolen and sold by individuals to middle-men, who in turn flogged them to "unscrupulous" wholesalers.

Kalk Bay police have confiscated 12 Ventolin refills – a popular asthma inhalant – from a hawker trading outside the Mitchell's Plain Town Centre. Mogamet Shafiek of Beacon Valley has appeared in court for allegedly selling the stolen refills. His case was postponed to September 29

Kalk Bay sergeant Craig Finlay said Mr Shafiek allegedly bought the refills for R7 each and sold them for R20 each City pharmacists told Saturday Argus that their retail price varied from R39,99 to R55,20.

Anne Brand, Western Cape Health Department Director of Health Support Services, confirmed that the stock had been stolen from the province's Medical Depot in Chiappini Street. She said a total of 86 refills

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P.T.O.

# Sasol warns of bad smell over Secunda this week

(183) CT (BR) 15/9/97

**JONATHAN ROSENTHAL**

Johannesburg — Emissions of hydrogen sulphide, a by-product of coal-burning, were likely to increase from the Sasol Synthetic Fuels plant at Secunda this week, Sasol warned last week

The liquid fuel-from-coal producer said it had taken its sulphur recovery plant out of operation to undertake statutory maintenance work

"This temporary shutdown will result in higher than normal emissions of hydrogen sulphide into the atmosphere during the period from September 13 to 20 1997

"Depending on atmospheric conditions, the emissions may cause unpleasant odours in the areas surrounding Secunda," Sasol said in a statement

It said the department of health's safe threshold for emissions was 200 parts in a billion, and that in worst-case conditions ground-level concentrations would not exceed 16 parts a billion

In its latest environmental report, which is published every two years, Sasol said it spent R28 million a year in recovering hydrogen sulphide from the waste gas stream of its gasification plant It said that, although it had reduced these emissions, the Sasol Chemical Industries plant in Sasolburg still emitted 21 000 tons of hydrogen sulphide a year

Sasol said last week that maintenance teams were working around the clock and that the plant should be operational again by the end of the week

FOOTNOTES

Hilary Joffe

# Removal of subsidy sets Sasol's synfuels free

BD 16/9/97

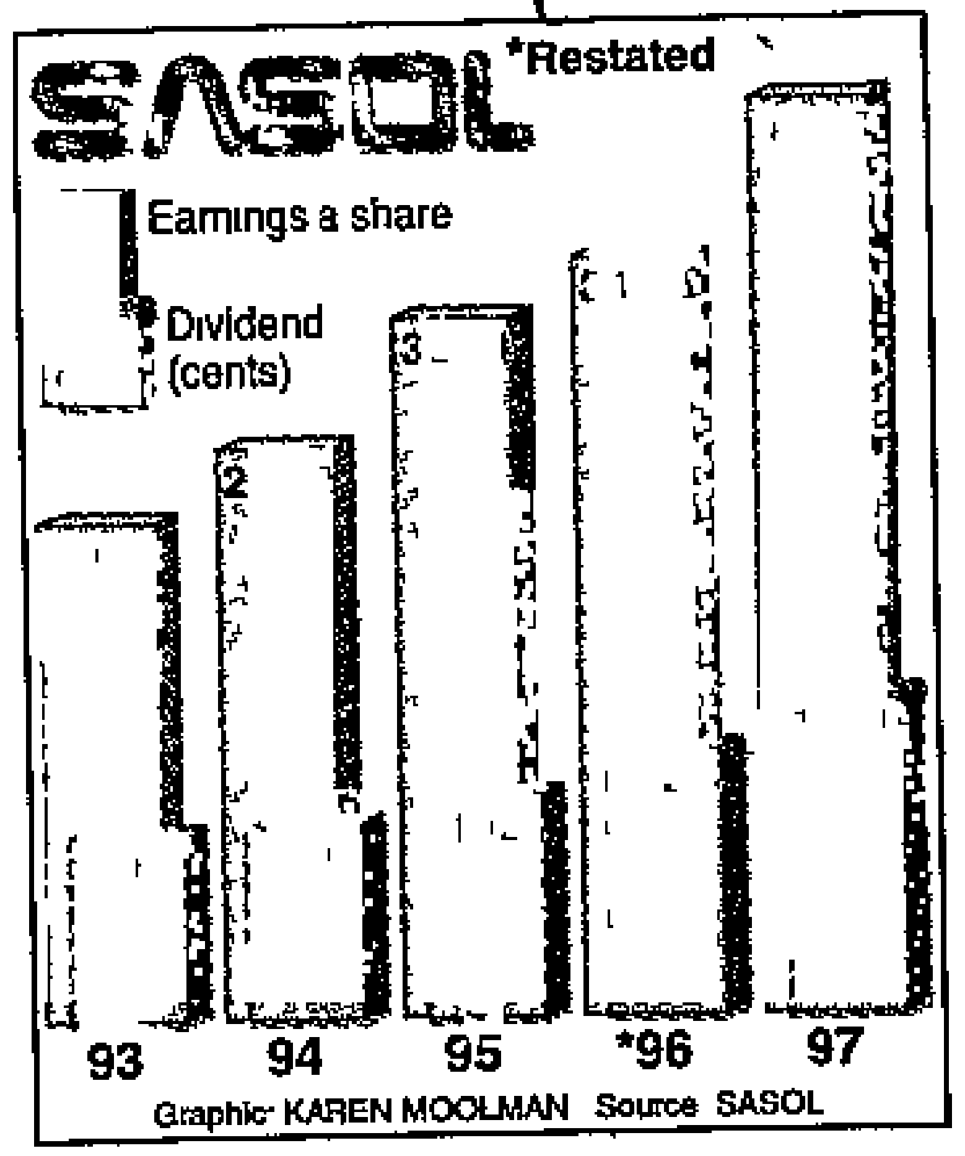
183

SPECTACULAR results from Sasol's synthetic fuels (synfuels) operations, which lifted operating profit 28% to R1,9bn in the year to June, make the fuss a couple of years ago about the phasing out of the synfuel subsidy seem silly

Even Sasol insiders must now feel the removal of synfuel's "tariff protection" (as the group prefers to call it) was a good thing, given the success so far of the transformation programme put in place to counter its effects

The group originally aimed to cut costs over four years by about R1bn — equivalent to the subsidy received in the 1995 financial year — by re-engineering the Secunda synfuels operations and introducing new technology

It has made only a start on the new technology — a prototype SAS (Sasol Advanced Synthol) reactor has been operating successfully since 1995 Seven more will be brought in by 1999 to replace the remaining 15 old synthol reactors



Graphic KAREN MOOLMAN Source SASOL

But Sasol MD Pieter Cox told analysts last week the transformation initiative had already yielded R500m in additional profit and the group was looking to surpass its original objective of cutting synfuel costs by $3/barrel Current cost was about $11,60/barrel and Secunda was still on track to produce synfuels at a cash cost of $10/barrel.

Cox says synfuels' potential for profit growth in financial 1998 is limited, but a strong advance is expected in 1999, when the new reactors are in place Meanwhile, he seems to have given up predicting relative profit contributions from Sasol's divisions.

Where a couple of years ago the group targeted Sasol Chemical Industries (SCI) to generate half of its earnings by the year 2000, Cox quipped last week that Synfuels had set itself the same target

In the year to June, SCI's operating profit was up 25% to R1,1bn, accounting for 29% (1996 28%) of the group's total, against Synfuels' 49% (47%) share Sasol Oil's contribution rose to 17% (14%) on good refining margins, but the mining division dropped to 6% (11%) because of weather-related cost increases.

□□□□

"WE KNOW our plans and you don't," was Sasol GM Russell Kennedy's response to an analyst who asked why the cash flush group had decided to increase its dividend cover.

The petrochemicals group had R2,4bn of cash on its balance sheet at end-June But Kennedy said he expected a "substantial reduction" in cash reserves by the 1998 year-end

The group's problem may be how to deploy some of the cash offshore. MD Pieter Cox says it is discussing with the Reserve Bank innovative ways of doing so Much of this year's R3bn capital expenditure can be self-funded, but Cox says Sasol's initiatives abroad could place substantial demands on its resources

The first of these could be early next year, when the group may have to decide on a sizeable investment in Qatar. Sasol, Qatar General Petroleum Corporation and Phillips Petroleum of the US are evaluating a project which would use Sasol's technology to convert natural gas into naphtha and high quality, environmentally-friendly diesel fuel.

The feasibility study is due to be completed by January

Sasol has also allied with Norway's Statoil to investigate a project which would convert offshore natural gas to synthetic crude oil and liquid fuel, using Sasol's Fischer-Tropsch technology and Statoil's knowhow in offshore oil and gas rigs

Sasol has created a new division, Synfuels International, in charge of these and other projects abroad aimed at "leveraging" its unique technology, the key driver of the group's plans to globalise its operations In addition to its ambitions in synfuels, Sasol wants to grow its global chemical business through alliances which exploit its competitive advantage in producing chemical feedstocks

Cox sets globalisation in the context of a three-pronged growth strategy, which also includes doing "more of the same" with Sasol's planned expansions in coal mining, oil refining and chemicals, and extracting higher-value chemicals out of the feedstreams from its synthol processes

*Task team to be appointed to advise on margins and regulation*

cT(BR)17/9/97

# Maduna to tackle problems

(183)

**LYNDA LOXTON**
PARLIAMENTARY CORRESPONDENT

Cape Town — Penuell Maduna, the minerals and energy minister, said yesterday he would establish an ad hoc committee soon to advise him on the urgent issues needing attention in the liquid fuels industry

The committee, or task team, would be consulted on touchy and long-outstanding issues such as increased margins for the oil industry and the extent to which the industry should be reregulated, he told the parliamentary minerals and energy committee

"I am taking the matter to Cabinet and the memo is basically ready for my signature," he said

A green paper on mining and the white paper on energy would also be released for discussion within the next few months

"You will experience some adjustment to the margins this year We want to get started on building a new regulatory system"

He was enlarging on comments made during his first appearance before the parliamentary committee this year, which got off to a stormy start because of criticism in the media that he was inaccessible to most interest groups, including the committee.

Maduna rejected criticism of him in the media by Kobus Jordaan, a Democratic Party MP, and said it was a lie that he was not accountable to parliament through the committee or not available to interest groups

Duma Nkosi, the committee chairman, refused to allow the meeting to degenerate into a slanging match and got Maduna to outline plans in hand in his ministry

He agreed that the pricing structure of fuel had to be reviewed and a new regulatory environment was needed if oil companies were to invest in a fifth refinery for South Africa

But any reform, he said repeatedly, would have to bear in mind the need to involve formerly disadvantaged communities and tackle South Africa's pressing social needs Failure to do so could lead to a "social explosion, a second revolution"

Committee members at the meeting were almost outnumbered by media, oil industry and mining sector representatives keen to hear what progress had been made in reshaping policies in the sector

Afterwards Colin McClelland, the South African Petroleum Association director, welcomed news that action was imminent on several pressing matters and said the oil industry recognised this had to take place in a way that met broader social needs

**OILING THE WHEELS** *Penuell Maduna, the energy affairs minister, and Don Makwanazi, Soekor's chairman, at the launch of the Engen Black Development Forum in Cape Town yesterday (See Page 1) after Maduna's parliamentary address*

PHOTO ANDREW BROWN

# Chamber of Mines welcomes pharmacies licensing changes

(183) ~~[illegible]~~ BD 17/9/97

**Jacob Dlamini**

CAPE TOWN — The Chamber of Mines yesterday welcomed Pharmacy Amendment Bill provisions giving the health department director-general powers to issue licences to run pharmacies.

Chamber spokesman Lettie La Grange said director-general Olive Shisana was an independent party who could grant licences without regard to vested interests.

Licences for the running of pharmacies are currently issued by the Interim Pharmacy Council. But La Grange said the Chamber of Mines had suffered because of a council decision to withdraw its licence to operate pharmacies at its 43 hospitals and 300 clinics last year

The decision was taken to protect council members who had complained the chamber was taking away their business by offering pharmaceutical services to its estimated 500 000-strong workforce.

La Grange said the council should not get involved in the "economics" of pharmacy ownership, but she strongly backed the amendment bill provision for lay ownership of pharmacies as it would make health care more efficient, cost-effective and accessible.

La Grange also called for the criteria used to decide the awarding of licences to be made transparent and open.

Meanwhile, the Township Pharmacy Group said provisions giving the director-general discretionary powers to issue licences were misplaced. Spokesman Shaheen Sattar said the Interim Pharmacy Council was the only logical body to issue licences

Sattar called for pharmacists in townships to be given opportunities to grow, and called on the health minister not to grant chain stores licences to operate in townships, as this would lead to the elimination of small community pharmacists Lay ownership should only be allowed in areas with no pharmaceutical services

☐ Sapa reports Deputy Minister Essop Pahad apologised in the National Assembly for implying in a speech, made more than a year ago, that Democratic Party health spokesman Mike Ellis was in league with hidden pharmaceutical interests

# Natural remedies face ill wind in control Bill

(183)

ARG 17/9/97

**JENNY VIALL**
HEALTH REPORTER

**The sale of natural health products like vitamins and herbal remedies is threatened by the Medicines and Related Substances Control Amendment Bill.**

Complementary and traditional healing groups will today ask the parliamentary portfolio committee on health to exempt natural substances from the definition of medicine

They will also ask for their own regulatory body, as they say the Medicines Control Council is not qualified to regulate natural medicines.

They say the Bill needs to be changed to accommodate various cultures of healing, because as it stands it serves only the western medical model

The definition of a medicine was so broad that substances like garlic and parsley fell under the same control as patent medicines.

The 1965 legislation was put in place to protect consumers against potential disasters like thalidomide.

There is no legislation governing natural products, which have fallen under the jurisdiction of the Act So health shops selling vitamins and other remedies are technically selling drugs, and are liable for prosecution.

# Zuma's medicine bill is a bitter pill to swallow

Star 18/9/97 ([illegible])(183)

## Strong opposition to draft laws that would give minister sweeping powers

**By Jovial Rantao**
Cape Town

The pharmaceutical industry, big business, six political parties and the Medicines Control Council (MCC) have rejected Health Minister Dr Nkosazana Zuma's draft legislation aimed at reducing the price of drugs through parallel importation and legislated generic substitution.

MCC chairman Professor Peter Folb said his organisation, which has had thorough consultation with Zuma, was unhappy that the Medicines and Related Substances Control Amendment Bill would give the minister sweeping powers.

"The MCC cannot understand why the minister seems to have so little confidence in the council that she requires extraordinary powers to enable her to overrule, ignore or reject the recommendations made by the council and to ask Parliament to endow her with sweeping powers which can result in unilateral action by her whenever she wishes to use it," Folb said.

The MCC believed that some clauses in the legislation would harm the medicine control process and set the scene for unacceptable double standards which would be applied to medicine registration and control

Folb said if the bill was adopted unchanged, the stage would be set for immediate and continued conflict between the MCC and Zuma.

He accused the health department of reneging on agreements it had made with the MCC on the legislation and requested that the bill should be held back until several clauses had been deleted

In a joint statement, the Democratic Party, the National Party, the Inkatha Freedom Party, the Pan Africanist Congress and the African Christian Democratic Party said evidence against the bill was strong and called on Zuma to withdraw the bill.

The parties said Zuma should re-enter into a process of negotiation and consultation with the MCC and other role players to provide medicine control measures that were in the best interests of the country and its people.

The Dispensing Family Practitioners' Association said the bill smacked of "Gestapo legislation" in the extensive powers it gave the minister.

MEDICINES PRICE BILL SLATED

# 'Sweeping powers' for Zuma opposed

CT 18/9/97

(183)

**HEALTH MINISTER** Nkosazana Zuma is accused of having ignored or rejected the recommendations of the Medicines Control Council in formulating draft legislation.

THE pharmaceutical industry, big business, six political parties and the Medicines Control Council (MCC) have rejected Health Minister Dr Nkosazana Zuma's draft legislation aimed at reducing the price of drugs through parallel importation and legislated generic substitution

MCC chairman Professor Peter Folb said his organisation, which has had thorough consultation with Zuma, believed the Medicines and Related Substances Control Amendment Bill would give her sweeping powers

**OVER EMPOWERED:** Nkosazana Zuma

"The MCC cannot understand why the minister seems to have so little confidence in the council that she requires extraordinary powers to enable her to overrule, ignore or reject the recommendations made by the council and to ask Parliament to endow her with sweeping powers which can result in unilateral action by her whenever she wishes to use it," Folb said

The MCC believed some clauses would harm the medicine control process and set the scene for unacceptable double standards being applied to medicines registration and control.

Folb said if the bill were adopted unchanged, the stage would be set for immediate and continuing conflict between the MCC and Zuma

He also said the government would fall into a trap where organised and existing arrangements to control medicines were circumvented or diluted to facilitate the introduction of parallel imported medicines

He accused the health department of reneging on agreements it had made with the MCC on the legislation and asked that the bill be held back till several clauses had been deleted

In a joint statement, the Democratic Party, the National Party, the Inkatha Freedom Party, the Pan-Africanist Congress and the African Christian Democratic Party said evidence against the bill was strong and called on Zuma to withdraw it

The parties said Zuma should re-enter negotiation and consultation with the MCC and other role players to formulate medicine control measures that were in the country's best interests

"It's unacceptable that the department and the minister have reneged on various and important points of agreement reached with the MCC. No bill should ever be passed when the major role player is at such odds with the minister and her advisers, who would seem to have their own agenda on this matter, rather than the proper health of the people of this country," the parties said

The South African Chamber of Business (Sacob) said it supported the objective of ensuring more affordable medicines, but believed the envisaged measures could have serious and harmful consequences

Dr Hugo Snyckers, chairman of Sacob's industrial affairs committee, said his organisation opposed the clause that would give the minister wide discretionary powers to abrogate patent rights He said this would be inconsistent with the World Trade Organisation's agreement on intellectual property protection

Snyckers warned that non-compliance with the requirements of international law for the protection of intellectual rights could result in trade sanctions

Health director-general Dr Olive Shisana told the committee her department had consulted extensively on intellectual property rights and had taken care to ensure they were not breached by the legislation — Political Staff

OIL AND CHEMICALS

# Sasol has an unsympathetic state to thank for its success

CT (MR) 18/9/97 (183)

**NATHAN ROSENTHAL**

Two years ago when the government and labour-dominated Liquid Fuels ask Force recommended that ubsidisation of Sasol be phased it, many in the industry fore- ast the imminent demise of partheid's prodigal son.

It is ironic that the govern- ent's unsympathetic line may e the most important factor re- onsible for pushing Sasol from s comfortable position as an nport-substitution supplier of etrol to a diversified interna- ional commodities group.

In its past three financial ears, Sasol's exports have rown by an average of 53 per- ent a year In the past year its oreign sales were worth 3,8 billion, or just under 24 per- ent of the group's turnover

Sasol Synthetic Fuels, which eceived R76 million in subsidies last year, increased its oper- ating profit 28 percent to R1,9 billion Fortunately for Sasol, however, the year was characterised by high oil prices which, more than anything, was responsible for the fall in its subsidy from R803 million the previous year. The Sasol subsidy is paid out if the oil price falls below a predetermined floor price. In July 1996 the floor price was reduced to $18 a barrel and it was again reduced by 1$ a barrel this year.

Although good oil prices assisted Synthetic Fuels, it has been the group's almost single-minded obsession with cutting costs that really improved its earnings

During the past financial year its unit cost of production increased 5,4 percent in rand terms and fell 10,7 percent in dollar terms

The introduction of new generation reactors at a cost of just more than R1 billion should further cut the cash costs of producing synthetic fuel by $1 a barrel from next year's financial year

But the real gap for Sasol's future growth lies in its higher-value chemical streams and the blue-sky prospects of its drive to sell its fuel-from-gas technology offshore

On the chemical front, the reduction in the group's synthetic fuel subsidy has finally prompted it to extract high-value chemicals from its fuel stream, even if that has meant a small drop in its synthetic fuel production.

Sasol's competitive edge in the chemical arena is that at a very low additional cost it can extract high-value chemicals from a stream that would simply have gone down the exhaust pipes of South Africa's motorists.

This, analysts have said, makes it among the world's lowest cost producers of key chemical commodities across a range of industries. What is more, this nearly "free" source of chemicals is largely untapped.

Earlier this year Sasol completed a R43 million project to remove bottlenecks from its Sasolburg ammonia plant and increase production by 14 percent. Its alpha olefins division increased turnover by 92 percent to R212 million through increased volumes, and has hardly scratched the bottom of the barrel.

Last year its Hexene-1 plant produced about 60 000 tons of product and the group will expand capacity to about 110 000 tons by year-end. The available feedstock for recovery is 180 000 tons a year.

Sasol has also been quick to tie up with the market leaders

When it decided to pull octene-1 out of the fuel stream it persuaded Dow Chemical to buy its entire output In July this year, when Sasol decided to exploit its explosives technologies offshore, it bought a 49 percent share in DHB Holdings, a US-based chemicals and explosives group, as a vehicle into the US and Canadian mining markets

Analysts expect Sasol Chemicals to provide the group with its medium-term growth, even if the commodity cycles for its products do not look too good over the next year.

But in the long term all the action is likely to be in its drive to find offshore markets for its liquid fuel from-gas technology

Its Secunda synthetic fuel operations have proven that liquid fuel from coal is competitive But it is a long and complex process that first has to turn coal into crude gas and then into synthesis feed gas

And while Sasol goes through this long and difficult process, trillions of cubic metres of natural gas lie unexploited because they are too far from gas markets. In many instances, such as Nigeria, the oil industry simply flares off natural gas and views it as a bother associated with oil strikes

Far better, thought Sasol, would be to short-circuit its own process by eliminating the bother of first turning coal into gas. Sasol has already struck an agreement with the Qatar General Petroleum and Phillips Petroleum to use its technology in Qatar. It plans to produce 20 000 barrels of diesel fuel a day from natural gas in Qatar.

Pieter Cox, Sasol's managing director, insists that Sasol will retain control of its technology and participate in the projects.

It has also struck a deal with Statoil of Norway to miniaturise Sasol's conversion plants to make them fit on to floating platforms for offshore gas conversion

Analysts seem to think Sasol's technological lead is between five and 15 years over its nearest competitors, which could give it a near stranglehold over the production of low-sulphur diesel and position it to tie up rights to most remote natural gas supplies.

But there is clearly a good deal of risk in this otherwise rosy outlook. Mossgas, the fuel-from-gas plant that cost the taxpayer about R12 billion, was based on a similar technology Sasol is quick to point out that the new reactors and processes are a far cry from those used on Mossgas and that its new pilot plant has proven the technology is economically viable.

Sasol has also been a little mum on what the Qatar project is going to cost it.

With cash flows as strong as Sasol's, the group can perhaps afford to take on a little debt and take a few risks.

If they pay off, what was once an apartheid monstrosity could soon be ranked among the world's leading oil and petrochemical companies

# Legislation on drugs may lead to double standards — critics

(183)

**Jacob Dlamini**

CAPE TOWN — The Medicines Control Council yesterday accused Health Minister Nkosazana Zuma of reneging on agreements and seeking to introduce legislation which would lead to double standards in the control and monitoring of efficacy of drugs.

Speaking during a parliamentary hearing on the Medicines and Related Substances Control Amendment Bill, chairman Peter Folb said recommendations by the council had not been included in the bill.

Instead the health department had included clauses in the bill which would affect the council's scientific decision making relating to the safety, quality and efficacy of drugs, Folb said.

He said the draft legislation would give the health minister sweeping powers to introduce the parallel importation of drugs and international tendering, despite assurances by Zuma that she had no intention of usurping the council's powers.

Folb said the bill — one of three pieces of legislation withdrawn by Zuma in June amid intense opposition — also retained clauses which could severely harm the medicines control process and allow for double standards to be used to register and control medicines.

The bill, if passed unchanged by Parliament, would enable the health minister to override or ignore the council's advice, Folb said. Zuma, he said, had been given poor advice on the draft legislation and this had resulted in the bill being "ridiculous" and "thoroughly" unsound He also said the bill would expose the council to possible legal action by making it a juristic person.

Health department director-general Olive Shisana rejected accusations that the bill would give the minister wide and unspecified powers Shisana said it was in the public interest for the government to regulate private health care.

She said government would be failing in its duties if it did not intervene appropriately in the market to ensure that the price of medicines was lowered

Meanwhile, the SA Chamber of Business has called for the withdrawal of the bill, saying it could have damaging economic and legal consequences

BD 18/9/97

# Minister poorly advised on medicines bill, says professor

(183) ARG 18/9/97

**JENNY VIALL**
HEALTH REPORTER

**Proposed legislation to bring down medicine prices is "essentially flawed" and will undermine the drug policy it intends to support, says Medicines Control Council chairman Peter Folb.**

In his submission to the parliamentary health committee, Professor Folb said aspects of the Medicines and Related Substances Control Amendment Bill were "thoroughly unsound".

Positions agreed to by the council and the Department of Health had been reneged on by the department.

He said there were two fundamental issues which could not allow the bill to go ahead.

One was parallel imports which would allow medicines to be imported from another country from the same company without registration.

"It is not sufficient to depend on the name of the manufacturer; a reputable company in one country could be disreputable in another.

"Medicines from whichever source should be treated in the same way," said Professor Folb.

There could be no endorsement of double standards in the regulation and control of medicines (one standard for the State and one for everyone else).

"I feel the minister has had poor advice and the result in parts is ridiculous."

The second issue was the clause allowing the minister to reverse regulations and decisions by the council.

He said he supported the council being regarded as a juristic person, held responsible in law for the decisions it took, but at the same time the minister was given the power to change and veto decisions the council had taken and these positions were not reconcilable.

"I have seen the end of the tunnel that is being described in this draft bill and it is dark," Professor Folb said

"It is a Third World trap "

The World Health Organisation had warned repeatedly against issues introduced in the draft bill.

# Defiant Zuma won't budge on controversial health bills

Star 19/9/97

(183)

**By Jovial Rantao**
Political Correspondent

Cape Town – On a day on which opposition to her controversial health bills grew, Health Minister Nkosazana Zuma remained adamant that the three pieces of legislation – aimed at reducing the price of drugs and improving access to health care – would become law.

Zuma said she expected the Medicines and Related Substances Control, the Medical, Dental and Supplementary Health Service Professionals and the Pharmacy Amendment bills to become law before Christmas.

The minister yesterday attended the public hearing on the Medicines and Related Substances Control Amendment Bill in Parliament.

She said the strong opposition to the Medical and Related Substances Amendment Bill, discussed during a hearing of Parliament's Health Committee yesterday, had been expected.

"I didn't expect them to sing hallelujah .. I expected a fight. I have compromised enough and the bill will be taken through the normal (parliamentary) procedures I have no intention of withdrawing the bill," Zuma said.

She expected the bills to be approved by Parliament before the Christmas break.

Zuma denied allegations by the Medicines Control Council and other stakeholders that she was interested in allocating enormous power to herself.

The MCC has submitted to the committee that the legislation would endanger the lives of South Africans because Zuma had powers to override the council's decisions

Health director-general Dr Olive Shisana said concerns for the safety of patients was unfounded and that allegations that Zuma had extensive powers to overrule the MCC were unwarranted.

The National Association of Pharmaceutical Manufacturers criticised the Medicines and Related Substances Amendment Bill for being vague in certain clauses.

Barney Sachs, executive director of the NAPM, objected to the clauses which gave the minister the power to upturn the Patents Act without recourse to Parliament and called for its deletion.

The NAPM was opposed to any form of price control, as suggested in the bill. Healthy competition was a more effective way to drive prices down, Sachs added.

Dr Norman Mabasa of the National Convention for Dispensing Doctors said the Government should not regulate dispensing doctors and called for the scrapping of VAT on medicines as a way of reducing the cost of health care

The hearings on the bills will be concluded today.

# Zuma adamant on trio of health bills

(183) CT 19/9/97

**POLITICAL STAFF**

**FIRM:** Nkosazana Zuma

ON a day when opposition to her controversial health bills grew, Health Minister Dr Nkosazana Zuma remained adamant that the three pieces of legislation — aimed at reducing the price of drugs and improving access to health care — would become law

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She said the strong opposition to the bill, which was discussed during a hearing of Parliament's Health Committee yesterday, was expected

Among the bill's opponents was Dr Norman Mabasa, of the National Convention for Dispensing Doctors, who said the government should not regulate dispensing doctors and called for a scrapping of Value-Added Tax on medicines as a way of reducing the cost of health care.

The National Association of Pharmaceutical Manufacturers (NAPM) criticised the bill for its lack of detail and for being vague in certain clauses.

Mr Barney Sachs, executive director of the NAPM, objected to the clauses which gave the minister the power to overturn the Patents Act without recourse to Parliament, and called for deletion of the clauses

Sachs said the elimination of a system of bonuses and samples to doctors and pharmacists would increase the costs of Schedule 0 drugs, which can be bought in supermarkets "We believe that Schedule 0 products should be exempt from such regulation and a provision built in that these products cannot be used as incentives for the sale of other medicines in pharmacies. Allowances should be made for a volume based non-discriminatory pricing system," Sachs said

The NAPM was opposed to any form of price control, as suggested in the bill, because it would interfere with free market practices Healthy competition was a more effective way to drive prices down, Sachs added.

Well-known patent lawyer Dr Tim Burrel urged the committee to delete Section 15(c) of the bill because it would violate conventions signed with the World Trade Organisation. He said if the bill was passed unchanged, "we would look like a bunch of incompetents".

But the minister remained adamant· "I didn't expect them to sing Hallelujah I expected a fight.

"I have compromised enough and the bill will be taken through the normal (parliamentary) procedures, I have no intention of withdrawing the bill."

Zuma denied allegations by the Medicines Control Council (MCC) and other interested parties that she was interested in allocating enormous power to herself

Health director-general Dr Olive Shisana said yesterday clauses in the bill clearly ensured that the minister would have to approve regulations relating to imported medicines when there was complete agreement with the MCC.

Shisana said concerns for the safety of patients was unfounded and that allegations that Zuma would have extensive powers to overrule the MCC were unwarranted. The hearings on the bills will be concluded today.

● If measures were introduced to identify medicines sold to the state, tracing them back to government stores would be relatively easy and proof of theft and possession of stolen medicines would be a mere formality, the Portfolio Committee on Health was told by the Association of Pharmaceutical Wholesales and Distributors.

Mr Peter Hodes, SC, for the association, told the committee the stated aim of the proposed legislation was to prevent the entry of stolen medicines into the market,

However, none of the envisaged benefits would necessarily derive from the proposed legislation. Instead it would have a devastating effect on prices and on wholesalers and small pharmacies in the disadvantaged communities. On the other hand, the asssociation had been able to get substantial discounts on medicines and could pass on the savings to outlets

The biggest and perhaps the ugliest corporate baby spawned by apartheid was an oil-from coal comany called Sasol

Lovingly suckled from the outset by a ate that pinned its hopes on self-suf iency in oil the infant was nurtured with expense spared But time has passed d the bairn has grown from stripling to ulthood to maturity

Along the way Sasol — the world s only nthetic fuel operator — has gained its dependence and is earning a reputation an innovative profitable and internaonally competitive corporation

There are those who will argue rightly at this was accomplished at the expense the taxpayer Nonetheless, the fuels gint s achievements have been awesome e work of its scientists most of it done hind closed doors under the old order s led to ground-breaking technologies w internationally recognised

Sasol's latest achievement is a worldating p ocess for converting otherwise profitable deposits of natural gas into gh-quality diesel The implications are r-reaching Sasol believes the invention ll have a significant impact on the comany's profits in the early years of the 21st entury and turn the company into a leadg-edge international group sought after multinational partners

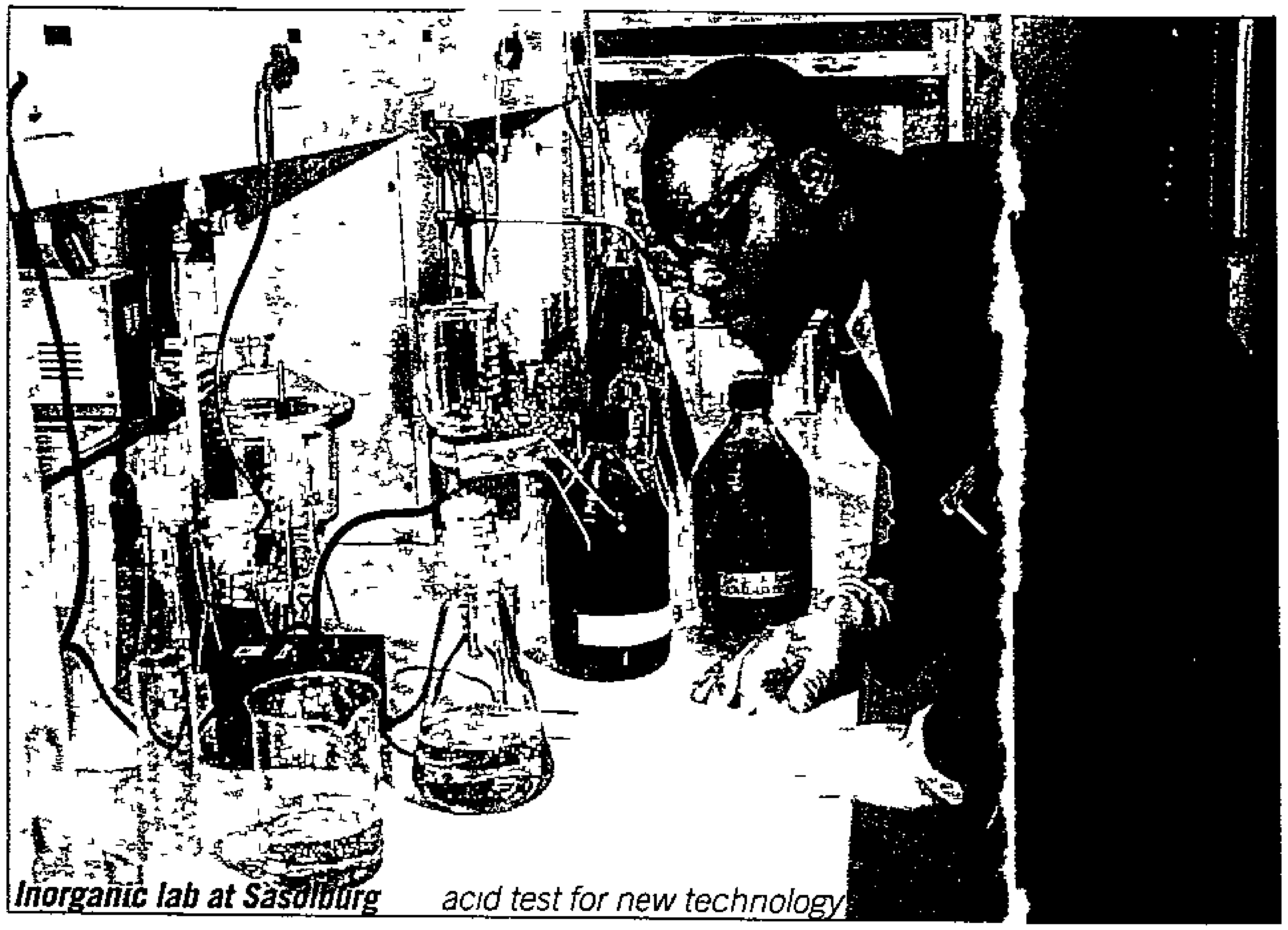
The breakthrough has already resulted in o potentially lucrative deals — one with atar the other with Norway's publicly wned Statoil which controls a big slice of e North Sea s oil and gas deposits

Though not in great demand in SA diesel important in the cold countries of the rthern hemisphere where it can account r up to 80% of the liquid fuel market The el is used primarily for heating rather than ansport

Sasol is excited, and particularly condent about the marketability of its latest d for a number of reasons Firstly the ocess relies on using plentiful natural s Some of the world's natural gas is und along with oil but unlike oil it is fficult to store and expensive to transport

Furthermore, Sasol is offering a solution the wasteful and environmentally unceptable practice of flaring off gas reased from oil wells — a riveting but astly image associated with many oil elds It is also offering oil companies the ssibility of additional savings as the pross would allow them to abolish the exnsive practice of reinjecting gas into oil ells to maintain the natural pressure and us obviate the need to pump Here there e obvious cost savings

The technology could encourage the exploration of remote gas deposits unassociated with oil This is a resource which until now has awaited the technology to exploit it profitably — as Sasol CEO Pieter Cox puts it — to "monetise" the gas



Inorganic lab at Sasolburg acid test for new technology

SASOL

(183)

# Going global

(183)

FM 19/9/97

## From bairn to behemoth, fuels giant grows to world-class stature

Sasol s triumphant answer to the problem of mobilising the world's remote natural gas deposits came from modest beginnings — the low temperature, low pressure version of its synthetic technology This Sasol has used for years at Sasolburg to produce valuable synthetic wax and some diesel

What is different now? The most basic answer is a vast improvement in scale which means that the first module planned to operate at Qatar once studies on the quantity and quality of the gas are complete will produce at the rate of 10 000 barrels per day (BPD) of crude oil equivalent This compares with a maximum of 1 200 BPD achieved in 1993 with the original tubular bed reactor

Further characteristics of the synthetic diesel are a key to commercial success In a world increasingly concerned about the environment Sasol's product is at a premium Two undesirable constituents of diesel produced by conventional refining are absent One is sulphur the other so-called aromatics (or ring compounds) Aromatics are considered injurious to health so health regulations are beginning to restrict the aromatic content of liquid fuels

Another attraction of synthetic diesel is that it offers a high cetane number (the equivalent of octane number for petrol) In other words its combustion characteristics are attractive

All of this adds up to a price premium for the synthetic product either on its own or as a blend to help bring conventional diesel within the latest environmental limits for sulphur and aromatics

However, all this must be brought down to earth in one respect so far the process is profitable only if the natural gas comes at a competitive cost But the quantities of gas meeting the cost constraint are still enormous so the field is wide open for expansion well into the next century

What commercial strategy has Sasol devised to turn its chemical engineers dedication into hard cash? This is simple to form partnerships in which Sasol will contribute the technology plus a portion of the capital while the partner contributes the gas and the remaining capital

The first success of this strategy was the deal with Qatar a small state on the Gulf which long ago ran out of oil but holds great gas resources Cox expects a three-year lead time to build the plant (onshore) after thorough tests of the gas The first module could be operational five years hence

But the prospects for this development could be dwarfed by the implications of the deal with Statoil This is ambitious, the idea being to develop the technology for placing slurry bed reactors on ships or floating platforms not only to deploy at Statoil's own North Sea fields, but to market to other offshore operators around the world Mobility will enable the diesel-producing platform to be floated from gas deposit to gas deposit as each becomes exhausted so small but potentially valuable quantities can be exploited in turn Bearing in mind the increasing importance of offshore oil as many deposits on land become exhausted this is truly an idea for the next millennium not just the next century

The implications for the company are beyond measurement particularly since Sasol has come to realise that its future depends increasingly on the outside world There has been a compound 62% increase in foreign sales in the four years since 1993 and these now account for 23 9% of sales

Sasol knows that its core competence lies in technology and operations Sasol s Fischer-Tropsch technology offers a competitive advantage in the production of not only fuels but also waxes chemicals and low-cost feedstocks from coal such as propylene and ethylene used in plastics

Analysts say the group s medium- to long-term future looks promising though the share price tends to be driven by 12-month earnings projections After Cox announced last week that he expected earnings growth to be modest the share price lost almost 10% of its value falling from R66 to R60

The combination of low refining margins and weaker chemical prices is expected to restrict Sasol s earnings growth to between 11% and 15%

Despite the promise of handsome future profits from the latest technology Sasol is finding it difficult to maintain a rating in line with the market index and at the current earnings multiple of 14,5 is at a slight discount to the Industrial index

Though Sasol has consistently produced a real increase in earnings since it listed in 1979 there is however still some scepticism about whether it can remain a growth share as it operates in the cyclical chemicals and oil sector

The system of tariff protection cushioned Sasol from the effects of low oil prices and Sasol has always been able to realise fair prices for chemical products domestically even with low world prices

Until recently Sasol was dismissed as an anachronism in an age of US$17/barrel oil The giant Secunda complex was built in reaction to the oil shocks of the Seventies in anticipation of oil prices of $35 $40/barrel

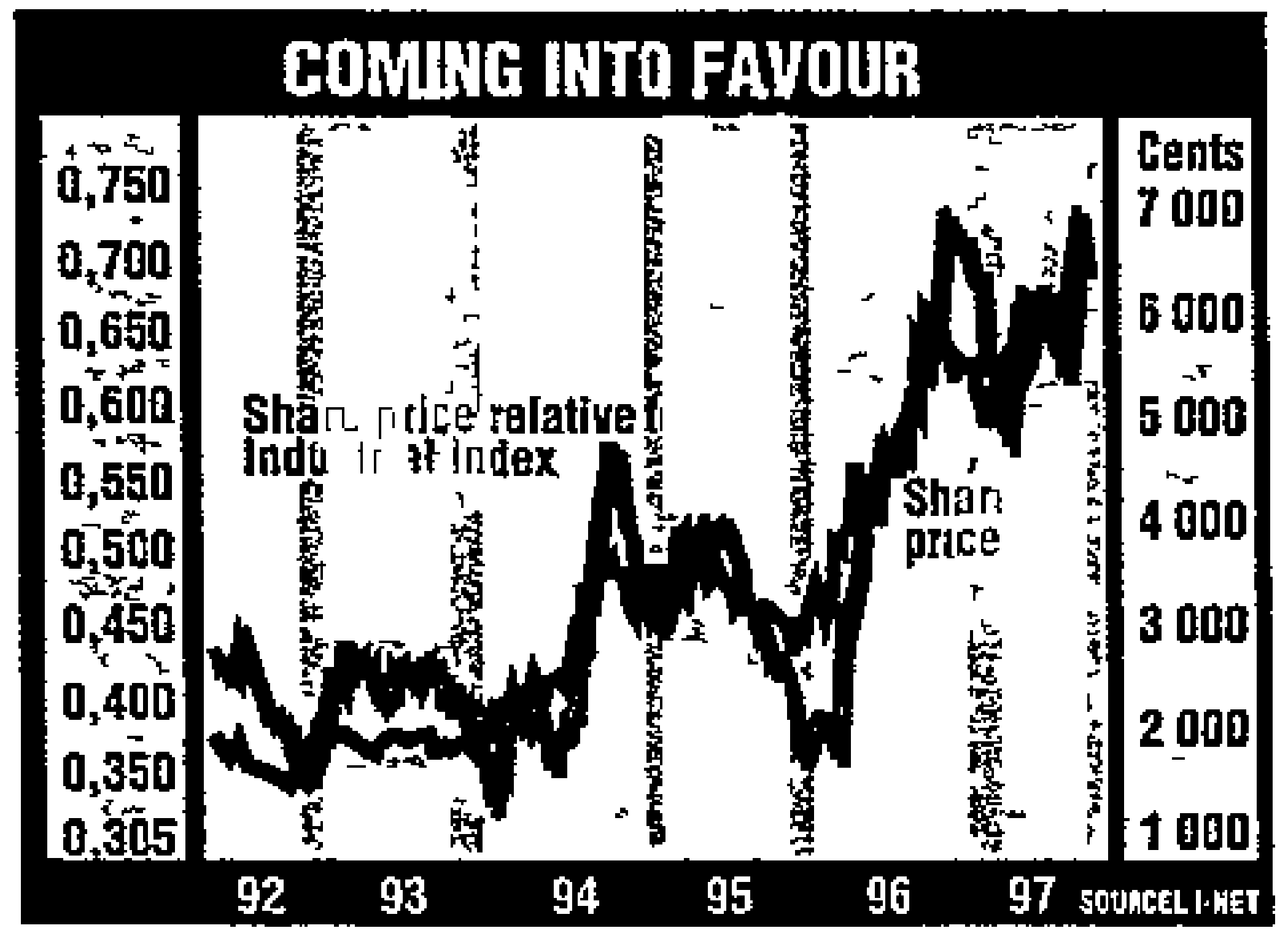
But tariff protection has dwindled and Sasol received R76m in 1997 compared with R803m in the previous year and often well over R1bn in prior years The reference price at which protection kicks in fell from $18 last year to $17 on July 1 Unless there is a significant slump in oil prices Sasol may never be paid protection again

Foreign investors are much less concerned about Sasol s historical baggage and like the share s discount to international oil companies which trade on an average p e of 18 as well as its tradeability — 19,6% of shares traded last year higher than any other large market cap share on the JSE — and its status as a genuine public company with no controlling shareholder Sasol has been sought after in asset swaps and it has a foreign

Paul Kruger

> Only sharply focused organisations transcending national boundaries can acquire an insight into global market forces

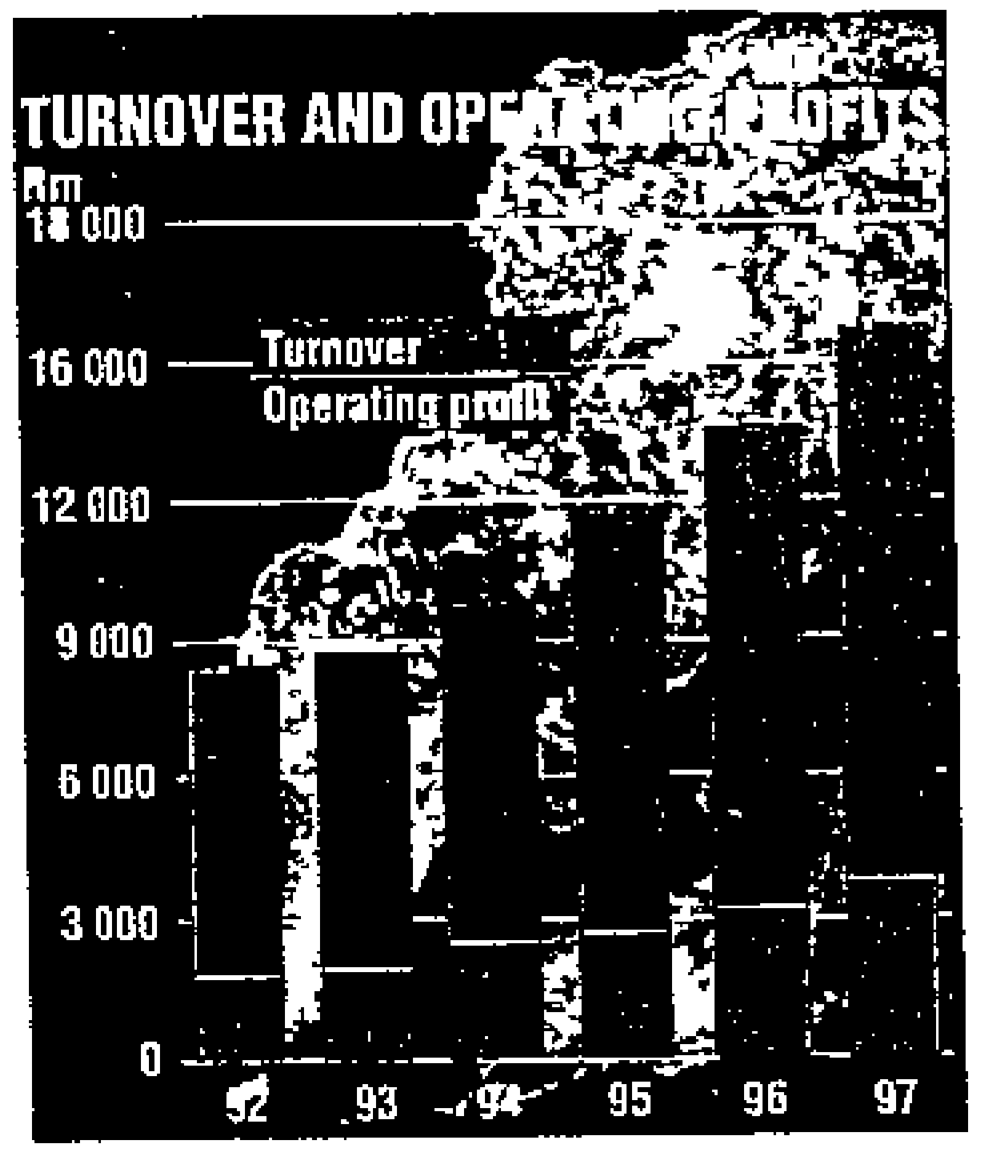
COMING INTO FAVOUR



SOURCE: I-NET

areholding of up 30%

Sasol is now cognised as a orld-class company which might t yet have reised its full potenal Its share looks ceedingly cheap n a two-year ew" says a atWest markets ealer in London



Cox says that Saol has proved itself s a stand alone usiness in a free arket and it will ocus its efforts on eeping margins at healthy 24%-26% and on producing real ncreases in earnings

A few years ago we would have seen ur transformation primarily in terms of ecoming a chemicals company which we expected to constitute half our bottom line by the next decade says Cox We still expect substantial real growth from chemicals but the growth from synfuels and oils is such that it will probably constitute 35% (29% in 1997) and not half of our business

Sasol Synfuels expects to cut R1 3bn from its operating costs by its 2000 financial year through its Vulamehlo project which it introduced to counter the effects of reduced protection in 1995 It had cut nearly R600m from the cost base by 1997 well above the target of R350m Cox aims to cut $3/barrel off Sasol s unit costs by the end of the decade and the new SAS reactors alone will cut $1/barrel off costs

Syntuels profitability is also enhanced as its product is used for petrochemicals instead of fuel Instead of selling petrol or diesel at about $200/t Sasol can sell ethylene to Polifin or Safripol for almost $600/t (which peaked at almost $800/t in 1991) or Hexene-1 at more than $800/t Last year fuel sales accounted for 72% of Sasol Synthetic Fuels production, down from 75% with sales to the petrochemical industry up from 15% to 18% Pipeline gas is a rapidly growing source of income and sales increased by 95% as the inland market increased and new markets were opened in KwaZulu-Natal

Two other fuel-based profit centres were established during the year One, Sasol Petroleum International (SPI) ultimately aims to make Sasol as self-sufficient in oil and natural gas as it is in coal It has tied up with Agip of Italy in its exploration in Algeria and Congo with Arco in Mozambique and with Phillips Petroleum of the US off the KwaZulu-Natal coast

SASOL'S EXPORTS

## Growing in leaps and bounds

**Over** the past three years Sasol s exports have grown at an average annual rate of 53% And in the past financial year at a time when world prices for many chemicals were softening and international competition was tough Sasol increased its foreign sales by 22 4% to R3 8bn

This represents nearly 24% of group turnover

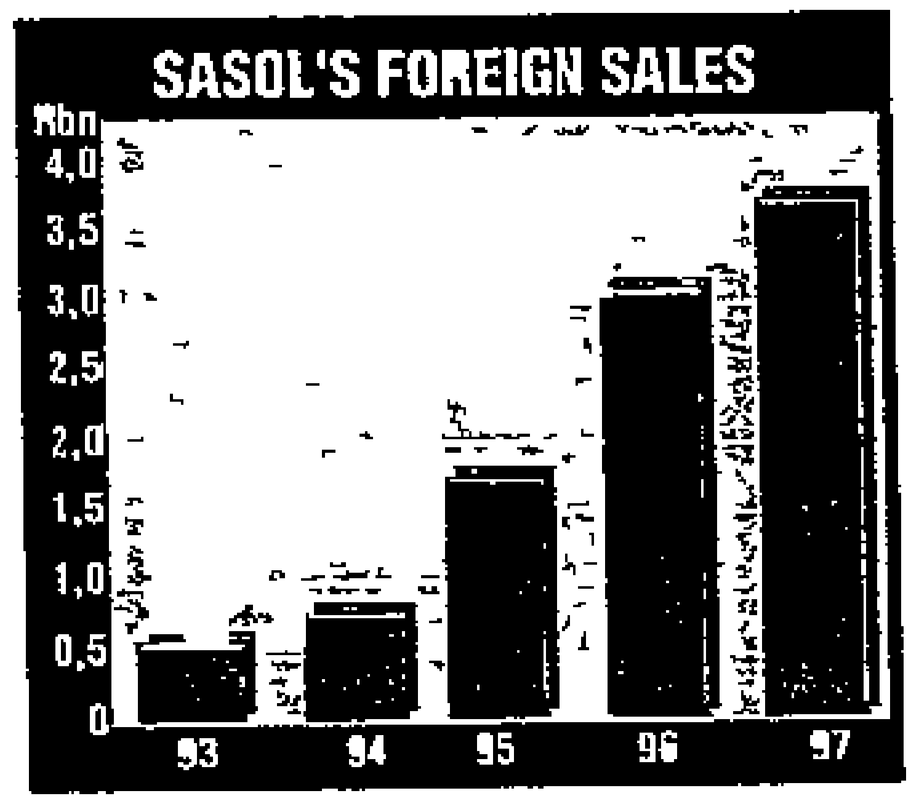
Sasol's export programme began in 1958 with a shipment of creosote to Sri Lanka, then Ceylon The organisation, State-owned at the time went on to export a range of waxes and solvents And, in the early Eighties after it had passed into private hands, it started diversifying downstream into the production of fertilisers then explosives and later polypropylene

Sasol Chemical Industries MD Ralph Havenstein says the group's competitive edge in the export market is that it is able to manufacture high-value chemicals simultaneously with fuel products "Over the past decade Sasol has concentrated on recovering more and more of the high value chemical components from its product streams, placing them in higher-value chemical markets

Growth in exports and offshore income has been driven primarily by significant increases in chemical sales" says MD Pieter Cox in a review published early this year He plans to push Sasol Chemical Industries (SCI) s contribution to operating profit from its 1997 level of 29% to 50% by the end of the century And exports will play an important part in this initiative

SCI exports mainly through its offshore divisions and its joint ventures

Sasol Chemicals Pacific, based in Hong Kong markets chemical products "The People's Republic of China is now the largest single market for Sasol chemical products in the region," says the 1997 annual report



Other markets are spread around the globe

Schumann Sasol International a joint venture with Schumann in Germany is the leading producer and marketer of wax products worldwide

Export impetus also comes from other subsidiaries

However income from its synfuel division was lower than expected in the financial year ending June Brazil which placed large orders for fuel alcohol for several years suddenly reduced its order by more than 50% from US$150 3m the previous year The reason, says the annual report is "the imposition of more stringent product specifications by the Brazilian government"

Sasol Mining exported 900 000 t of coal generating foreign exchange income of R130m The target for this year is 2 5 Mt And Cox predicts that before the end of the decade, Sasol Mining will be exporting at least 3 Mt of coal a year which will generate foreign exchange earnings of R500m

Sasol Oil exports mainly diesel petrol and jet fuels to Zimbabwe Zambia and the Democratic Republic of the Congo earning R800m

**Ethel Hazelhurst**

Sasol s approach to exploration has been cautious Instead of wildcatting in unexplored regions it has focused on areas with proven reserves and tied up with experienced explorers Cox says a move into exploration is essential if Sasol is to fulfil its international aspirations "The most successful fuel companies all have substantial control over their supplies"

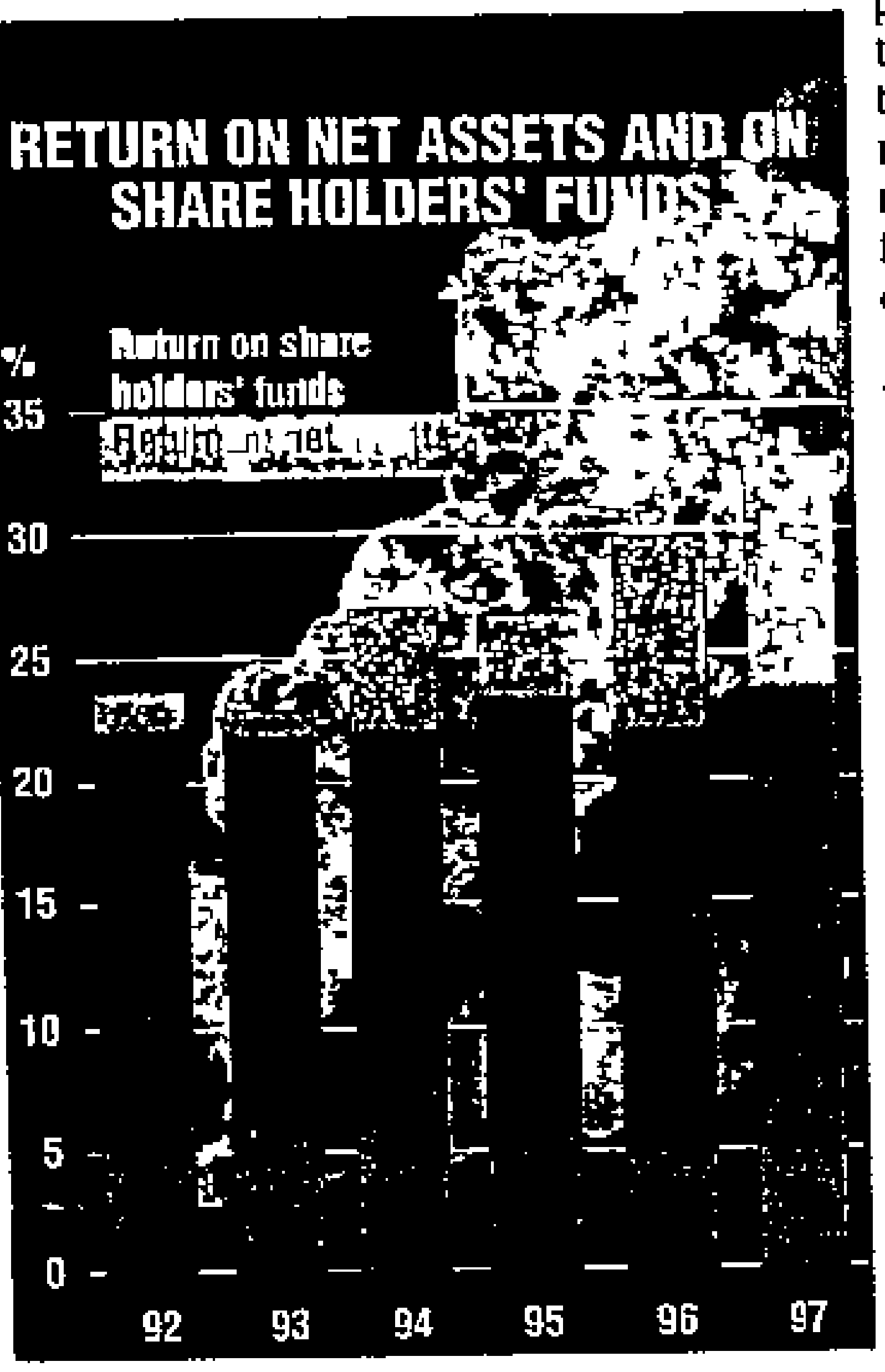
Sasol will not license its new technology but instead it is establishing joint ventures through Sasol Synfuels International (SSI) In addition to the SSI deal with Qatar in which US oil giant Phillips is involved Sasol has also established a joint venture with Statoil

Neither SPI nor SSI is likely to be a significant contributor to the bottom line before 2002 or even 2005 but they provide substantial blue sky and will ensure that Sasol remains primarily a fuel business

Cox says however that Sasol is only partly dependent on the crude oil cycle Its selling prices to the oil companies are determined by oil prices but Sasol s fuel and chemical earnings tend to be counter cyclical When oil prices are low margins on petrochemicals increase and disposable incomes increase internationally leading to higher chemical dollar prices

When the local economy is weak the rand weakens which immediately benefits Sasol as its own costs of mining coal and running its operations, are priced in rand but its selling prices are in dollars

Only a portion of Sasol's chemical portfolio follows the traditional petrochemical cycle — primarily the olefins polymers and chlor-alkali produced by Polifin Fertilisers which still account for 12% of chemicals turnover follow the local agricultural cycle waxes are dependent on world GDP and explosives on the mining industry



Sasol Chemical Industries is expected to make up for weaker world chemical prices with increased volumes It has also moved into higher margin products, most recently by commissioning new acetic and propionic acid plants

Cox hopes that the new more open trading environment will lead to rationalisation of much of the domestic chemical industry The creation of Polifin as a joint venture with AECI was the prime example of two companies creating a far more competitive operation by merging their polymer interests

Sasol s Natref crude oil refinery is the only inland refinery in SA Its yield of white product (gasoline) is 90% compared with 60%-70% at the coastal refineries

The local market is growing fast enough to absorb easily the planned 30 000-barrel expansion at Natref This represents about one year s growth in petrol demand

SBC Warburg s Themis Themistocleus says Sasol should be able to achieve about 24% compound growth over the next decade compared with 17% for most industrial shares Its ambitions to be seen as a global company will take some time to realise — the Secunda and Sasolburg complexes will continue to drive profits and the domestic fuel market will remain its prime customer for at least another decade

But its slurry phase process is one of the few SA products that has any chance of finding widespread acceptance across the globe

The process also produces other valuable petrochemicals — kerosene (used notably for fuelling jet aircraft) and naphtha (a key synthetic intermediate)

Though there could still be a five year wait for cash flow the advanced technology now being marketed internationally could change the entire focus of Sasol s operations from local fuel synthesis into worldwide marketing of advanced technology


Piet Cox

>> A move into exploration is essential if Sasol is to fulfil its international aspirations

What of competitors? Cox concedes that Shell is working on comparable processes in Malaysia where it has extensive gas resources So is Exxon and a US synthetic company Syntroleum But he exudes a quiet confidence that Sasol remains far ahead of the field

Sasol has reacted cautiously to overtures to form the core of a SA National Oil Company a pet project of Energy Minister Penuell Maduna

In the most recent annual report, chairman Paul Kruger says "Nation-state industries in the energy and petrochemical field will not be able to retain their competitiveness in the long term It is axiomatic that only sharply focused organisations transcending national boundaries can acquire an understanding of and insight into global market forces and have access to global resources to remain competitive"

Cox is quieter and less pugnacious than Kruger but he is also reluctant to turn Sasol into a national oil company with its own retail outlets "There is no particular reason for us to move into retailing We have agreements in place to sell our product in the market at a reasonable price

"This might change if the market is deregulated and we need to build our own customer base It would not make sense for us to build our own service stations and in that case we would look at an alliance with an oil company

Rumours of an impending deal between Sasol and Engen have helped the Engen share price but it is seen as largely irrelevant for Sasol

All this tells a tale of a company which has long outgrown its highly politicised beginnings as a means to limited self-sufficiency in liquid fuels at a time when oil embargoes were the order of the day and SA was becoming increasingly isolated Now in the areas of its greatest strength Sasol itself is beginning to call the tune

**Stephen Cranston and Robin Friedland**

# Health reforms will go ahead — Zuma

BD 19/9/97 (183)

**Jacob Dlamini**

CAPE TOWN — Health Minister Nkosazana Zuma hit back at critics of her proposed health reforms yesterday and said the legislation would go ahead despite opposition and threats of legal action from the pharmaceutical industry.

Zuma said she had made enough compromises to accommodate stakeholders' concerns. She said she would have been surprised if the bills, which seek to improve access to health care by lowering the price of drugs through generic substitution, parallel importation and international tendering, had been accepted without opposition.

Zuma said she hoped the bill, which is before Parliament's health committee, would be put to the National Assembly when it began its fourth quarter next month.

Zuma dismissed accusations made by Medicines Control Council chairman Peter Folb that the legislation would give her unfettered powers to act without the advice of the council.

She said the council would retain its powers to register and check on the efficacy of drugs. But the legislation would give her the power to initiate regulations if it was deemed to be in the national interest. This, she said, would be accompanied by discussions with the council.

Zuma rejected Folb's claims that provisions in the bill making the council a juristic person would expose it to legal challenges. She said the provisions were designed to make the council accountable for the decisions it took.

Health director-general Olive Shisana also rejected Folb's claims. Shisana said Folb's complaint that the legislation would give Zuma extensive powers to overrule the council was unwarranted as the minister already had original powers in the existing laws.

Shisana said there were several countries, including Canada, that had drug regulatory authorities whose decisions were treated as recommendations for approval by their respective ministers.

National Association of Pharmaceutical Manufacturers executive director Barney Sachs told the committee some of the amendments proposed in the bill would negatively affect the quality and safety of drugs. He said generic substitution would violate intellectual property rights and deny business the chance to get good returns on its investment. Sachs said this would lead to lengthy legal and constitutional battles.

Meanwhile, the Inkatha Freedom Party called for the bill to be withdrawn until further debate on health financing and regulation. Spokesman Ruth Rabinowitz said the bill was authoritarian and would place the licensing of health professionals under the control of the minister. She said generic substitution would deny patients the right to choose medicines.

# Doctors, patients take to streets to protest Zuma dispensing plan

ARG 20/9/97

183

**Durban – Health Minister Nkosazana Zuma came under attack when about 400 doctors and their patients staged a protest march through the Durban city centre yesterday.**

Protesting against a proposed law that would prevent doctors from dispensing medicines, the group chanted "Down with Zuma" as they made their way to the City Hall

Carrying posters with slogans that included "Dispense with Zuma", "Zuma's health policy is sick" and "We doctors will defy Zuma's dispensable laws", the group handed a memorandum to Dr Olaf Baloyi from the provincial health department

The march was organised by the National Council on Dispensing, which was formed a year ago when Dr Zuma initiated laws to prevent doctors from dispensing medicines

Dr Sarwan Bugwandin of the Family Practitioners Association said the march was the first phase of a mass action programme which would include a defiance campaign and a nation-wide petition

Doctors have also vowed to take the minister to court if the bill is passed

"We are not against the principal of health for all but we are against the minister's high handedness and her lack of consultation," Dr Bugwandin said – Own Correspondent

# Rights battle threatens Sasol

(183) CT(BR) 22/9/97

**SHERILEE BRIDGE**

Johannesburg — The Sasolburg operations of Sasol, the oil-from-coal producer, including Sasol Chemical Industries (SCI), could be shut down if Sasol lost a legal battle for the rights to begin mining at its Sigma North-West strip mine section, industry officials said last week

"The mine is the lifeline to the operations division of SCI and there will be serious ramifications for Sasol if the mine does not go ahead," said Alphonso Niemand, the communications manager at Sasol

An industry source said if SCI closed 3 000 people would lose jobs and up to 30 000 would be indirectly affected.

A decision on whether Sasol can go ahead with the strip coal mine on the banks of the Vaal has been held back by the legal fight which has broken out between the minerals and energy department and Save the Vaal Environment (Save), a group of 7 000 opposed to the mine

Save said the delay would cost Sasol about R120 million a year because it had to supplement SCI's 7 million ton feedstock requirement with 1,3 million tons from external collieries in the past year

Sigma North-West, the envisaged new strip mine section, would supplement production from Sigma Colliery's Wonderwater strip mine section It is also intended to replace production from the old underground section of the colliery

SCI's coal requirement was supplied by the underground mine from 1952 to 1992 Recently it has recorded progressively lower production from the mine

Sigma produced 5,4 million tons during the past financial year, a decline of 14 percent

Unit production cost at the mine also increased sharply by 37,2 percent during the year, due to higher underground support costs and lower production rates

Alan Witaker, the vice-chairman of Save, said the group was worried about the issuing of a section 9 mining permit by the minerals and energy department, which said Sasol was not to commence mining at North-West until the environmental report was approved Save is concerned that there was inadequate community involvement in drafting the environmental management programme report

The organisation had applied to the high court to have the permit set aside, Witaker said

"Sasol will appeal if Save is granted the court order," said Neels Hoek, the director of minerals development at the department "There is no possibility that Sasol will lose the case "

# Legal tussle 'no threat to Sasol Chemical Industries'

**Ingrid Salgado** (183)

BD 23/9/97

A LEGAL tussle surrounding Sasol's proposed Sigma strip mine would not jeopardise the future of subsidiary Sasol Chemical Industries, Sasol corporate affairs GM Sej Motau said yesterday.

The mine, which was expected to provide the oil-from-coal producer with about 2-million tons of coal a year, was at the centre of a legal battle between environmentalists and the mineral and energy department

Motau said the lion's share of Sasol Chemical Industries' coal requirements — about 7-million tons a year — would continue to be met by Sasol's Sigma colliery, which produced about 5,4-million tons a year without the strip mine's contribution

In the "unlikely" event of the strip operation having to be abandoned, Sasol would source the remaining feedstock requirements from local external sources He denied reports that Sasol Chemical Industries could face a shutdown

At Sasol Chemical Industries' current rate of consumption, Sigma colliery had sufficient coal reserves for at least 20 years However, Sigma's underground operation was nearing the end of its life span

Motau said the legal dispute related to alleged procedural shortcomings in drafting the environmental management programme report, and not to environmental concerns Sasol was finalising the report, which would be submitted to the minerals and energy department

The dispute arose when Save the Vaal Environment gave notice of its intention to challenge a minerals and energy department decision to grant a section 9 mining permit for the operation, citing insufficient community involvement as a problem.

Motau said Sasol, a respondent in the case between the environmentalists and the department, would defend the action.

The environmental report had indicated that potential environmental effects could be managed

Sowetan 24/9/97

# CWIU on strike at Secunda

ESE 183

[illegible]

# Sasol's Secunda strike continues

BD 25/9/97 (183)

**Reneé Grawitzky**

THE wage strike by 6 000 Chemical Workers' Industrial Union (CWIU) members at Sasol's Secunda collieries entered its second week while management at Usko in Vereeniging has allegedly locked out 400 metal workers who have been on a four-week strike.

Sasol said yesterday that the strike was continuing, but contingency plans had been put in place to ensure the supply of coal to Sasol's synthetic fuels and the export market would continue without interruption

CWIU members embarked on strike action in support of a wage increase ranging between 11% and 13% while the company offered between 10,25% and 12%

Sasol said that the offer was in excess of the Chamber of Mines' final offer and the settlement reached in its synthetic fuels division of 10,5% overall and 12% on the minimum rate

Sasol said its minimum wage was way in excess of the Chamber's minimum of R1 000 a month.

The proposed offer would raise the minimum from R1 158 to R1 300 a month

Meanwhile, the National Union of Metalworkers of SA (Numsa) claimed that 400 members had been locked out by management at Usko

The union said the strike began after the company refused to extend the housing scheme to rural workers and over the company's intention to reduce its severance package from four weeks for every year of service to two weeks

Numsa deputy general secretary Peter Dantjie said the lock-out and hiring of replacement labour could only aggravate an already tense situation

It is understood that the strike has been marred by violence and claims of intimidation

PHARMACEUTICAL STOCKS

(183) FM 26/9/97

# Hiatus as players try to stomach Zuma factor

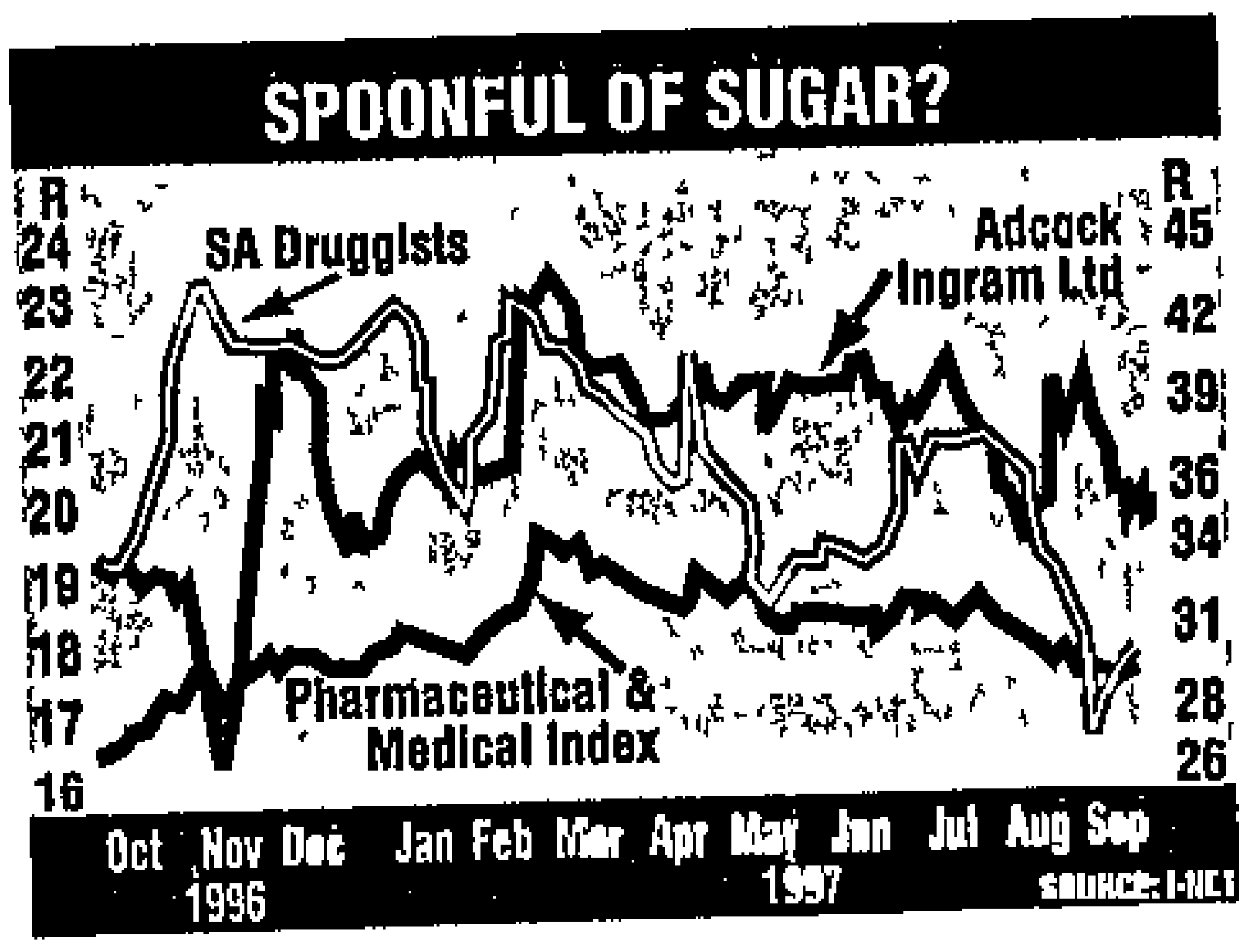
## Health Minister's policies will determine who recuperates and who succumbs in health-care sector

Until Health Minister Nkosazana Zuma takes several important policy decisions, rating pharmaceutical stocks takes on a tinge of weather forecasting For now, Adcock Ingram, SA Druggists and Alliance Pharmaceuticals continue to move sideways

Zuma wants to make health care accessible and affordable That's largely responsible for two major structural changes taking place in the market Managed health care (MHC) — which limits unnecessary operations and drugs — is emerging in the private sector And State spending is shifting, Zuma wants to fund primary health care for the broader population

There will be no finality until there is clarity on Zuma's three proposed Bills These propose to promote generic substitution, restrictions on dispensing doctors, the introduction of an essential drugs list and the import of parallel (cheaper) drugs

For the companies, these changes mean more (lower margin) generic drug sales and less (higher margin) patented medicine sales Unless medical aid problems lessen, self-medication for common ailments will boost over-the-counter (OTC) drug sales The system proposed by Zuma also includes an incentive for pharmacists to dispense generics


SPOONFUL OF SUGAR?

SOURCE: I-NET

Price and margin pressures will be aggravated by the unfavourable exchange rate in an industry dependent on the import of between 60% and 80% of its raw materials

On the face of it, each SA group has a workable strategy to accommodate Zuma's policies Each has a wide portfolio Adcock has focused on branded OTC products, SA Drug is taking the generic route and Alliance is targeting niche areas such as critical care, hospital disposables and branded consumer products

But judging by SA Drug's rating — the counter has plummeted to a p e of 13,5 — investors don't think its strategy is working and expect poor results for the year to end-August

For now, SA's prescription market is dominated by patented brands In the longer term, generic profits will be under pressure from new market entrants, particularly India

SA Drug director Kobus Nel says his group can accommodate any scenario

"Our generics are strong but do not dominate sales," he says "They will become our focus once demand increases We estimate that 50% of sales will be generic The fat-cat days of the Seventies and Eighties are over for pharmaceutical companies But we have been planning for new legislation since 1992 '

SA Drug is the group expected to be most active in the State sector's mostly lower-margin business One of the most important legislative changes is the introduction of an Essential Drugs List CEO Peter Benningfield says it aims to cut drug costs by using generic medicines for primary health care The drug list will probably reduce per-unit prices paid by the State, though volumes will rise

Probably the most important factor in SA Drug's rating is the expected knock from hefty start-up losses at its MHC clinics Analysts say the 24-hour clinics were opened too soon The division is expected strong cash flow once demand increases

Adcock's rating has slipped in line with the sector index But the industry giant — newly merged with Prempharm — is the current favourite on a p e of 18,5 Financial director Daryl Kronson says restructuring should cut costs by about R100m by financial 1998 The last big step, another pharmaceutical plant closure, will occur early next year

Adcock's OTC products depend on consumer conditions, which have been tough recently The group has about 23% of this market, a large share by world standards Products include well-known Panado (accounting for more than R70m of sales), Compral and Syndol Analysts expect strong growth in the OTC market

Kronson argues that Adcock's strategy protects it against State legislation He reckons productivity increases are a result of the merger, and that management will be kept lean But he concedes that margins will probably have to be cut


*SAD's CEO Peter Benningfield* *taking generic route*

Smaller competitor Alliance is growing fast, off a low base Sales have grown at a compound annual average of 35% and operating profit at 66% for five years Much of this was due to acquisitions

CE Meyer Gelbart says Alliance's next growth phase should come from organic expansion, increasing market penetration, exports and acquisitions

Analysts expect impressive growth in the year to February 1998 The cosmetics division — including brands such as Coty and Cutex — now accounts for about 35% of Alliance's sales and operating profit The remainder includes generics, patented drugs, OTC products, critical care and medical disposables

Gelbart points out that though generic drugs play a major role in the health-care business, there is still a place for innovative patented drugs "These normally have a lifespan of 15-20 years before a substitute can be found Higher margin patented drugs still play an important role in the health-care business "

Despite current problems, most analysts say investors should hold stakes in SA Drug, which is expected to show high growth in cash flow over the next four years The verdict is more immediate for Adcock and Alliance, which are worth accumulating

After restructuring growth, OTC sales are expected to boost Adcock's profitability And Alliance has prospects of organic and acquisition-based growth The problem may be finding available stock Alliance's majority shareholder is Forim and probably the Forman and Gelbart families Adcock is tightly held by CG Smith

**Michelle Joubert**

PHARMACEUTICALS

FM 26\9\97 (183)

# Rift threatens to damage industry

## Multinational drug company CE speaks out on 'nonrelationship' between manufacturers and Health Department

A former executive council member of the Pharmaceutical Manufacturers' Association (PMA) warned this week that the rift between the PMA and government could severely damage the industry if it continues

Lothar Erhardt, CE of Novartis, one of SA's largest pharmaceutical multinationals, quit the PMA executive council in April, citing "a tremendous workload which requires all my time and attention "

This was a reference to pressure of work at the time of the creation of Novartis by the merger of Ciba-Geigy and Sandoz

However, this week he spoke to the *FM* about his concern over the state of the relationship between the PMA and government

"I very much regret that the relationship between the PMA and government, particularly the Department of Health, is a nonrelationship I think that's the worst thing that can happen to the pharmaceutical industry and I've expressed this view to several people

"We must do everything to establish a relationship so we can speak to each other, listen to each other and come to amicable solutions "

Erhardt says Health Minister Nkosazana Zuma echoed the "amicable solutions" line when she opened Novartis' R45m refurbished plant a couple of months ago

He agrees, though, that amicable solutions are a lot to ask of Zuma given the PMA's confrontational stance

An industry source says he believes there was a personality clash between Erhardt and Mirryena Deeb, the association's tough-talking CE

PMA vice-president Erica Mann confirms that Erhardt had problems with Deeb

But Erhardt refuses to comment "The matter regarding Mirryena and her specific attitude is not a matter for the press," says Erhardt

"It is a matter to be discussed with the president (of the PMA), Richard de Chastelain, which I did

"I will not comment on my personal feelings or my opinion on how she should do the job That is a matter which must be resolved within the PMA "

Deeb denies that the PMA has a "nonrelationship" with government or the Department of Health

Deeb claims a good relationship with Zuma "I have met Dr Zuma personally and have always shown her the respect fitting a Minister of State," says Deeb "She has likewise treated me with courtesy, though we might disagree on substantive policy and legal issues "

Deeb points out that she chaired a joint State/industry committee "to resolve the theft issue" and that the PMA "sponsors and assists the Health Department on a number of critical issues and initiatives that would otherwise collapse "

The association had also handed over a primary health-care trolley to Mpumalanga Province

She argues that "if Dr Erhardt was so unhappy about my personal style, why has he not withdrawn his company from the PMA?

"Surely electing not to stand for the executive council is an insufficient vote of no confidence, particularly since membership fees to PMA are so high "

The CE of another multinational PMA member says that though he was never a friend of Deeb and does not like her style, he admires her competence

"Last Friday she made a superb, level-headed presentation at the parliamentary portfolio committee meeting

"For the first year she was there the PMA executive leant over backwards to work with government They tried everything possible to get real co-operation, Deeb didn't attack the Minister or anything

"But the Minister just used it in her own way Now the entire PMA executive is saying we've leaned over far enough

"Obviously government feels uncomfortable with Deeb there But if you remove her you won't remove the problem "

Another CE member of the association

*Mirryena Deeb and Nkosazana Zuma* *mutual respect?*

says "Erhardt stepped down because of the way the PMA is running its campaign against Zuma

"Deeb is probably a bit over-aggressive at times She only seems to understand a fight in the press But I don't think she has too many other choices Initially the strategy was dialogue and engagement That failed The Minister was defiant

"I don't think they had any choice but to enter into a media campaign and start threatening court action (over Zuma's new medicines legislation, which will give her wide control over drug pricing)

"So I think Deeb's strategy of confrontation is right You can always find flaws in implementation with anyone"

PMA vice-president Erica Mann agrees "We have an industry to protect and Deeb's done an outstanding job under difficult conditions I think the whole of the executive council is in full support of her In fact, she acts on a brief from the executive"

Adds De Chastelain "Deeb's brief is simply to represent the interests of the executive council The reasons Erhardt gave us in writing for not standing for re-election to the executive were that he was busy with the merger of Ciba and Sandoz to form Novartis

"At no stage did he indicate that his reason for not standing had anything to do with Deeb"

As the *FM* went to press a meeting was scheduled between Zuma and the CEs of 15 leading pharmaceutical companies A proposed item for the agenda "True public-private sector partnership"

Could Deeb's tough tactics come up for discussion here? "Let's see," says one CE darkly

**Jack Lundin**

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AIRFARES

## Competition forces prices to plummet

**Isolated by** distance and politics, South Africans have traditionally been the victims of high airfares — held to ransom by the few carriers who continued to serve SA The London-Johannesburg route was considered one of the most lucrative in the world and cosy cartels called the tune in setting fares

But Dutch national carrier KLM burst the bubble Five years ago it introduced lower fares which touch-papered a price war that is still raging Travellers are now flying at lower prices — both nominal and real — than before the onset of hostilities This is despite the steady erosion of the rand against the dollar

According to Standard Bank, the US dollar was worth R2,03 in 1987, R2,85 in 1992 and R4,70 earlier this week

The war is mainly being waged on the London-Johannesburg route The lowest return fare to London is Virgin Atlantic's R2 700, or US$574,50, between September 1 and October 31

British Airways' superpex return fare between September 9 and November 30 is R3 150 But if two people fly, the "partner" pays only R1 575

In 1992 the cheapest fare to London on either SA Airways (SAA) or British Airways was R4 227, or $1 482

KLM's action set in motion a chain of events which made airlines abandon the fares approved by the International Air Transport Association (Iata) — based on SAA's fares Because of sanctions SAA's costs were significantly higher than those of its pool partners It wasn't allowed to fly over Africa, so as a result of going "around the bulge" an hour was added to flying time to London and several hours were added to flight times to Zurich, Rome and Tel Aviv All of which translated into higher fuel bills So, backed by Iata, SAA fares became the benchmark

At the time European-based airlines didn't complain The situation suited them, as they could fly over Africa But they charged the same as SAA did, and didn't pass anything on to passengers

Now SAA is limping in the international race It can no longer dictate fares, and the demands being made in renegotiated bilateral agreements are underscoring the folly of it putting its order for seven Boeing 777s and two Boeing 747s on hold Though the order for the two 747s was revived, they will be delivered next year

Without aircraft, SAA cannot fend off growing competition At one stage 18 airlines flew into Johannesburg International airport Today that figure is 71 Many of them aim to negotiate for even more frequencies

Virgin Atlantic and British Airways have 20 flights a week between them, and are already jostling for more

Even at reduced rates, SAA's 14 flights a week between SA and London are its most profitable Rennie van Zyl of the Civil Aviation Authority, who is involved in negotiations with his British counterparts, says "they (BA and Virgin) want more frequencies, but if we grant them without getting concessions for SAA we'll be killing off SAA"

Iata still publishes fares but now that SAA can overfly Africa they are more realistic Most airlines adhere to them, particularly when demand for seats is high, but when demand tails off, cheaper fares come on offer for fixed periods to gain market share or improve load factors

With one or two exceptions, there is now little difference between airline fares to Europe Alitalia's present fare to Rome, and on to London is R3 300 Lufthansa's to Frankfurt, and on to London, is exactly the same

To celebrate its 50th anniversary of flying to SA, the Belgian national carrier Sabena put 5 000 return tickets to Brussels on sale for R2 000 each Tickets are valid from October 26 to March 31 2000 To fly on to London costs an extra R750 The move will probably earn Sabena more market share

Lufthansa promises "an aggressive new pricing policy," says spokesman Karin Duncker She says Lufthansa has systems that enable it to predict troughs It will "adjust prices" to fill its planes during those troughs

Air France, which operates with load factors of 80%-85% to Paris and 80% southbound, is offering a return ticket that costs R3 200 for a single passenger, or a companion fare of R6 000 for a couple travelling together, valid until the end of September Gauteng district manager Clea Spann says this includes flying on to several other European cities, including London

Swissair GM for southern Africa Heiny Rohrer says the market is analysed in Zurich, where a fixed number of seats at various fares is allocated for most flights The cheapest fare available is R3 400

The war isn't only being fought on foreign routes British Airways-Comair has reduced some of its Johannesburg-Windhoek fares by nearly 50%

Analysts are predicting fares will remain as competitive up to 2002 as they have been over the past five years

**David Pincus**

# Cautious support for Zuma's health reforms

(183)

BD 26/9/97

**Jacob Dlamini**

CAPE TOWN — The Interim Pharmacy Council expressed support for Health Minister Nkosazana Zuma yesterday but said it believed there would be compromises made in the minister's proposed reforms to address the concerns of the pharmaceutical industry.

Registrar Jan du Toit said the council supported any mechanisms designed to bring down the price of medicines, provided adequate steps were taken to ensure the safety and effectiveness of drugs.

Du Toit said the council supported principles such as the introduction of parallel importation to force pharmaceutical companies to lower their prices; making generic substitution mandatory in order to give patients the choice of using cheaper medicines; and prohibiting sampling and bonusing, two systems by which doctors and pharmacists dispense particular brands of medicines.

He said that while the principles underlying the bills would not change, he believed Zuma would address the problems associated with the wording and the drafting of the new legislation.

Du Toit's comments came in the wake of a meeting between Zuma and representatives of the pharmaceutical industry in Pretoria earlier this week.

According to Zuma's spokesman, Vincent Hlongwane, the meeting addressed issues such as the draft health legislation, the theft of medicines from state depots and SA's role as the health sector co-ordinator for the Southern African Development Community.

Hlongwane said the two parties had "agreed to disagree" on the legislation after Zuma rejected calls by the pharmaceutical industry to withdraw her bills from Parliament to allow for further discussion.

He dismissed claims that the draft legislation violated intellectual property rights, saying the health department had checked all relevant laws and was convinced it was on firm ground.

# Caltex fails to keep promise to cut pollution

(183) ([illegible])

**ANDREA WEISS**
CITY EDITOR

ARG 26/9/97

**The owners of the oil refinery in Milnerton have reneged on a promise to reduce air pollution, say enraged residents who claim the refinery's emissions cause health problems.**

Caltex has told residents, by maildrop, it will not meet its own target of reducing sulphur dioxide emissions by 80 %, pledged in a notice published in the Cape Argus in August 1994 The company says refinery profit margins are being squeezed worldwide and its promise was based on reasonable economic assumptions which proved to be "over-optimistic".

Residents of Bothasig and Table View, where prevailing winds carry the emissions, have long complained of health problems caused by industries in the area, among them the refinery and the neighbouring Kynoch fertiliser plant

High concentrations of sulphur dioxide affect people's breathing and may aggravate respiratory conditions and cardiovascular disease, according to the US Environmental Protection Agency.

Sensitive people include asthmatics, people with bronchitis and emphysema, children and the elderly

Caltex is putting out 28 tons of sulphur dioxide a day, while many refineries owned by its parent company in the United States are putting out between one and two tons

Refinery director Paul Buley said the refinery had managed a "dramatic drop of 50% in sulphur dioxide emission levels", and was planning an additional R65-million investment over the next three years to improve performance further

Clean air is Bothasig's battle cry, page 12

UNSWERVING Nkosazana Zuma has let nothing get in the way of her goal to provide health care to South Africa's poor majority

# A juggernaut called Zuma

(183) ST 28|9|97

*The minister of health stirs up passionate emotions no matter what she does, writes CAS St LEGER*

HEALTH Minister Dr Nkosazana Zuma has not lost a single battle since she moved into her offices in the Civitas building in Pretoria in May 1994 the ANC's health plan tucked under her arm as her blueprint and her Bible.

She did, admittedly, lose out to Winnie Madikizela-Mandela for the chairmanship of the ANC Women's League earlier this year But that was a minor skirmish

She has faced more flak than any other cabinet minister And, unlike Winnie, she has the backing of President Nelson Mandela, who declared last weekend. "I will never fire her "

Like a juggernaut, she has rolled over most obstacles — although, on occasion, she has been forced to make some minor tactical retreats before plunging headlong into the fray once again

And, whatever her critics might say, her quest to change the face of South Africa's health services — skewed by decades of apartheid and colonialism — is succeeding

Her zeal has earned her passionate friends and equally passionate enemies

Zuma's critics say she is autocratic, lacks judgment and is often too quick off the mark

Her admirers praise her uncompromising spirit in facing up to the big guns — such as the multinational pharmaceutical companies — in her quest to change the health system to meet the needs of the poor

But in her struggle she has appeared to ignore the finer details of her plans — and the costs

Hospitals and clinics were left to work out for themselves how to pay for free primary health care and free abortions Her priority has been primary health care and preventive medicine — to save the lives of thousands of children who might have died from untreated diarrhoea, for example — rather than expensive treatments like organ transplants

She has won the support of ordinary citizens, some of whom now have access to health care for the first time And the medical aid industry backs Zuma's attempts to contain prices, particularly those of drugs

Her victories since 1994 include free basic health care, free abortion, the vaccination of almost all South African children against measles and polio, 350 new clinics and the upgrading of 2 298 more, a feeding scheme for 4,4 million schoolchildren, foreign doctors to fill the rural vacuum, and condoms for male prisoners

On the negative side, there was the fiasco of the AIDS-awareness musical *Sarafina 2*, which cost the taxpayer R14-million concern about using Cuban doctors, few of whom could speak English, let alone any indigenous languages, her restraints on top-line treatments like heart transplants, budget cuts for leading hospitals already reeling under hugely increased patient loads and massive theft, her criticism of young doctors who balk at her plans for compulsory community service, clauses in two health Bills that will give her authoritarian powers to override statutory bodies, and the embarrassment of her sales pitch on the merits of the "AIDS drug" Virodene

Although her battles have caused the greying of her hair in the past year, Zuma is now poised for her most determined battle yet — to push three new health Bills through Parliament that will have a profound impact on health care. They are:

- The Medicines and Related Substances Control Amendment Bill,
- The Medical, Dental and Supplementary Health Services Profession Bill, and
- The Pharmacy Amendment Bill

## DRAWING THE BATTLE LINES

THESE are the wars that Health Minister Dr Nkosazana Zuma hopes to fight and win.

### PATENT WAR

THE Medicines and Related Substances Control Amendment Bill will allow the import of drugs at prices cheaper than those available locally

AIM To force down the prices of medicines, particularly brand-name drugs, by as much as 20 percent, through increased competition.

SUPPORTERS The ANC, and the health insurance and medical aid industry

OPPONENTS The multinational drug companies and large local producers falling under the Pharmaceutical Manufacturers' Association They say Zuma's plans would undermine the rights of patent holders as outlined in the Trade Related Aspects of Intellectual Property Rights and Trade in Counterfeit Goods Agreement, of which South Africa is a signatory

EVALUATION She will probably get the Bill through, but she may have to back down on the provision giving her the right to side-step the international patents agreement.

International producers operating in South Africa have until October 6 to lodge objections

In the meantime, through the Pharmaceutical Manufacturers' Association, court action or disinvestment threaten.

Zuma's drugs policy adviser, Dr Wilbert Bannenberg of the World Health Organisation, shrugs off threats to disinvest

He calculates that if the multinational drug companies left and jobs were lost, R385-million could be saved by buying cheaper drugs on the world market.

There is also a threat of counterfeit drugs flooding into the country — 60 percent of the drugs used in Africa are counterfeit

### DRUGS WAR

THE Medicines and Related Substances Control Amendment Bill will allow the health minister to enforce the use of cheaper "generics" — drugs that are virtually identical to trademarked drugs for which the 20-year patent has expired.

AIM. Calculated savings of R750-million a year.

SUPPORTERS Zuma's adviser Bannenberg, the ANC, and qualified support from the Pharmacy Council

OPPONENTS Multinational drugs companies and the Pharmaceutical Manufacturers' Association. The Medical Association of SA and the Medicines Control Council do not oppose the use of generics, but they oppose Zuma's intention to enforce their use and her powers to override Medicines Control Council decisions

EVALUATION Under the new legislation, the use of generics will be enforced, except where the doctor writes "no substitution" on the script, the patient refuses a substitute, the drug is on the Medicines Control Council list of 100 non-substitutable drugs, or the generic is more expensive than the brand-name drug

The pharmacist will be obliged to tell the patient about the cheaper generic The Pharmaceutical Manufacturers' Association says there could be complex legal tangles if a drug is substituted and the patient suffers ill effects

### INTERN WAR

THE Medical, Dental and Supplementary Health Services Professions Bill would compel medical graduates to perform a one-year term of community service (or vocational training) before they can register as doctors The health minister could extend the term of service

AIM To bring medical services to disadvantaged people in areas where there are not enough doctors And to prevent young doctors from leaving South Africa immediately after graduating

SUPPORTERS All the doctors' organisations support community service — but not "conscription" The Interim Medical and Dental Council supports vocational training — but says trainers are not available

OPPONENTS The Junior Doctors' Association and the National Interns Alliance

EVALUATION Interns and young doctors argue there will be little or no supervision or training in remote postings, and they will suffer family hardships

### PHARMACY WAR

THE Pharmacy Amendment Bill will allow just about anyone to open a pharmacy, although a qualified pharmacist would have to be employed

AIM To cut medicine prices through competition

SUPPORTERS The supermarket groups

OPPONENTS The pharmacists

EVALUATION The director general of health, instead of the Pharmacy Council, would be given powers to grant or refuse licences

Doctors would be licensed to dispense medicines where there is no pharmacy

### TOBACCO WAR

THIS battle is about curbing cigarette consumption by restricting smoking in public places and banning tobacco advertising

AIM To stop young people from lighting up, and persuading others to quit

SUPPORTERS The anti-smoking lobby, the Cancer Association of SA, and the entire medical and health sector

OPPONENTS Cigarette smokers and the tobacco industry

EVALUATION Zuma has South Africa stubbing out stompies in restaurants, offices and shops She has also achieved her goal of doubling the price of a pack of 20s — helped by the tobacco industry's policy of slipping in its own price hikes under cover of Zuma's annual Budget increases

In addition, she has enforced a ban on advertising cigarettes on television, and introduced health warnings on cigarette packets and print adverts

Zuma appears to be winning the war despite vigorous opposition from the likes of Johann Rupert the chairman of the powerful Rembrandt empire, who lashed out at her for encouraging the smuggling of cigarettes into South Africa.

The liquor industry has fared better Zuma says the occasional drink is good for you

### HEALTH INSURANCE WAR

THIS battle has yet to be fought, but Zuma says plans are ready to come off the drawing board

AIM To provide health care to the millions of South Africans who do not have medical aid, financed by those who can afford to pay

OPPONENTS Likely to be those who will feel they are being unfairly penalised by having to support those who cannot pay

SUPPORTERS Likely to be those who are not members of medical aids

EVALUATION An early suggestion was a "payroll" tax of five percent to fund the scheme The implications are that free choice for tomorrow's private patient may prove to be beyond the pockets of most people

# Drugs Bill 'poses a threat' to SA health

**CAS St LEGER**

(183)

ST 28/9/97

THE head of the Medicines Control Council, Professor Peter Folb, has warned that South Africa's health system is in danger of falling into a "third-world trap".

Addressing public hearings in Cape Town on September 17, Folb said aspects of the Medicines and Related Substances Control Amendment Bill — due to go before Parliament at the end of October — were "thoroughly unsound".

He said the Bill was seriously flawed because it would allow the importation of cheap drugs — which could threaten people's safety, and violate international patent rights — and granted overriding powers to the Minister of Health, Nkosazana Zuma.

"I am afraid that the minister has received poor advice and the result, in part, is ridiculous," said Folb.

The country was in danger of falling into a "third-world trap"

"The confidence of the people in health care in the country depends in no small part on confidence in the quality of medicines," he said.

"If the essential flaws in this Bill are applied, international confidence in our health system and our medicines will be lost on the same day"

● The Zuma Wars: p28

the NCPS secretariat.

The focus of the week would be all aspects of the NCPS, "in particular, the practical steps that have been taken in

Amendment Bill – which amends the bail laws – and National Prosecuting Authority Bill

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# Medicine bill row deadlocked

**POLITICAL CORRESPONDENT**

ARG 1/10/97 (183)

**A meeting between Health Minister Nkosazana Zuma and the pharmaceutical industry failed to resolve differences over the minister's medicine control reform legislation.**

Industry representatives asked for the bills to be withdrawn and redrafted from scratch, a plea which met with outright refusal by the health ministry.

"We are going ahead as planned. We agreed to disagree," a ministerial representative said.

At the meeting, the ministry asked the industry to draw up regulations in anticipation of the legislation being passed. The ministry said the regulations should be forwarded to it by the second week of next month, to prepare for a meeting in early December.

In a joint statement at the end of the spring session, the Democratic Party, Freedom Front, Inkatha Freedom Party, National Party and Pan Africanist Congress said they refused to be part of rubber-stamping the bills.

The opposition parties urged the department to enter into further discussions with key roleplayers in the health industry.

# Strike resolved after Sasol negotiations

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SASOL announced yesterday the resolution — under the auspices of the Commission for Conciliation, Mediation and Arbitration — of a two-week strike by the Chemical Workers' Industrial Union at the Secunda Collieries.

Sasol spokesman Wanda Human-Joubert said wage settlements negotiated with the relevant union forums ranged from 9%-12% and issues such as hours of work had been referred to a working committee for resolution

The settlement concluded this year's negotiations on wages for Sasol Coal and the union had agreed to resume work on the night shift last night, she said

BD 1/10/97

GENERIC MEDICINE IMPORTS 183

# Ranbaxy pays a high price

FM 3\10\97

Trade and tariffs watchdog rules Indian company was dumping

**Indian pharmaceutical** multinational Ranbaxy may take legal action against the Board on Tariffs & Trade (BTT), which has ordered it to pay a heavy penalty for dumping generic medicine in SA

A BTT probe has found that the prices at which Ranbaxy was importing generic penicillin for a State tender contract constitute dumping That means it was being sold in SA for less than the tender price in India There was uproar when Ranbaxy won the tender last year because the Medicines Control Council had expedited registration of the company's two generics

The furore coincided with the *Sarafina 2* financing scandal and Ranbaxy was rumoured to be the mystery donor bailing out the costly production aimed at creating Aids awareness But Ranbaxy and the Department of Health denied the allegation

Last Friday the BTT ratified the provisional antidumping duties it imposed on the company's two generic imports of penicillin on April 11, making the duties retrospective to that date (*FM Focus* April 25)

The duties are 8,3%-12,5% of the freight on board value of all Ranbaxy's imports of generic penicillin — a considerable penalty

Ranbaxy lost the case on appeal to the BTT, but Ranbaxy SA's Terry Lee says other legal avenues may be pursued All options are being evaluated, he adds

The BTT probe was initiated by Pharmacare, part of the SA Druggists group, which lost the bulk of the R121m State antibiotics tender to Ranbaxy

After a lengthy investigation in which SA investigators visited Ranbaxy's New Delhi offices, the BTT found that Pharmacare and the local pharmaceutical industry as a whole had suffered material injury in the form of price undercutting, price depression and price suppression as a result of Ranbaxy winning the bulk of the tender

Pharmacare had also lost sales volume and revenue, market share and profit, and suffered decreases in its utilisation of production capacity and employment levels

SA Druggists CEO Peter Beningfield has welcomed the BTT's finding, saying it warns importers that they are welcome to compete in the SA market as long as they do not dump

Claire Bisseker

FINANCIAL MAIL OCTOBER 3 · 1997

# Controversial CEF salary increase

M+G 3-9/9/97 (183)

**Mungo Soggot**

The top government oil trader suspended in March on the instructions of Minister of Minerals and Energy Penuell Maduna has been awarded a salary increase

Chair of the Central Energy Fund (CEF), Don Mkhwanazi, confirmed this week that he had upped Kobus van Zyl's salary and said he would decide whether to discipline or reinstate Van Zyl by the end of the month

"It is not at all bizarre Van Zyl has been suspended on full pay We should not prejudice him," he said Mkhwanazi said he had contacted his predecessor, Roy Pithey, for a rating of Van Zyl's performance But he had decided that a bonus was "not applicable" and Van Zyl had been given a standard increase

Maduna instructed the CEF board to oust Van Zyl on the basis of the preliminary findings of private accountants he hired at the beginning of the year to probe the state oil trading company's accounts

Accounting firm, Ntsaluba Nkonki Sizwe, was supposed to finish its investigations in May, but the probe expanded amid suspicion that the allegations the minister gleaned from it lacked substance

Mkhwanazi said the board received the firm's reports this week, adding that copies had also been forwarded to the president's office He said any disciplinary panel would be made up of external people — not CEF management.

Van Zyl said he would wait to see the report before taking any legal action His lawyers have still to receive official reasons for his suspension

Kobus van Zyl: Suspended, but with a standard pay rise

The Ntsaluba Nkonki Sizwe probe has now triggered a full-blown clash between Maduna and Auditor General Henri Kluever In June, Maduna accused the attorney general of covering up impropriety after Kluever shot down a string of Maduna's allegations — based on Ntsaluba Nkonki Sizwe's investigations — in a special report to Parliament

Kluever's office audits the oil company's books The allegations at the centre of the row — including the alleged theft of R170-million of oil — are now being investigated by the public protector

# Health industry to oppose bills at hearing

CT 6/10/97 (183)

**OWN CORRESPONDENT**

INTERNATIONAL pharmaceutical companies are expected to voice their opposition to at least two of the three controversial health bills when they table their submissions today during public hearings hosted by Parliament's health committee.

Most have voiced opposition to the Medicines and Related Substances Amendment Bill, which allows for parallel importing of drugs, and the Pharmacy Amendment Bill, which provides for lay ownership of pharmacies.

Representatives from some of the companies have met Health Minister Dr Nkosazana Zuma to discuss their concerns. The meeting failed to resolve differences.

At the meeting, the health ministry turned down the industry's plea that the bills should be withdrawn and redrafted.

The three bills have received a mixed response from different stakeholders.

Major opposition political parties have voiced their opposition to them and have urged the department to enter into further discussions with key role players in the health industry.

Despite the opposition, Zuma has remained adamant that the bills — aimed at reducing the price of drugs and improving access to health care — will become law.

# Plastics sector aims to inject more funding into training

CT (BR) 6/18/97 ([illegible]) (183)

The Plastics Industry Training Board claims that it has made it possible for every plastics industry employee, regardless of skills level, to improve his or her own competency

Mike Bullock, its chief executive officer, says the board, which is funded by 304 levy-paying companies, has so far enrolled about 1 200 employees on a plastician learning programme developed with input from parties in the industry

Launched as "Operation Bootstrap – Intuthuko" in 1995, the learning programme is endorsed by the Department of Labour and fits the requirements of the National Qualifications Framework (NQF) It provides employees with a recognised plastician qualification which is on par with other trades

"The main feature of the programme," says Bullock, "is that it is not an apprenticeship scheme and therefore there is no barrier to entry In line with the NQF parameters, the programme is outcomes-based "

Trainees are assessed under PITB supervision and proceed through three skills levels before qualifying So far eight workers have qualified.

The board's manpower pool programme – two six-month courses have been run – provides additional training for unemployed technical college graduates and gives them an opportunity to work in a manufacturing environment.

The PITB has also funded a programme to boost practical skills of plastics technology students at the Pretoria Technikon and provided the funding for the establishment of plastics technology centres at the Natal Training Centre and the Pretoria and Cape Technikons

Says Bullock: "Over the past year, the PITB has paid out R2-million in grants to companies whose employees have successfully completed training Although this is a 100 percent increase on the previous year's figure, we fell short of our R3-million target."

A plan to boost the level of grants paid out has been mooted. It aims to inject R1-million a year into the Plastics Federation of South Africa to place training on a commercial footing and to allocate R500 000 to facilitate learning in the workplace

# Health-bills fight continues

(183)

**By Jovial Rantao**
Political Correspondent

Cape Town – International pharmaceutical companies are today expected to voice their opposition to at least two of the three controversial health bills when they table their submissions during public hearings hosted by Parliament's Health Committee.

Most of the companies have expressed opposition to the Medicines and Related Substances Amendment Bill, which allows for parallel importation of drugs; and the Pharmacy Amendment Bill, which provides for lay ownership of pharmacies

Representatives from some of the companies have met Health Minister Dr Nkosazana Zuma to discuss their concerns. The meeting failed to resolve differences about her legislation on medicine-control reforms.

At the meeting, the Health Ministry turned down the industry representatives' plea that the bills should be withdrawn and redrafted.

The three bills have received a mixture of responses from different "stakeholders". Major opposition parties – the National Party, the Inkatha Freedom Party and the Democratic Party – have voiced their opposition to the bills and are expected to oppose them when they are tabled in Parliament.

The opposition parties urged the department to enter into further discussions with "key role players" in the health industry, to achieve the goals of lowering the cost of medicines to the private sector, while protecting people's safety and freedom of choice.

Despite the opposition, Zuma has remained adamant that the three pieces of legislation – aimed at reducing the price of drugs and improving access to health care – would become law.

The debate on the three health bills and debates on Labour Minister Tito Mboweni's Basic Conditions of Employment Bill are expected to be the major focal point during Parliament's fourth quarter, which starts today.

Star 6/10/97

The Star .... Tuesday October 7 1997

# Cheap drugs will take jobs, Zuma warned

Star 7/10/97 (183)

## Pharmaceutical giants tell Parliament's health committee there is big money at stake, and that the world is watching

**By Jovial Rantao**
Cape Town

Pharmaceutical multinationals have warned that the approval of draft legislation enabling Health Minister Dr Nkosazana Zuma to import cheaper medicines could lead to closure of factories, the loss of thousands of jobs and a drop in foreign investments.

In their submission before Parliament's health committee, the companies argued that parallel importation was not necessary because the price of medicines in the public sector was among the lowest in the world.

They argued that the distribution system of medicines, described as inefficient and uncompetitive, was responsible for the markup of up to 82% to the pharmaceutical manufacturers' price Theft from public hospitals also contributed to the high cost of medicines

Emphasising that he was not threatening the Government, Dr Donald de Korte, chief executive officer of MSD, a Gauteng-based pharmaceutical company, warned that if the Medicines and Substances Control Amendment Act was passed, his company would be among those who would consider disinvesting from SA.

That, he warned, could lead to the loss of jobs for 17 000. He said he had kept on hold a R50-million investment to upgrade MSD's manufacturing facilities, pending the approval or rejection of the bill.

De Korte said the proposed legislation was a threat to the future of multinational investment and participation in the South African economy.

He said that if the intention of the Ministry of Health and the Government was to restrict the proposed amendments to the pharmaceutical industry and not to apply the same principle to other industries, then the proposed legislation was discriminatory, unconstitutional and a violation of SA's obligation under international trade agreements.

De Korte submitted that while the intention of the draft legislation was to ensure the provision of affordable medicines, the longer-term consequences of removing the rights of the research-driven pharmaceuticals multinationals to the protection of their patents in SA would have the opposite effect.

The American Pharmaceutical Industry in South Africa, representing 12 companies with a combined revenue of R705-billion, said the draft legislation was worrisome as it appeared to abrogate all patent law and the basic and essential patent rights of pharmaceutical companies, and allowed the minister of health to expropriate the rights to patented medicines.

Noel Dolman, a representative of the US companies, said the passage of the legislation would compromise SA's compliance with the World Trade Organisation and its commitment to the protection of intellectual property rights.

"The US business community is watching closely for the broader trade and investment implications raised by this legislation," Dolman said

ANC MP Mtutuzeli Mpehle said the firms were selective in their presentations by not referring to a clause in the WTO Tripps Agreement which allowed for parallel importation.

# Merck 'may quit SA' over drugs bill

(183)

BD 7|10|97

**Wyndham Hartley**

CAPE TOWN — Merck, the major US pharmaceutical corporation which has already put a R50m investment on hold, says it could withdraw its operation in SA if Health Minister Nkosazana Zuma's medicine and related substances bill is approved by Parliament in its present form.

US patent lawyer Charles Caruso and Donald de Korte, CE of Merck's SA operation Merck, Sharpe & Dohl (MSD), speaking with the full backing of the International Federation of Pharmaceutical Manufacturers, told Parliament's health committee yesterday that if the legislation was passed it could also result in SA being denied access to any new anti-AIDS drugs that might be developed because of the lack of patent protection.

De Korte said MSD would have to "review its involvement in this country" if the legislation was not altered. He insisted that he was not threatening the committee or the health ministry but was simply "trying to make you see how serious this is".

He said it would be a major negative signal to foreign investors It was a violation of the international agreement on the trade-related aspects of intellectual property (Trips) which gives the patent owner the exclusive right to stop third parties from importing the patented invention, including the power to stop parallel importation.

ZUMA

De Korte said singling out only the pharmaceutical industry was also a violation of the Trips nondiscrimination provisions and a provision in the international agreement designed to protect pharmaceutical test data from unfair commercial use.

"These flagrant violations of the Trips agreement, whilst specific to the pharmaceutical industry in this instance, cannot augur well for SA's newfound respectability and credibility within the global economic arena.

"It will inevitably send the wrong signals to existing and potential foreign investors of stature and will place SA in association with the countries of

Continued on Page 2

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## Merck

(183)

Continued from Page 1

BD 7|10|97

the world that are the most egregious patent law violators," De Korte said.

He said the law would drive research-based pharmaceutical multinational companies from the country and place South Africans at the mercy of foreign interests because parallel importation "benefits neither patients nor governments; only the parallel importer is financially enriched".

De Korte said there were huge markups in the distribution of medicines in SA of more than 80%, while in the US they were only 20%. These margins should be lowered through increased competition.

Noel Dolman, speaking on behalf of 12 pharmaceutical companies belonging to the American Chamber of Commerce in SA, joined the others in challenging Zuma's contention that medicines were supplied to SA at a high cost. He said the state as a purchaser received medicines at prices among the lowest in the world.

The problem was that almost half of the drugs purchased by the state were stolen "and this is a major reason why quality medication is not available to a greater number of the population".

The legislation was "extremely worrisome" and would "compromise SA's compliance with the World Trade Organisation and its commitment to the protection of intellectual property rights". This was a commitment which the SA government had given at the recent meeting of the US-SA binational commission.

# SFF launches study on Milnerton plans

CT (BR) 8/10/97 (183)

**LYNDA LOXTON**

PARLIAMENTARY CORRESPONDENT

Cape Town — The state-owned Strategic Fuel Fund (SFF) said yesterday it had launched an environmental impact assessment study on plans to build a R250 million single point mooring system in Table Bay as part of the commercialisation of its Milnerton oil storage tank farm

The study is expected to take 11 months, after which the fund will decide whether to go ahead with the project northwest of Robben Island

SFF recently announced it was considering the possibility of commercialising the tank farm next to the Caltex oil refinery which was used in the past to store strategic crude oil supplies for the government

The farm's 39 tanks have been steadily emptied since 1989, in line with government policy to reduce strategic oil stocks to their current level of 35 million barrels The oil was sold to the local oil industry at market related prices

The tank farm, which can hold 7,8 million barrels of oil, is valued at about R500 million SFF has said it would like to commercialise them in partnership with emerging companies, "with positive commercial benefits for Cape Town and the Western Cape as a whole"

But for this plan to be feasible, the tank farm would need its own loading and discharge facilities Because of the limited opportunities in Cape Town harbour, the fund is now investigating the possibility of building a single point mooring system in Table Bay which would be linked to the tank farm

An environmental impact study was launched by the fund on Monday because of the environmental sensitivity of the Robben Island areas

Piet Coetzee, SFF's deputy general manager, said plans to commercialise the Saldanha tank farm, which can hold 45 million barrels of crude and is about 47 percent full, were on hold as the Iranians were no longer interested in leasing storage space No other party had shown interest in the storage space, he said

# Drugs bill will not make firm quit SA

BD 9/10/97 (183)

**Shareen Singh**

PHARMACEUTICAL company MSD SA, a subsidiary of US-based Merck, has given the assurance that it will not quit SA, no matter what the final shape of the controversial Medicines and Related Substances Bill

US patent lawyer Charles Caruso said yesterday Merck would not withhold any new AIDS cure or treatment, irrespective of whether the SA government enacted the bill

He said the issue of section 15 (c) of the Medicine and Related Substances Control Amendment Bill, which Merck and the international pharmaceutical industry was challenging, were separate issues Section 15C would remove patent protection previously enjoyed by major drug companies

Caruso also said that Merck "will not quit SA" but review its investments in the light of "what impact the law will have on our business We will have to decide on whether we have a bigger or smaller operation in SA and explore other options "

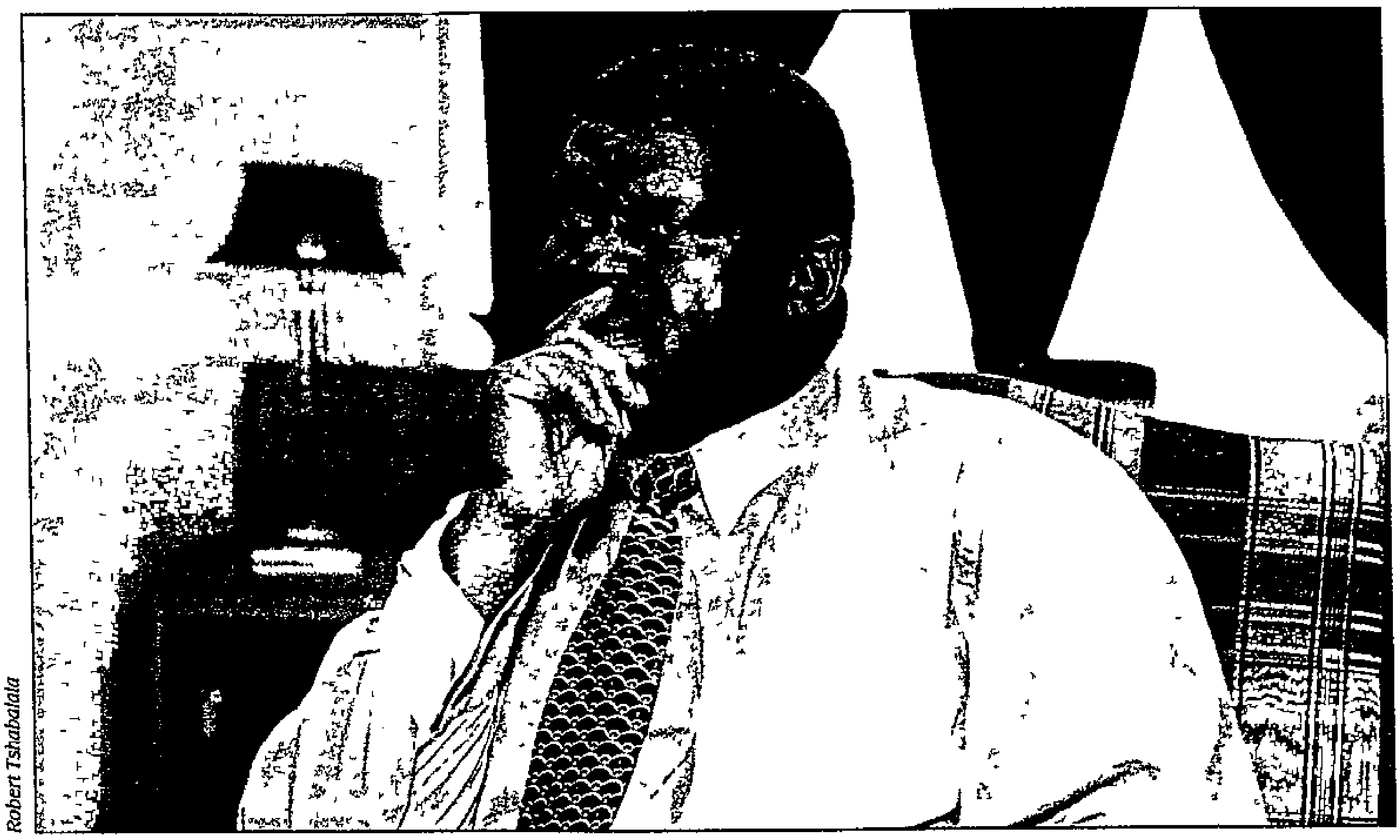
He said most countries including Japan, Korea, the European Union and most recently Australia, had adopted positions on patent protection "opposite to the stance being adopted by the SA government"

Caruso addressed the parliamentary standing committee on health this week on behalf of Merck and the International Federation of Pharmaceutical Manufacturers' Association in the hope of persuading MPs to amend the bill

He said section 15 (c) was a violation of the international agreement on the trade-related aspects of intellectual property which gives the patent owner the exclusive right to stop third parties from importing the patented invention, including the power to stop parallel importation

The bill in its current form would remove economic incentive for multinationals to be based in SA

Caruso accepted that patented medicines were more costly than generics, but the companies which held the patents had no control over pricing of medicines in other countries



Robert Tshabalala

**Penuell Maduna** signs of rapprochement with industry after months of acrimonious exchanges

**PETROL PRICES**

(183)

# Maduna in search of magic formula

FM 10/10/97

Government and industry in negotiations on reforming antiquated pricing system blamed for inflating South African fuel costs

Mineral & Energy Affairs Minister Penuell Maduna and oil companies have begun negotiations over the future of the industry, ending months of acrimonious exchange over energy policy

Maduna and senior industry executives met in Pretoria this week to discuss, among other things, the delicate issue of the Minister's plan to revise the formula used to set petrol prices

Maduna, who first raised objections to the formula in May this year, believes the present pricing structure forces consumers to pay artificially high prices for fuel

Central Energy Fund chairman Don Mkhwanazi has engaged experts to find a new formula and prepare a submission to Deputy President Thabo Mbeki

Mkhwanazi believes a new formula could chop as much as 40c/*l* off the petrol price, resulting in a significant boost to the economy by driving down energy costs to industry and reducing the inflation rate Energy costs are a major component of the Consumer Price Index

He argues that the formula has outlived its usefulness "The present formula was designed to entice oil companies to SA during the apartheid years," he says

Thulani Gcabashe, Maduna's adviser, says "We are looking at ways to change the formula so that we can deliver lower prices for consumers The present system protects the industry It does not consider consumer interests"

The petrol price is calculated according to a notional formula — the In Bond Landed Cost (IBLC) — based on the price of the refined product at four refineries in Singapore and Bahrain Various cost items, fixed profit margins for the industry and tax are added to the IBLC to arrive at a final price at the pump

Oil companies worry that changes to the formula could squeeze their profit margins They have been at loggerheads with Maduna for more than a year over margins, which are set by government The industry has argued that an increase in margins is necessary if companies are to press ahead with multibillion-rand plans to expand refining capacity

The conflict highlights government's dilemma as it attempts to satisfy consumers and meet the demands of the powerful industrial lobby

Industry officials say petrol companies are willing to negotiate a new formula — but their bottom line is that returns on capital need to be increased from current levels

This leaves little leeway for Maduna He must consider the demands of the industry as well as those of Transport Minister Mac Maharaj, who is seeking additional tax revenue to fund new roads and to reduce the widening deficit on the Multilateral Motor Vehicle Insurance Fund

Already, taxes account for about 40% of the price of petrol at the pump "The industry pays more than R1bn/month in taxes," says Colin McLeland, a director of the SA Petroleum Industry Association

Another route open to Maduna in his quest to deliver lower petrol prices is deregulation

"The solution is to make people compete," says Gcabashe

However, the Minister has failed to pursue this route aggressively because of fears that it could result in tens of thousands of job losses, especially so in the case of self-service filling stations

As a first step Gcabashe says competition could be encouraged by setting a maximum and minimum petrol price (it is presently one price), and allowing oil companies to publish their prices at garages

"Those that want to charge higher prices could do so Others would charge lower prices and the market would decide who stays in business," he says

Geoff Jackson, an economist at the Mineral & Energy Policy Centre, points out that there would be two challenges to make such a system work effectively

Firstly, it would depend on where the price range was set "If the maximum price is set too low, it is possible that nobody would consider discounting

"The industry has a potentially oligopolistic market structure The regulatory system has encouraged the oil companies to work together

"Secondly, there could be strong opposition to such a system of managed price competition from new black players in the industry such as Exel and Africoil As small companies, they would not be able to compete in a price war

"Ironically, price regulation protects new entrants It creates an environment for black empowerment on the retail side," Jackson says

He argues that it is difficult to envisage workable alternatives to the IBLC pricing mechanism

He points out that a cost-plus system, where the industry discloses information about its costs and is then allowed to recover an agreed margin, would run into numerous problems There would be complex arguments about what are valid costs In addition, oil companies would have little incentive to cut costs

"But the real challenge," Jackson says, "is to come up with concrete proposals and put them on the table All we have heard so far are vague statements from the industry and the Minister that they are prepared to negotiate a new formula" Duma Gqubule

BOND MARKET

## SA slowly sheds Third-World status

**SA shed** another aspect of its Third-World status last week when JP Morgan included, for the first time, the domestic bond market in one of its flagship global bond indices alongside other major developed markets

This coincides with a growing optimism about SA's capital market prospects and forecasts by some of the largest global capital market traders that inflation will fall to 4% by the end of next year, bringing it within close range of its major trading partners

International and local players have responded enthusiastically to SA's move into the Global Bond Index Broad (GBI Broad) along with four other developed markets — Finland, Ireland, Portugal and New Zealand

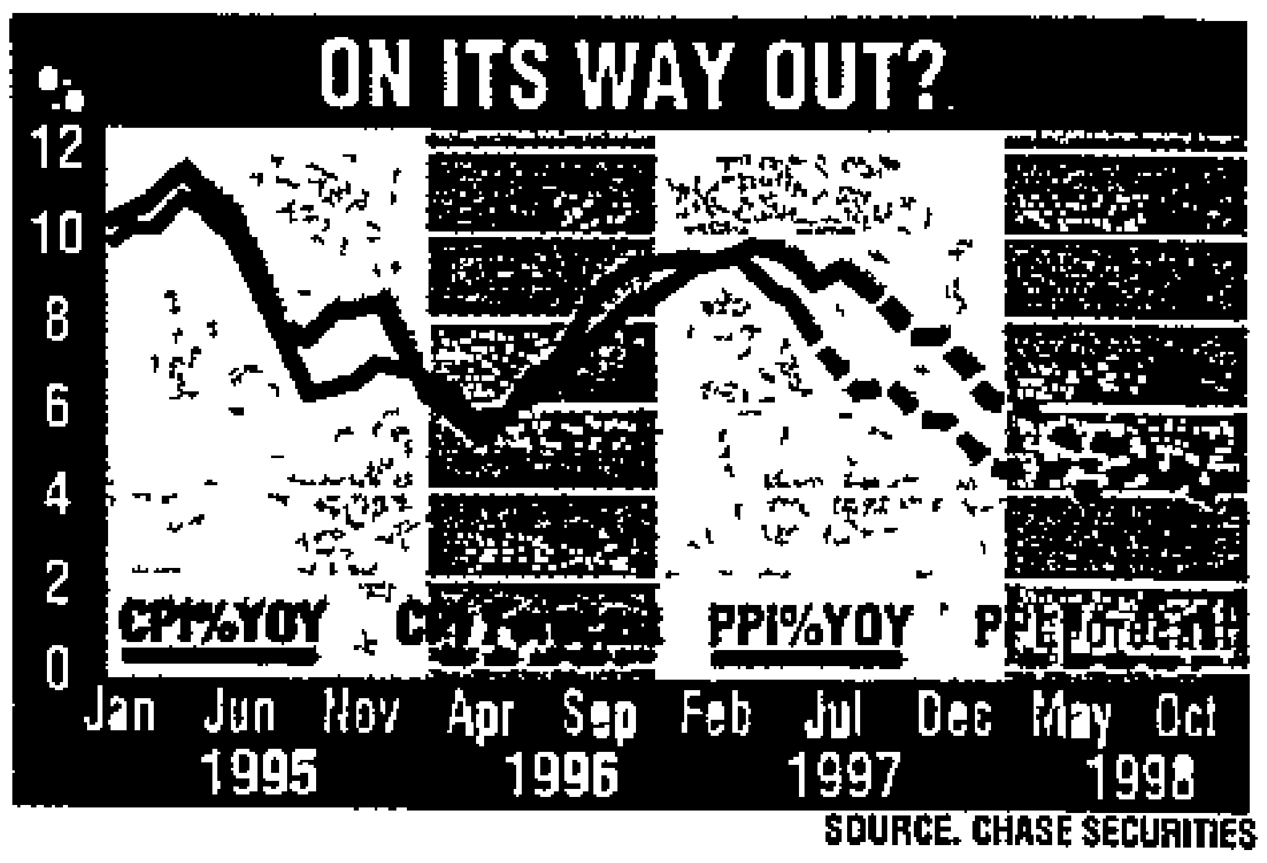
Also significant is that SA has been given the highest weighting of 0,7% compared with Finland's 0,6% and New Zealand's 0,2%

In this light, the bond market has become the melting pot for good news since the beginning of the month

Another fillip for government was the announcement by the international rating agency Duff & Phelps that it was awarding SA's domestic currency debt an A-rating — the highest credit rating awarded yet

The more than 250 basis point firming in government R150 stock since January seems to be just the beginning of a strong downward trend for the market, with more optimistic projections putting

ON ITS WAY OUT?



SOURCE. CHASE SECURITIES

# 300 jobs on line as plant to close

Sowetan 10/10/97 (183)

## Angry workers claim management did not consult them

**By Wilson Ramothata**

ABOUT 300 employees at Adcock Ingram Pharmaceutical company in Industria West, Johannesburg, are likely to be retrenched after management's decision to close the plant early next year

South African Chemical Workers Union (Sacwu) general secretary Manene Samela yesterday said the employees were informed about the impending closure about a month ago

No reason was given to the workers for the closure, said Samela

The company declined to comment yesterday, saying they had "nothing to say"

Workers' fears of being retrenched follow the closure of several plants which resulted in more than 350 jobs being lost last year

Sacwu and Chemical Workers Industrial Union (CWIU) members went on strike this week to protest against the company's decision to close the plant

Among their demands was a five-week pay package for workers who lose their jobs and a transport allowance for those who will be deployed to other plants

The employees said they were not consulted when the decision to close the plant was taken

Workers'" spokesman Tshepo Monnakgotla said about 300 employees are likely to be affected by the closure of the most profitable plant in the company

Samela said management was profiting at the expense of the workers who were not contacted when serious matters affecting them were discussed

"They are not pleading poverty," he said

Samela said it was unfortunate because the remaining two manufacturing plants, in Wadeville near Germiston and Midrand, would not absorb the 300 workers who would be affected by the closure

He said the decision to close down five plants was taken after Adcock went into partnership with Premier Pharmaceuticals, which has taken most of the management positions in the company

Adcock management and the union are scheduled to meet today to discuss the viability of the Industria West plant and the redeployment of workers

Job creation, vacancies at other plants and transport allowances were also on the agenda

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# 344 home-owners handed keys

**By Sowetan Business Reporter**

Mpumalanga Premier Mathews Phosa officially opened 344 houses in Greylingstad in the province yesterday

Speaking at the function Phosa said many people had for years been dreaming of becoming home-owners

"In Mpumalanga we promised to build 53 000 houses before 1999 So far 24 664 houses are either under construction or have been completed Subsidies have already been granted for 45 372 houses," Phosa said

He said the source of persistent reports that the Mpumalanga government was corrupt was known to us"

Phosa said the claims sought to undermine the progress being made in housing delivery

His government would continue with all housing projects in rural and urban areas

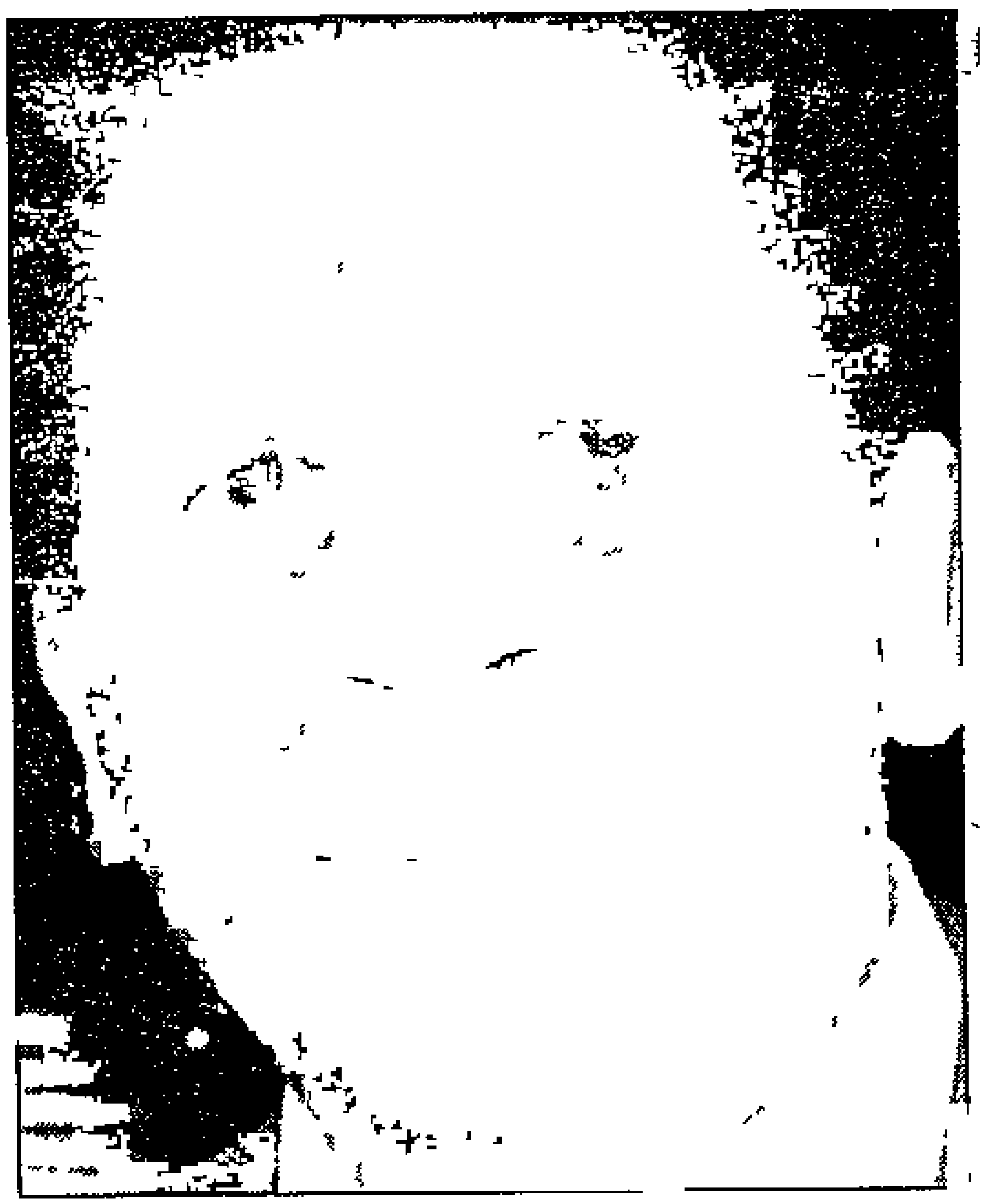
"The dogs may bark, but the housing train will continue to run and house thousands of our homeless people,' he said

Congratulating new home-owners Phosa said "You are now in a position to create a home for your family and children

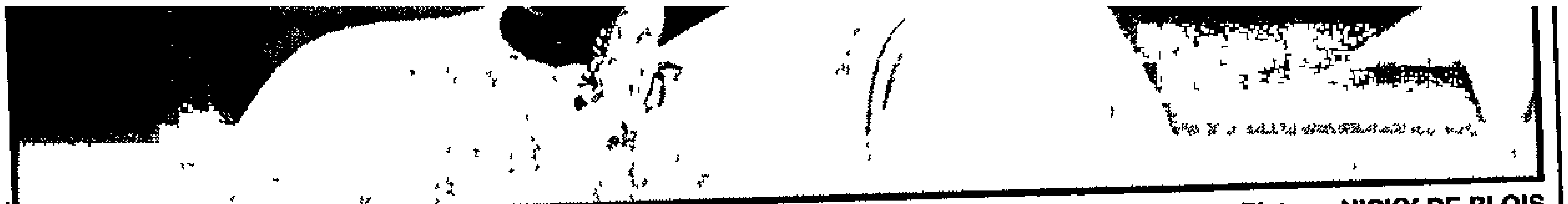
### Safe and warm

"Your family members now have a safe and warm place to return to from work school and play

"It is important that you realise that when you proudly crossed the threshold of your new homes, you accepted the responsibilities that go with ownership"



Mpumalanga premier Mathews Phosa.



FLY IN THE OINTMENT: Health Minister Nkosazana Zuma

Picture: NICKY DE BLOIS

ST 12|10|97

# Ministry takes aim in Zuma's drug war

(183)

(186)

## 'If there are compromises to be made, they will be made'

**CRAIG DOONAN**

THE Ministry of Health has hinted that it may amend Minister Nkosazana Zuma's controversial Bill designed to help make medicine cheaper, but says it will not bow to pressure from drug companies who stand to lose millions

Pharmaceutical manufacturers say the Bill contravenes international patent and trademark laws and allows parallel importing This means it will cost less for South Africa to buy drugs from foreign countries than from local companies licensed to sell the medicine

South Africa is a signatory to the World Trade Organisation's Trade Related Aspects of Intellectual Property Rights and Trade in Counterfeit Goods Agreement (Trips), which manufacturers say will be flouted by Zuma's law Nico Vermaak, a patent attorney and member of the SA Institute of Intellectual Property, says he believes the powers Zuma has afforded herself in the Bill are unconstitutional "and fly in the face of the Trips agreement"

But the Health Ministry disagrees

"The minister believes this Bill does not contravene Trips," says Vincent Hlongwane, Zuma's spokesman

He said cabinet had backed Zuma's plans, but added that the ministry may compromise

"If there are compromises to be made, they will be made But the principles underlying the Bill will not change The committee will study all the written submissions from the different parties That process is very democratic and transparent They will not take views from one grouping only

"There's a perception that once the pharmaceutical company coughs, everyone should catch flu "

Hlongwane said Zuma had taken concerns about the Bill's possible violations of international agreements seriously "and we believe we're on firm ground"

"The ultimate intention is to ensure all South Africans, regardless of their social standing or economic circumstances, are able to access affordable medicine At the moment, medicine is not affordable or accessible to the majority "

Rob Davies, chairman of the parliamentary committee on trade and industry said concerns about the effect of the Bill on the Trips agreement should be taken seriously

"But I'm not sure all the interested parties are necessarily the last word of authority on what will fly and what will not at the World Trade Organisation There are a lot of special interest groups trying to put forward their own interests

"The aim of the Health Ministry to try to secure affordable medicine for our people is an aim which is laudable and it is something international regulations ought not to be thwarting

"What is and is not permissible in Trips needs to be weighed up in a sober way," Davies said "A lot of people making representations are not doing anything other than reflecting their own interests in many cases

"I don't necessarily agree with all those people going to the health committee to say what is proposed in the Bill now is in violation of Trips I don't believe they're authorities on the subject "

Meanwhile, Vermaak warned that if Zuma's Bill was passed it could be challenged in the Constitutional Court and at the World Trade Centre

"If this Bill is passed, we will be forced to consider our options in legal action

"There are only two options one is to go to the Constitutional Court, the other is for multinationals to consider whether they would request their own governments to take South Africa through the World Trade Organisation's dispute resolution procedures for violating the Trips agreement "

The Democratic Party's Mike Ellis, one of Zuma's fiercest critics, said the Bill transferred too much power from the Medicines Control Council to the minister

"This has the potential to reduce the standard of medicine in the country," he said

"The Bill will allow the minister a big say about what medicine can be imported and takes away this control from the council

"You need real experts in the field of medicine, and the minister and her advisers, or the health department, could never be as effective as the council "

The European Union and the US government have backed the outcry from multinational manufacturers They have warned that the threat to patents could lead to multimillion rand disinvestment and massive job losses

Critics say if the Bill became law it could affect other foreign trade as it would signal that South Africa did not respect international trade agreements

Alec Erwin, Minister of Trade and Industry, is abroad but the department's acting registrar of patents and trademarks, Craig Burton-Durham, said the Trips agreement was open to interpretation and had not yet been tested

Sunday Times,
October 12 1997

(183)

# Untangling the medicines tussle

ST12/10/97

**CAS ST LEGER** takes a look at the issues behind the wrangle between Health Minister Nkosazana Zuma and the pharmaceutical industry

**If we can get cheaper medicines elsewhere in the world, what stops us?**
South Africa has signed international agreements that prevents it from breaking patent and trademark laws. In 1994, SA signed the World Trade Organisation's Trade Related Aspects of Intellectual Property Rights and Trade in Counterfeit Goods Agreement (Trips).

Zuma's Medicines and Related Substances Control Bill proposes international tendering to buy medicines at prices lower than those set by local drug manufacturers The Bill also proposes parallel importing parallel traders buy goods in a country where drugs are fixed at low levels and sell them at a higher price in an importing country

Zuma's adviser on the Bill, Dr Wilbert Bannenberg of the World Health Organisation, estimates parallel importing could bring in drugs at prices 15 percent cheaper

**Are medicine prices in South Africa too high? If so, why?**
Manufacturers claim that ex-factory prices on patented drugs compare reasonably with other countries The culprits of high prices, according to the Pharmaceutical Manufacturers' Association (PMA), are huge drug theft — as high as 50 percent of stock — from state hospitals, and the mark-ups by wholesalers and pharmacies

Zuma has said that some drug prices are 4 000 percent higher here than elsewhere (This was challenged by the PMA, which referred the matter to the Public Protector's office in July His decision is awaited )

The PMA has found that prices of medicines bought by the state on tender are much lower than International Drug Aid prices Using the International Drug Price Indicator as a guide, South African bulk supplies to the state were found to be 30 percent lower

**Why are South African market conditions different from elsewhere?**
South Africa is a developing country that has been awarded First World status and so is not entitled to drug aid from the World Health Organisation

Labour costs are high in return for low productivity and a high cost of capital.

The trade restrictions of the apartheid years led manufacturers to produce medicines here in quantities that are tiny in world terms and are therefore more expensive to produce

**What is the fight over the Medicines Bill about?**
At the core of the argument is Clause 15C of the Bill "The Minister may prescribe conditions for the supply of more affordable medicines in certain circumstances so as to protect the health of the public and in particular may (a) notwithstanding anything to the contrary contained in the Patents Act 1978 , determine that the rights with regard to any medicine under a patent granted in the Republic shall not extend to acts in respect of such medicine which has been put onto the market by the owner of the medicine, or with his or her consent "

**Will Zuma be infringing international patents law?**
The Trips agreement says the patent owner has the right "to prevent third parties not having his consent from the acts of making, using, offering for sale, selling or importing" products

Opponents to the Bill say South Africa would be in violation of international intellectual property rights which give exclusive rights to sell or import the goods to the trademark or patent owner.

**If not, how is she circumventing it?**
The Department of Trade and Industry, which worked with the Health Department on the Bill, says it does not view the Bill as a contravention of the Trips agreement as it is wide and open to interpretation

Bannenberg said public interest could be argued, but the PMA countered that this would only apply in emergencies.

**What are the implications for other patented products?**
Manufacturers say that if an exception is made to the patent law for medicines, other products will also be open to violation of patents

**Is it worth Zuma's pressing ahead with the Bill?**
The prize Zuma is after is cheaper medicines The penalties, warn pharmaceutical companies, could be poorer quality, unsafe or even counterfeit drugs

# Sasol in $500m Qatar gas venture

(183) ST (BR) 13/10/97

**JONATHAN ROSENTHAL AND AP-DOW JONES**

Johannesburg — Sasol's joint venture project to build a synthetic diesel-from-gas plant in Qatar would cost about $500 million, Qatar government officials confirmed in yesterday's Peninsula newspaper

Sasol itself has thusfar refused to disclose the costs of its project, in which it will build a 20 000-barrels-a-day liquid fuel plant at Ras Laffan in Qatar in partnership with the Qatar General Petroleum Corporation (QGPC) and Philips Petroleum Nor has Sasol indicated what share of the capital costs it would bear and what would be the value of its technology transfer to the project

*QGPC's most ambitious project … the gas-to-liquids venture … set up with Sasol*

The plant would use Sasol's established Slurry Phase Distillate process to convert natural gas into "environmentally friendly" low-sulphur diesel fuel Sasol said it envisaged installing two process "trains" with a productive capacity of about 20 000 barrels of liquid fuel a day

Sasol executives have however pointed to Sasol's high cash flows and said the group could comfortably maintain its capital expenditure at about R3 billion a year Sasol's joint venture in Qatar represents its first major attempt to commercialise and exploit its proprietary technology offshore

AP-Dow Jones quoted the Qatar government officials as saying that Qatar planned to invest up to $15 billion over the next three years in gas and industrial projects

"QGPC's most ambitious project will be the gas-to-liquids venture being set up with Sasol of South Africa and Philips Petroleum of the US at an investment of $500 million," he said "This will be the first such venture in the Middle East"

The report said Qatar wanted to raise the gas industry sector's share of its gross national product from about 20 percent to nearly half The oil sector makes up about 35 percent of the gross national product, and the rest comes from the services and financial sectors

"The two major joint ventures where a bulk of the total investments will be made include the setting up of a third liquified natural gas plant at Ras Laffan and adding two more trains to an ongoing project," an official with the ministry of energy and industry said

The official added that, while the state-owned Qatar General Petroleum Corporation would make an effort to sell processed gas from the North Field to global buyers, there would also be a greater emphasis on setting up value-added facilities

"The QGPC, in partnership with Philips Petroleum of the US, is also working toward the establishment of an ethylene-cracker project at an investment of $750 million," he said "The final products have a high demand in Asia, Europe, the Middle East and Africa"

New Commission for Conciliation, Mediation and Arbitration national director Thandi Orleyn, left, at a news conference in Johannesburg with Labour Minister Tito Mboweni, centre, and outgoing director Charles Nupen. Picture ROBERT BOTHA

# New director for arbitration commission

**Stéphane Bothma**

BD 13/10/97

INDEPENDENT Mediation Service of SA national director Thandi Orleyn has been appointed new national director of the Commission for Conciliation, Mediation and Arbitration, Labour Minister Tito Mboweni said yesterday.

Orleyn will take up her new position in December to replace outgoing director Charles Nupen.

Orleyn has already served on the commission as a part-time senior commissioner and was voted in unanimously as the new director by the commission's governing body, Mboweni said

The first black woman law graduate from Port Elizabeth university, Orleyn joined the Legal Resources Centre as an attorney in 1985.

Nine years later she became regional director of the centre and a year later, in 1995, joined the media service as the national director

"She will benefit from the work done by Charles Nupen, who set up the commission and structures two years ago," Mboweni said

He called on the commission's senior staff to give Orleyn all their support "She has the experience for the job," he said

Orleyn, who said that Nupen had been her mentor throughout her career, told the conference that she did not feel intimidated by her new position

Nupen will join the International Labour Organisation and will be working on projects in SA and southern Africa.

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# Substitute MPs pass welfare bill

BD 13/10/97

**David Greybe**

CAPE TOWN — The African National Congress (ANC) in Parliament's welfare committee on Friday used substitute ANC MPs to push through draft legislation on a new child-support grant system after the National Party (NP) walked out in protest

However, the implementation of the new grant system under the Welfare Laws Amendment Bill could still be delayed because of two possible Constitutional Court challenges. The welfare department plans to phase in the grant scheme from January.

The NP walkout, led by Patrick McKenzie, was in protest against the bill's intention to restore the administration of social security grants to the national government from the provinces The NP supported most of the new grant provisions in the bill

Committee chairman Cas Saloojee suspended the meeting after the walkout in order to implement the co-option procedure which permitted the use of noncommittee members to make up a quorum and adopt the bill

The welfare department called the NP walkout "irresponsible". The bill will now go to the National Assembly and then the National Council of Provinces for adoption

None of the other political parties was present at Friday's meeting, but the NP said it was confident it could get enough opposition support to refer the bill to the Constitutional Court. The support of one third of the National Assembly is needed to make an apply to the court for an order declaring all or part of an act unconstitutional.

Welfare director-general Leila Patel told the committee earlier the transfer of social security powers to the provinces in a proclamation by President Nelson Mandela last February had been "invalid and incorrectly assigned" The department obtained three legal opinions that the reversal of the powers was constitutional. It was supported by the state law advisers who said because social security powers were considered concurrent under the constitution, central government had overall control of them.

The Western Cape government did not rule out its own Constitutional Court challenge to the bill It believed the bill was unconstitutional, Western Cape legal adviser Dirk Brand said. The provincial cabinet would decide what to do next, he said.

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# Talks resume on bargaining council

(183) BD 13/10 97

**Reneé Grawitzky**

CHEMICAL employers and unions have resumed negotiations in an attempt to finalise the constitution for the establishment of the chemical industry bargaining council, the subject of discussion for more than two years

Talks on the council resumed last week following wage settlements in seven subsectors of the broader chemical industry.

In the aftermath of the wage negotiations some employers felt disillusioned about the future of the centralised bargaining structure while the Chemical Workers' Industrial Union said the negotiation process had proved to be quite frustrating.

Employer spokesman Fanie Ernest said the recent talks had shown the process of centralised bargaining was difficult, and thus required a real commitment on all parties to ensure it worked.

The Commission for Conciliation, Mediation and Arbitration had, he said, played an instrumental role in ensuring settlements were reached. Union national collective bargaining coordinator Bheki Ntshalintshali said increases in the seven subsectors — including glass and plastics, petroleum, pharmaceuticals and plastics converters — ranged between 10% to 12%, with the average increase being about 10,5% The majority of petroleum workers, except those at Sasol, received a 11% increase Sasol workers received 10,5% but those on the minimum rate will get 12%

The highest paid actual minimum rate of pay will be R2 865 a month paid by British Petroleum, and the lowest R2 000 a month

Ntshalintshali said other core demands met by employers included maternity leave and a reduction in working hours The majority of sectors, he said, agreed to grant six months' maternity leave, four to be paid either at 33% or 100%, with jobs guaranteed

*Minister distances himself from Van Zyl suspension*

# Maduna backs off in CEF controversy

ET (PR) 14/10/97 (183)

**Miranda Strydom**

Johannesburg — Penuell Maduna, the mineral and energy affairs minister, yesterday backed away from his reported involvement in the suspension of Kobus van Zyl, the general manager of the Central Energy Fund (CEF)

This came after reports that the parliamentary portfolio committee on minerals and energy would be briefed by the South African Diamond Board and the CEF this week

*Penuell Maduna, the mineral and energy affairs minister*

This reported briefing came after a request by Kobus Jordaan, the Democratic Party energy spokesman, to raise the issue of who actually ordered Van Zyl's suspension There had been speculation that Maduna had ordered it

Van Zyl was suspended after an auditor's report revealed irregularities in the payment of oil contracts

Linda Makhatini, Maduna's adviser, said the decision to suspend Van Zyl was taken on March 26 this year in Mossel Bay, and that the letter of suspension was signed by Roy Pithey, the then CEF chairman

"It was a board decision It was taken in Mossel Bay so it was dealt with from within the Central Energy Fund," Makhatini said

Van Zyl said he did not know who ordered his suspension He said although Maduna was present at the meeting in Mossel Bay, he did not know who was involved in the decision "I am yet to find out though," he said

During the briefings this week it was expected that the committee would also want to hear more about Maduna's investigations into the oil deals, particularly regarding the issue of the Salem, the oil tanker that sank off the coast of Senegal in 1979

Maduna said earlier that his ministry was compiling a report on its findings which would be tabled in parliament He said he was not convinced the auditor-general's report, which refuted Maduna's allegations that R170 million worth of strategic oil stocks had been stolen, was accurate.

# Shisana rules out compromise on divisive drugs bill

BD 14/10/97 (183)

**Jacob Dlamini**

CAPE TOWN — Health director-general Olive Shisana yesterday challenged the pharmaceutical industry and other opponents of draft legislation aimed at lowering drug prices, to take their case case to the World Trade Organisation (WTO)

Shisana said it had become clear that the department and the pharmaceutical industry did not agree on the interpretation of WTO regulations. Registering a complaint with the WTO would allow the international multilateral trade body to adjudicate on the correct interpretation.

The Medicines and Related Substances Control amendment bill would, among other provisions, allow the parallel importation of drugs from cheaper sources; encourage the use of generic medicines, end the bonusing and sampling of medicines to prevent perverse incentives from doctors' judgments and relax rules for the ownership of pharmacies

The bill would also give the minister power to overturn decisions of the Medicines Control Council — the body responsible for checking the safety and efficacy of drugs

Shisana said taking the matter to the WTO would settle the dispute and stop the debate from going "backwards and forwards" as had been happening recently

Shisana said the department had studied the WTO's regulations regarding intellectual property rights and was convinced that it had interpreted them correctly.

She was speaking during a clause-by-clause consideration of the bill by Parliament's health committee.

Shisana denied that the bill, which would give the health minister powers to prescribe additional requirements for the labelling of medicines, would violate patents

Shisana said: "We are not proposing the busting of patents."

She said parallel imports and generic substitutes would still be inspected by the Council to ensure that it was safe and that it complied with all set regulations.

Shisana's strong stance appeared to dash hopes that changes would be made to the draft legislation to take account of mounting vocal opposition from opposition parties, the pharmaceutical industry and US ambassador James Joseph, who said in a letter to the committee on October 4 that the US opposed "parallel imports of patented products anywhere".

Ian Roberts, a special advisor to Health Minister Nkosazana Zuma, told the committee that the debate on the bill had reached a "bizarre level". He said it would not make sense to introduce legislation which would allow substandard medicines to be brought into the country.

Roberts said that, contrary to opposition party concerns, parallel imports did not raise the risk of drug counterfeiting. He said once parallel importation was in place there would be a clear audit trail to ensure that compounds were not counterfeit.

Meanwhile, Inkatha Freedom Party health spokesman Ruth Rabinowitz called for the scrapping of value-added tax on medicines and for the privatisation of drug supplies to the state to prevent theft Rabinowitz called for greater competition in the chain of pharmaceutical suppliers, saying this would reduce costs and make health care affordable

# Committee approves Zuma's drugs bill

CT 15/10/197 (~~96~~) (183)

A PROPOSAL to allow Health Minister Dr Nkosazana Zuma to permit parallel imports of cheaper drugs was formally approved by the National Assembly's health committee yesterday.

The ANC majority on the committee rejected opposition attempts to amend proposals to ban bonusing, including discounts for bulk purchases, and free sampling, by pharmaceutical companies.

The controversial clauses are contained in the Medicines and Related Substances Control Amendment Bill, which Zuma's ministry says is an attempt to ensure cheaper medicines for all South Africans.

The chief executive of the Pharmaceutical Manufacturers' Association, Ms Mirryena Deeb, said the committee's decision on parallel imports represented a "very, very dark day for all South Africans".

"This is a tragedy not only for the pharmaceutical industry but for all investors in South Africa, both present and potential," she said.

The committee had allowed South Africa's integrity, as a serious international trading player and partner, to be placed in question, she said.

The PMA, whose membership includes a number of multinationals, says it represents 80% of the pharmaceutical market share in South Africa.

Opponents of the parallel imports clause, who include the United States government, claim it violates the international Trade Related Intellectual Property agreement.

The National Part, Democratic Party and Inkatha Freedom Party proposed in the committee that the clause be deleted.

Democratic Party health spokesman Mr Mike Ellis said he found it "incredible" that despite the amount of evidence the committee had heard over the past few months, the health department and ministry were determined to proceed with the step.

"The haste with which this incredibly important thing is been pushed through is absolutely scary, and the repercussions could be so great if this thing is handled incorrectly," Ellis said.

**'MEDICINE FOR ALL':** Nkosazana Zuma

ANC MP Ms Abigail Njobe said the ANC had listened to all representations on the bill and had done the best it could to determine whether the measure was a move in the right direction.

The ANC was looking at the objective of the clause, which was cheaper medicines, and not merely at the interests of the private sector.

"You have simply forgotten about the people of South Africa whose situation we are trying to address," Njobe told opposition MPs.

Late yesterday afternoon ANC members of the committee unexpectedly asked for an adjournment to discuss a DP amendment to a clause which empowered and obliged Zuma to prescribe a code of marketing ethics for pharmaceutical companies.

Ellis has proposed that the minister be allowed to extend existing codes to cover particular branches or sectors of the pharmaceutical industry, and to prescribe only where there is no code.

The committee is expected to finish its deliberations on the bill this afternoon. — Sapa

# Approval for Zuma's 'cheap drugs'

Star 15/10/97 (183)

Cape Town – A proposal to allow Health Minister Dr Nkosazana Zuma to override patent rights by permitting parallel imports of cheaper drugs was formally approved by the National Assembly's health committee yesterday.

The ANC majority on the health committee rejected opposition attempts to amend proposals to ban bonusing, including discounts for bulk purchases and free sampling, by pharmaceutical companies

The controversial clauses are contained in the Medicines and Related Substances Control Amendment Bill.

Zuma's ministry says the bill is an attempt to ensure cheaper medicines for all South Africans.

**'A dark day for investors in SA'**

Pharmaceutical Manufacturers' Association chief executive Mirryena Deeb said the committee's decision on parallel imports represented a "very, very dark day for all South Africans"

"This is a tragedy, not only for the pharmaceutical industry but for all investors in South Africa, both present and potential," Deeb said

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# Green light for health products in SA

**ARGUS CORRESPONDENT**

X(183) ARG 15/10/97

**Johannesburg – Health products including homeopathic, Chinese herbal and traditional African remedies are about to come under the wing of an enterprising new safety and quality control system.**

The new electronic listing system will be administered by the Medicines Control Council (MCC) and is expected to be finalised by the end of the year

The introduction should end months of in-fighting and delicate negotiations over appropriate controls in the complementary health industry

Health products are neither food nor medicines, but until now rules governing quality of items swallowed by humans applied only to those two groups

The industry has also had to deal with a flood of unregistered health products in the last three years, and faces a three-to-four year delay in obtaining MCC registration

Consumers currently have few guarantees of safety, and little objective information about health products because the MCC strictly controls the medical claims made about any product.

The new system allows a wide menu of approved claims about the medicinal value of each product to be printed on the labels

It also monitors manufacturing processes, which determine the stability, purity, strength and shelf life of a product. The system is considered a world leader because of the broad range of disciplines covered – African traditional, Chinese herbal, Western herbal, Ayurvedic, energy substances, aromatherapy, homeopathy and nutritional supplements.

Recommendations on a listing system for five of these – Western herbal products, homeopathic remedies, nutritional supplements, Ayurvedic medications and Chinese herbal products – were accepted last month. They are due to be ratified by the MCC later this month. It is hoped that lists for the outstanding disciplines will be finalised before the end of the year.

# Pharmaceutical firms in talks with black groups

(183) BD 16/10/97

**Patrick Wadula**

MEDICAL and pharmaceutical companies Alliance Pharmaceuticals, SA Druggists and Adcock Ingram are involved in ongoing talks with black empowerment groups, although no deals have yet been finalised

The companies have seen rising interest from emerging black businesses looking to enter the medical and pharmaceutical industries — sectors which were previously preserved for well-established white businesses.

Alliance Pharmaceuticals CEO Meyer Gelbart said there were opportunities opening up for emerging businesses at both operational and executive levels of the company. Gelbart said the group was holding ongoing discussions with different interest groups but nothing had yet been concluded

SA Druggists CEO Peter Beningfield said although the group would welcome black participation in its businesses, there were difficulties identifying those areas where black partners could add value to the venture or firm

"We are struggling to finds ways in which to bring a black partner into our business and we would love to find something realistic," he said.

Beningfield said there was strong interest expressed by black business in SA Druggists, but no firm suggestions had been made, making it difficult to empower the emerging businesses.

Several other established groups including Macmed Healthcare Holdings and Cape-based healthcare group Aukland Investments had already tied up with black businesses Macmed sold more than 30% of its shareholding to three empowerment groups including Thebe Investment's Vuna Health Care division which held 27%, Pretoria-based Malesela Holdings (5%) and Cape-based group Brimestone Investments held a minority interest

Pamodzi Investments headed by Peter Vundla recently bought a 26% stake for R46m in Cape based health care group Aukland Investments.

An Adcock Ingram spokesman said the company was not involved in discussions with a black group at the moment, but was prepared to talk to any interested group. There had been talks previously with emerging black business, but nothing had materialised.

# ‘Dangerous law bulldozed through’

(183)

**Josey Ballenger**

BD 16/10/97

THE African National Congress (ANC) had “bulldozed” through “dangerous” legislation which would allow parallel imports of cheaper drugs and legalise generic substitution, despite efforts by opposition parties to amend it, the National Party (NP) said yesterday.

The Medicines and Related Substances Control Amendment Bill, approved by Parliament’s health portfolio committee on Tuesday night, was likely to increase the price of medicines “instead of achieving the goal of decreasing it” and did not provide a clear separation between the procurers and controllers of medicine (government), said Kobus Gous, NP chief spokesman on health.

Sapa reports health director-general Olive Shisana said the bill, and two others approved last week which aim to reform the health industry, represented a “big success” for her department.

# Tough times loom as fertiliser demand drops

(183) BD 16/10/97

**The SA fertiliser industry is bracing itself for a lean period of reduced demand and lower prices, writes agriculture reporter Louise Cook**

SA Fertiliser Association chairman Hilmar Venter said sales declined 3%-4% over the year to end-August compared to the same period a year ago. This was reflected in chemicals group AECI's announcement to shareholders two weeks ago that the performance of fertiliser company Kynoch was likely to be "substantially below" that achieved last year

Venter said the slowdown in the domestic industry, which had a turnover of about R2bn a year, was largely a result of Russia dumping the raw material urea on world markets, and depressing prices.

At the end of July, fertiliser was costing 1%-2% less than at the same time last year, and Venter said although nitrogen prices were lower, the effect had been neutralised by higher prices for phosphates.

AECI warned shareholders that international prices for nitrogen fertilisers had declined further The group said in southern Africa, concerns about the effects of El Niño could affect agricultural demand in the summer rainfall areas However, Venter said this had not yet been reflected in sales.

The Financial Times reports that Europe's fertiliser industry, which went through a significant restructuring in the early 1990s, was braced for a further decline in demand for nitrogen, phosphate and potash over the next decade

The European Fertiliser Manufacturer's Association predicted a 5% fall in nitrogen consumption and a 9% drop for both phosphate and potash in western Europe in the decade to 2006/7

The forecast took account of changes in farming practices and the likely effect of common agricultural policy reforms The industry said it was better equipped to handle changing demand after the restructuring that closed 66 plants and halved the European Union (EU) workforce, costing up to $2bn

Following heavy losses in 1992 and 1993, the industry returned to profit in 1995, although the association said the gross pretax return of 10% was not yet enough to provide an acceptable return

Farmers were using less mineral fertiliser in response to developments in precision farming and concern about its environmental effect, such as nitrates leaching into groundwater supplies. Full implementation of the first action programme under the EU's nitrates directive, due by end-1999, was expected to lower nitrogen application rates further.

The forecast of an average 5% decline in nitrogen use disguised a projected fall of 27% in the Netherlands, where farmers used the most per hectare in western Europe and were facing new restrictions

By contrast, no change was forecast for Spain, while Portugal was expected to increase the use of nitrogen sharply as the two countries intensified production of fruit and olive oil.

The decline in demand from the four main consuming countries — the UK, Italy, France and Germany — which accounted for two thirds of nitrogen demand, was expected to average 3,2%

The forecast assumed the rate of set-aside, where farmers were paid to leave land uncultivated, would average 10% a year until 2001/2002 Set aside is currently 5%. It also assumed that crop yields would continue to increase.

Changes in the common agricultural policy were expected to favour an expansion of wheat, oilseed rape and pulse production, but prospective sugar production controls early next century were likely to cause a big drop in beet hectarage. Nitrogen application rates were expected to fall for all crops by an average 3,5kg a hectare, from 72kg in 1995/96.

The association warned that combining bigger harvest with declining fertiliser use was not sustainable in the long term because crops were taking increasing amounts of nutrients from the soil "But it is reasonable to expect that during the forecast period, best agricultural practices will enable EU farmers to reach their production targets," it said

# Mobil returns with focus on SA lubricants

(183) BD 16/10/97

**David McKay**

MOBIL Corporation, the world's third largest oil company, said yesterday it was to reinvest in SA, ploughing tens of millions of dollars into the lubricant industry and possibly striking a joint venture with a black empowerment group.

Mobil's local subsidiary, Mobil Oil SA, would kickstart an "aggressive marketing campaign" in the lubricants and specialist products sector, said MD John Pototsky. It would not initially compete in the fuel supply business.

The SA lubricant market totals 2 200-million barrels a year. It consists of two main segments, split evenly between automotive and industrial business. Demand is forecast to grow at the same pace as the economy as a whole.

Mobil Corp quit SA in 1989 when the push for sanctions prompted the US government to hit investors in SA with tax penalties.

Pototsky said Mobil Oil SA hoped to

Continued on Page 2

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# Mobil

(183) BD 16/10/97

Continued from Page 1

sign a joint lubricant blending venture by the year-end, possibly with a black empowerment company If this initiative came to nothing, the company would pay a third party to do the blending on its behalf.

Potential partners included Naledi Investments and Afric Oil

SBC Warburg analyst Themis Themistocleous said Mobil's potential competitors, the listed groups Engen and Sasol, did not view lubricants as a large market. But the most important development was that Mobil had a foothold in SA.

The key issue, however, was whether and when Mobil would move into the fuel industry and how it would react to government's plans for reregulating the sector, he said. Government held sway over the petrol price and the allocation of petrol stations.

Pototsky said Mobil supported an open market philosophy, but it was willing to work with government on its reregulation process Most important, he said, was that government had "a gameplan" for the industry.

Mobil would consider moving into the fuel industry, but it was first focusing its attentions on lubricants and intended to build up a market share to "double-digit" figures

The company is the largest marketer of finished lubricants in the US and second largest in the world. Revenues last year topped $80bn. It sells about 7,6-million litres of lubricants worldwide each day

CAPE ARGUS, THURSDAY, OCTOBER

# Warning on fake medicines

(183)

**ARGUS CORRESPONDENT**

ARGT 16/10/97

**Pretoria – Pharmaceutical companies have warned that lethal counterfeit medicines could make their way on to the shelves of unscrupulous chemists.**

This follows the approval this week – in spite of strong opposition – of the Medicines and Related Substances Control Amendment Bill, giving Health Minister Nkosazana Zuma sole control over which medicines are imported, or if parallel importation of a cheaper product is needed.

Critics' warnings that the bill would offend international investors, and that it breached an international intellectual property rights agreement – known as TRIP – have been downplayed by the health department.

The German, Swiss and American embassies each raised concerns over the possible infringement of patent rights, saying the bill sent a negative message to investors.

A Health department spokesman said national pharmaceutical companies felt their patent rights had been compromised, and they had recourse to the World Trade Organisation (WTO)

One drug company employing some 1 200 people in South Africa said it might consider cutting down on staff or withdrawing products.

Pharmaceutical Manufacturers' Association chief executive Mirryena Deeb said there was an increase in fake drugs in South Africa which, to the man in the street, were nearly impossible to tell apart from real medicines.

With parallel importation there was concern that the importation of fake drugs would increase even more.

The Health spokesman said all parties would have until November 14 to submit proposals for the drawing up of regulations aimed at shutting the importation loopholes.

# State dithering cost R1bn in revenue, says liquid fuel industry

**Ncaba Hlophe**

Johannesburg — The liquid fuels industry lost R1 billion in extra revenue over the past two years while the government dithered over establishing a new regulatory framework, Colin McClelland, director of the South Africa Petroleum Industry Association, said this week

McClelland said the government had not taken a firm direction about sticking to the previous system of regulating refining margins Neither had the government speeded up the development of a new formula

The refining margins had been determined in terms of an agreement between the government and its predecessor, which ensured the industry a 15 percent return on margins

"In terms of this formula, the margins should have been lifted by 3c from 14c to 17c in 1996," said McClelland "But the government has never been excited to apply this system developed by the previous government "

The industry's after tax returns on assets had moved up to 7,9 percent last year from 6,4 percent in 1995, but McClelland said this did not reward investment as the margins were lower than inflation

He said the industry was no longer prepared to wait while the government decided to opt for regulation or deregulation of the industry

"Though we think deregulation would be the final solution, we expect the government to spell out the means of achieving that Even if it opts for regulation, we would be keen to see how it would structure the formula for the regulation of profits," he said

McClelland welcomed the decision to appoint a body to advise Penuell Maduna, the mineral and energy affairs minister, on broad issues affecting the industry, as a necessary step to launch the restructuring of the industry

Heine Baak, the deputy director of utilisation energy in the minerals and energy department, said it would be premature to comment because broad issues affecting the industry would be handled by the advisory body

"The setting up of the body is about to be approved by Cabinet and such a body would give directions about whether we take the regulation or the deregulation line," said Baak

ET (BR) 17/10/97 (183)

**HEALTH POLICY**

# Cheaper medicine at a price

(183)
FM 17/10/97

## Minister Zuma and government prepared to take their chances over world trade law on intellectual property rights

*US Ambassador James Joseph* concern over the Bill

The governments of the US, Switzerland, and France have warned the SA government not to adopt Health Minister Nkosazana Zuma's proposed drug reforms Along with other governments in the European Union (EU), they fear the legislation would infringe upon universally accepted principles of patent protection

But Zuma is standing firm on one of the most contentious pieces of draft legislation to reach parliament this year, and both the departments of Health and Trade & Industry say they are prepared to fight it out at the World Trade Organisation (WTO)

This will mean fighting fires on all flanks

Meanwhile, the Medical Association of SA (Masa) has declared a labour dispute over Zuma's plans to introduce community service for interns in January 1998 And the National Interns' Alliance plans to mount legal action in the Labour and Constitutional courts if parliament gives her the go ahead on October 23

The Pharmaceutical Manufacturers' Association (PMA) says it will have to consider going to the Constitutional Court to safeguard the R10bn industry's intellectual property rights if the Medicine & Related Substances Control Amendment Bill is passed as is on October 21 Parliament's health portfolio committee is giving its final consideration to the Bill this week

The US government has maintained a continuous presence at the committee hearings In a letter to the committee released this week, US Ambassador James Joseph expresses his government's concern over the Bill

He urges the committee to delete or amend Section 15C(a), which gives the Health Minister the authority to deny patent rights to medicine patent holders — if she thinks this will lower medicine costs

"The US government is gravely concerned over the public policy implications of a law which would infringe on the intellectual property rights of a patent holder, for even the best of reasons, especially if the power to undertake such action is vested in a single individual," says Joseph "The governments of France, Switzerland and the EU have expressed similar concerns to your governmen" He also warns that the section sends a negative signal to the high technology investment community

US multinational drug company Merck informed the committee last week that it had put its R50m investment in SA on hold and would review all future investments in SA if the Bill was passed

Joseph also asks the committee to carefully consider the implications of provisions that allow the parallel importation of medicine (This is when a third party is allowed to import patented medicine into SA from any country where the local economic conditions enable it to be manufactured at lower cost )

Problems may arise for SA as a signatory to the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (Trips) which gives a patent holder the exclusive right to stop third parties from making, using, offering for sale, selling or importing his products

The Department of Trade & Industry (DTI) has assured Zuma that the Bill does not violate SA's obligations under the Trips Agreement DTI acting registrar of patents and trademarks, Craig Burton-Durham, says "SA is committed to its obligations under the Trips Agreement We take the view that Trips is open to legal interpretations that have to be tested Therefore (Minister of Trade & Industry) Alec Erwin has supported the Bill"

However, Burton-Durham refuses to disclose the source of the DTI's legal advice or explain on what grounds the DTI has formed its opinion Health DG Olive Shisana has challenged the Bill's opponents to take their case to the WTO

Ranged against the DTI is a barrage of heavyweight legal opinion in the form of senior US patent lawyer Charles Caruso, SA patent law authority Tim Burrell of the SA Institute of Intellectual Property Law, and the International Trademark Association

The debate over Trips violations has obscured an even greater threat posed by the Bill — the centralisation of power in the hands of the Health Minister

If the Bill is passed with only minor modifications — and the conduct of ANC members of the health committee suggests that it will be — then Zuma will have sweeping powers over the pricing, sale, safety and registration of medicine in SA

DP health spokesman Mike Ellis calls for the separation of these powers and urges that final authority over medicine safety and registration continue to reside with an autonomous Medicines Control Council (MCC)"

The Bill contains an overriding clause which allows Zuma to reverse the MCC's decisions if she deems it to be in the public interest" This gives the Minister powers to act virtually autonomously and undo all that has gone before," says MCC chairman Prof Peter Folb

During committee deliberations ANC members supported the Health Department's view that it was appropriate that the Minister be endowed with the ultimate authority

**Claire Bisseker**

# US companies to take legal action on new SA medicines law

Star 17/10/97 ([illegible]) (183)

The American pharmaceutical industry is to take legal action on its patent rights via the US government if Parliament passes new legislation on medicines next week.

The Medicines and Related Substances Control Amendment Bill is due to be tabled in Parliament on Tuesday

Thomas Bombelles, assistant vice president of the Pharmaceutical Research and Manufacturers of America (Pharma) said the bill violated the rights of the patent holder to exclusively import and sell its products, violating international trade agreements.

The US government would have to bring the case before the World Trade Organisation on behalf of the industry.

Pharma was analysing its options and working with the government to bring a case before the WTO and also to apply bilateral pressure on the South African Government if the bill passes – Staff Reporter

## Types of action

- Direct investment into Funds
- Tax breaks
- Guarantees to investors
- Cost subsidies
- Support direct to SMMEs

# ‘Maduna helped oust Van Zyl’

(183) CT(BE) 17\10\97

**MIRANDA STRYDOM**

Johannesburg — Roy Pithey, the former chairman of the Central Energy Fund (CEF), entered the dispute yesterday over the suspension of Kobus van Zyl, claiming the CEF's general manager was suspended on the recommendation of Penuell Maduna, the mineral and energy affairs minister

Pithey was responding to a statement made by the minister's office that the board made the decision to suspend Van Zyl

The parliamentary portfolio committee on minerals and energy was supposed to hear this week who actually ordered Van Zyl's suspension However, the briefing was postponed

The briefing came after a request by Kobus Jordaan, the Democratic Party energy spokesman, to raise the issue There was speculation that Maduna had ordered it

**DRAFTED LETTER** *Roy Pithey, the former CEF chairman*

Linda Makhatini, Maduna's adviser, said earlier the suspension was a board decision, but Pithey said the minister played a significant role

“It is my clear recollection that, based on the evidence he placed before the board, the minister recommended that Van Zyl should be suspended,” he said

The decision was taken by the board in a meeting with the minister in Mossel Bay on March 26 Beforehand the minister had provided some board members with copies of the draft report by auditors Inkonki Sizwe Ntsaluba into irregularities in the strategic fuel fund over the Egyptian oil contract, Pithey said

Because the meeting with Maduna was held in committee, the secretary was not present and no minutes were taken, he said As chairman at the time, Pithey said he drew up the initial draft and signed the letter of suspension “The minister's role in the matter of Van Zyl's suspension cannot be denied,” he said

On the issue of the strategic fuel fund's forensic audit, Pithey said in the interest of the public the minister should expose any irregularities

Maduna's office could not be reached for comment

# US drugs body threatens court action

BD.17/1 (~~96~~) (183)

**Josey Ballenger**

THE US pharmaceutical industry said yesterday it would take legal action against the SA government if legislation — allowing the importation of patented medical products was passed by Parliament next week

The Pharmaceutical Research and Manufacturers of America said it was "working with the US government to bring a case before the World Trade Organisation" on the grounds that clauses in the Medicines and Related Substances Control Amendment Bill violated the international agreement on trade-related aspects of intellectual property Assistant vice-president Thomas Bombelles said the US organisation was also exploring petitioning the US government to take trade action against SA

Pharmaceutical Manufacturers' Association of SA (PMA) CE Mirryena Deeb said the association was looking at "a number of options" as the legislation seemed to infringe on administrative, patent and competition laws

Local and international pharmaceutical companies operating in SA have objected to the legislation — which was passed by the parliamentary health portfolio committee on Wednesday and is due to be tabled in Parliament on Tuesday — because it will grant the health minister the right to import equivalent patented products priced differently overseas

Legal experts say so-called "parallel importation" without the consent of the patent holder is an explicit infringement of the Patents Act

Tony Hooper, a partner specialising in pharmaceutical issues at law firm Spoor & Fisher, said a patent holder could sue the health ministry for violating the Patents Act, but only if an alleged violation had occurred Alternatively, a company or the industry as a whole could pursue a case in the Constitutional Court on the grounds that the legislation violated the constitution "in that it gives powers to the minister to override the Patents Act"

Section 15 (c) of the Bill says the minister "may prescribe conditions for the supply of more affordable medicines in certain circumstances so as to protect the health of the public, notwithstanding anything to the contrary in the Patents Act"

"The bill does not put any boundaries on those powers," Hooper said.

Bombelles and Deeb noted the US association could not sue in SA, but that action by the PMA would include the local operations of international companies, which comprised the bulk of its 43 members

# Zuma lashed over her 'ill' bills

## *Medical, legal and international trade drawbacks*

ARG 18/10/97 [illegible]) (183)

**OWN CORRESPONDENT**

**Pretoria – Critics have lashed out at the totalitarian powers given to Health Minister Nkosazana Zuma to control the future of health care, charging that three proposed new bills have far-reaching medical, legal and international drawbacks**

The chairman of the Medical Association of South Africa's health policy committee, Ivan McCusker, said that it was an ill judged, ill-considered decision to allow Dr Zuma to import medicines which might not have been tested, by bypassing the scientific expertise of the Medicines Control Council.

The Pharmaceutical Manufacturers' Association (PMA) says it is going to take Dr Zuma to court over her power to allow parallel imports of drugs

This follows an ANC majority vote in the health committee of the National Assembly this week, allowing parallel imports of cheaper medicines

Court battles are already looming, brought by the South African Doctors and Medical Association and the National Intern Alliance, to fight Dr Zuma's decisions to introduce compulsory community service for young doctors

While the Health Department and Department of Trade and Industry claim that parallel importation does not contravene the so-called TRIPs international agreement, pharmaceutical manufacturers said it could stifle investment, forcing companies to shut down or cut staff.

Democratic Party health spokesman Mike Ellis said. "She has been given effective power over the procurement of medicines, the pricing of medicines and the regulation of medicines."

Mirryena Deeb, chief executive of the Pharmaceutical Manufacturers' Association, said the matter could be challenged in the Constitutional Court. A legal team was preparing the case for the association, which represents 43 multinational companies and 80% of South Africa's market.

Dr Zuma has said her first priority is affordable medicines and that legislation will achieve savings of up to 10% This is questioned by Mr Ellis who says between 30% and 50% of medicines supplied to State medical facilities are stolen and that far greater savings will be achieved by curbing theft.

The NP's Kobus Gous warned that South Africa could be put on a blacklist known as Article 301, which could curb special privoleges or even result in sanctions, if the bill was passed by the National Assembly and the National Council of Provinces.

Ms Deeb questioned the neccessity of the bill as any Minister of State who felt a patent right was being abused had recourse to the Patents Act. This would also apply if the local manufacturer could not meet demand or if prices were too high.

**Target:** Dr Zuma 'fixes on herself a right which exceeds her scientific competence'

# US industry to fight proposed SA medicine law at world body

**OWN CORRESPONDENT**

**Johannesburg – The American pharmaceutical industry will take legal action on its patent rights via the US government.**

This will happen if Parliament passes the new legislation on medicines next week.

The Medicines and Related Substances Control Amendment Bill was passed by the parliamentary portfolio committee on health this week and is due to be tabled in Parliament on Tuesday

Thomas Bombelles, assistant vice-president of the Pharmaceutical Research and Manufacturers of America (Pharma), said clauses of the bill violated the rights of the patent holder to exclusively import and sell its products, and so violated international agreements on trade

The US government would have to bring the case before the World Trade Organisation (WTO) on behalf of the industry, Mr Bombelles said.

Pharma was analysing its options and working with the US government to bring a case before the WTO and also to apply bilateral pressure on the South African Government.

Mr Bombelles said SA was being used as a world guinea pig to push through "anti pharmaceutical industry" policies

# Investments boost energy fund

(183) BD 20/10/97

**Linda Ensor**

CAPE TOWN — The Central Energy Fund (CEF) had projected a 63% increase in money market investment income to R314m (R193m) in the 1997/98 financial year, mainly from its money market investments, acting GM Howard Roberts said last week.

After deducting expenses, this would generate projected operating income for the fund, excluding its subsidiaries, of R115m (R92m).

During a briefing to Parliament's portfolio committee on mineral and energy affairs, Roberts said interest from financial institutions was expected to generate R276,3m, while fees and interest from subsidiaries was expected to produce R38m. Risks were not taken on small banks, deputy finance GM Sarel Cilliers said.

Total investments were less than R2bn, he said.

In a paper distributed to the committee, Thulani Gcabashe, advisor to Mineral and Energy Affairs Minister Penuel Maduna, argued that the CEF needed to motivate its investment strategy. "The full value of the investments which have already been made are not known to government and Parliament, as well as the economic rationale for suggesting the different value of investments with a variety of financial institutions."

Gcabashe highlighted the need for a comprehensive inventory of state assets in the liquid-fuels sector to establish the value of the state's utilities.

Roberts informed the committee that to date CEF had raised R4bn in foreign loans for Mossgas and Soekor. Interest it would have to pay on commercial loans this year was a projected R184m (R79m). To date, R5bn had been generated by the sale of strategic oil supplies.

Profit from Mossgas was expected to be much lower in 1997/98 compared to last year's R718m (R352m) because it would have to shut down for maintenance work which took place every second year. Soekor was still absorbing funds but as it was now producing oil it should soon generate a surplus.

Committee members were concerned that SA was stockpiling, at no cost, sufficient oil supplies for the refineries to supply Botswana, Lesotho, Namibia and Swaziland, but Roberts did not believe the cost was large.

It decided to request a report by the CEF board and the chairman, Don Mkhwanazi, on the suspension of GM Kobus Van Zyl before the Parliamentary recess on November 7.

Democratic Party MP Kobus Jordaan criticised the delay in reporting to the committee on the matter. He suggested the committee approach former CEF chairman, Rob Pithey to discover what happened and to get the minutes of the board meeting at which the suspension decision was taken.

However, Roberts said the minutes made no reference to Van Zyl's suspension, although this could have been discussed by the board "in cabinet" after management had left.

SANDF

# Erwin defends drugs law, suggests WTO intervention

(183)

**Jacob Dlamini**

BD 22/10/97

CAPE TOWN — Trade and Industry Minister Alec Erwin defended controversial new drug laws last night and said government had taken a policy decision to stop drug companies from using their patents to prevent affordable health care.

In an unexpected intervention in the debate on the Medicines and Related Substances Control Bill, Erwin said he had been in close contact with his US colleagues, and if the matter could not be resolved it should be referred to the World Trade Organisation (WTO).

Erwin said SA and the US differed on the interpretation of a WTO agreement on trade-related aspects of intellectual property that was intended to establish uniformity with regard to property rights.

He said SA was seeking to introduce affordable health care while the US sought to ensure the protection of the long-standing policies of its pharmaceutical industry.

Erwin pointed out that parallel importation was specific to drugs manufactured by the same company but available cheaper elsewhere.

He accepted, however, that there could be an argument that the new legislation was discriminatory.

The African National Congress (ANC) later used its majority to approve the bill's second reading.

To become law, the bill needs the support of the National Council of Provinces and the signature of President Nelson Mandela.

The debate followed a day of drama during which a National Party (NP) motion calling for the bill's withdrawal was voted down by the ANC. NP spokesman Cornelius Botha had argued that parallel importation and generic substitution would violate pharmaceutical companies' intellectual property rights and WTO regulations.

ANC spokesman Abe Nkomo accused the pharmaceutical industry of spreading disinformation about government plans to reform legislation governing medicine control.

**Josey Ballenger** reports that Pharmaceutical Manufacturing Association of SA CE Mirryena Deeb said section 15 (c) of the bill would put SA "back internationally in an investment sense".

It would "do nothing to bring about cheaper medicine. The state already has access to the cheapest available drugs, and it is losing 50% to theft". She said the distribution chain, not pharmaceutical companies, was what needed reform.

Ivan Kodze, executive director of the Pharmaceutical Society of SA said he did not expect parallel importation to be common practice.

"Dr Zuma has said if the prices of branded products in other countries compare favourably with local prices, there won't be a need (to parallel import) … it's a threat for industry to bring their prices down."

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**Janet Parker**

# Fourth attempt to find gambling board members

BD 22/10/97

THE executive council of the Free State is hoping it will be fourth time lucky in finding nine suitable members for the Free State Gambling and Racing Board.

Free State finance and economic affairs deputy director-general Humphrey Kgomongwe said yesterday the council had, for the fourth and "hopefully last" time, reopened nominations for appointments.

The delay has caused the Free State to lag behind the other provinces in the formation of a regulatory environment for gaming.

The council said in newspaper advertisements "… previous failed nominations were as a result of failure of most of the candidates to fulfil specific criteria"

In a bid to ensure that no further unsuitable candidates were nominated, the council set out an exhaustive list of criteria which would deem a candidate eligible

Kgomongwe said the council hoped to have the Free State Gambling and Racing Board in place by December, and functional by January. The board would have to "double its efforts and move with terrific speed", he said.

(222)

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# Gauteng pension payouts 'improved'

THERE was a marked improvement in the disbursement of old age and disability pensions in Gauteng, but a great deal more should be done to ensure a more efficient and secure delivery system, the Black Sash said yesterday.

The Black Sash was commissioned by the legislature's standing committee on social welfare to identify problem areas and evaluate the effectiveness of the new pension payout system.

Sash spokesman Sue Sparks said the welfare department's decision to outsource cash payments to a local firm, Cash Paymaster Services, at a cost of more than R1,3m, seemed to be working well

"Security under them has improved immensely and guards are deployed … overall things are better. We are excited and optimistic about the future … now welfare officials can concentrate on solving queries and, hopefully, refine their application process," Sparks said

She said at most payout points the team visited in townships and rural areas, amenities, security and service had improved significantly

The team also recommended decentralisation of the department's offices to ensure a more speedy delivery system.

Those regions which had decentralised were offering a better service, the team said — Sapa.

BD 22/10/97

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(252)

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# 'White survival depends on reconciliation'

BD 22/10/97

CAPE TOWN — The survival of whites in SA depended on their joining the process of healing and reconciliation

had done nothing to contribute to reconciliation but had spent their time bemoaning the passing of the old dispen-

# New technology adds life to Mossgas

CT (BR) 22/10/97 (183)

**Christo Volschenk**
ECONOMICS EDITOR

Cape Town — New gas exploitation techniques developed and deployed in the North Sea would extend Mossgas's life by four years to 2009, David Day, the chief executive of Mossgas, said at an oil conference here yesterday

Until the new techniques were developed the proven gas reserves would only have been enough to keep Mossgas in operation until 2005, he said

Day said the present exploited reserves consisted of the FA field and the recently commissioned FAH and FAR satellite fields These fields would ensure sufficient gas for synthetic fuel production at present levels up to 2001

*David Day, chief executive of Mossgas* PHOTO ANDREW BROWN

"New techniques involving lateral and horizontal drilling, sub-sea well completion and reservoir management could extend the life of these fields another four years to 2009," he said

"Mossgas and Soekor had already embarked on a thorough review of all gas prospects off the southern Cape coast with the object of finding enough new reserves for Mossgas to keep it in business another 10 years up to 2019 and beyond," he said

At the same conference, Charl Moller, the Petronet chief executive, said a new fuel pipeline, to be known as the Unity Pipeline, would be built to Beit Bridge in the next two years

The line would be owned by a company called Unity Pipeline, and Transnet had indicated it would take an equity share in the company Petronet would operate and maintain the line

Wiseman Nkuhlu, the chairman of Worldwide African Investment Holdings when it acquired Zenex Oil earlier this year, said the aim was to build Zenex into an integrated African oil company with South Africa as its home base and to list on the JSE within three years Moller said plans for the restructuring of Petronet had been submitted to the government and included full privatisation

# Black companies criticise oil industry

ST (BR) 22/10/97

**NCABA HLOPHE** (183)

Johannesburg — Black oil companies have called for a transitional regulatory framework that would consolidate their entry into the petroleum industry, Maurice Radebe, a spokesman for three large black oil companies, said yesterday

He said the industry was still riddled with entrenched monopolies that stifled growth for blacks

The companies that called for the move are Exel, formerly known as Naledi, Afric Oil and Tepco, formerly Bambanani

Radebe said the black companies had started the process, which would culminate in a meeting for oil industry chief executives at the end of this month in a bid to broker steps to address the disparities in the industry

Despite the euphoria surrounding the entry of black companies into the industry, the industry's inequalities were still intact and little had been done to alleviate this situation, he said

He said the focus should be on creating a facilitating regulatory framework to leverage disparities in assets and services

The transitional period would stretch for at least five years and would empower blacks to control 20 to 30 percent of the market share That would translate into 1 000 service stations

The framework would also boost refining capacity and finance, and would help the formation of strategic alliances in the industry "At the moment the debate should not be about deregulation or regulation, especially because each of the two options would be detrimental to us without a proper transformation strategy," Radebe said

Blacks still lacked adequate infrastructure such as depots, fuel supply and capital to speedily acquire service stations and lubricant blending plants

He said the transitional regulatory framework would address issues like the retail price maintenance, import controls and the revision of the inbond land costs formula and Marketing Petroleum Activities Return system

Colin McClelland, a director of the South African Petroleum Industry Association, said the association believed there should be less government intervention in the industry

He concurred that it was difficult for new companies to enter the industry

"If black companies are to enter there should be a framework to assist them, and it should be encouraged But everything would have to be negotiated," McClelland said

Hein Baak, the deputy director of transport energy at the ministry of minerals and energy, said most of the questions would not be addressed until the advisory committee had finished its job of reviewing the restructuring of the industry

# Zuma issues challenge to drug industry

(183)

CT 22/10/97

IF South African medicines were not more expensive than those in other countries, there would be no need for parallel imports, Health Minister Dr Nkosazana Zuma said yesterday.

She was introducing debate in the National Assembly on the Medicines and Related Substances Control Amendment Bill, which will allow her to override patent rights in allowing imports of cheap drugs.

She said the measure would permit parallel imports of a product already registered in South Africa, from a factory operated overseas by the same manufacturer.

If the local pharmaceutical industry's claims on pricing were correct, there would never be a need to use this power. She also asked why, if prices were lower than elsewhere, the industry was opposing the bill.

"The ball is in their court," she said, adding that the clause did not violate any international agreements.

But NP trade and industry spokesperson Mr David Graaff said yesterday that Zuma's bill went against South Africa's commitments in international trade.

It would also affect the country's position as a "bona fide member of the international community", Graaf said.

Freedom Front health spokesperson Mr Pieter Grobbelaar said that while Zuma's aim of providing cheaper medicine was praiseworthy, the message the bill was sending out was not one of creating confidence in South Africa. — Sapa

# Drugs firms lashed as controversial medicines bill is passed

**By Jovial Rantao**
Political Correspondent

Cape Town – As Parliament yesterday passed legislation enabling the Government to import cheaper medicines from overseas, senior ANC MP and chairman of Parliament's health committee, Dr Abe Nkomo, launched a blistering attack on international pharmaceutical companies threatening to withdraw from South Africa if the bill became law

Major pharmaceutical investors, mostly from the US, had threatened to take the Government to court and to disinvest from South Africa if the Medicines and Related Substances Amendment Bill got the go-ahead

The legislation, was approved yesterday with 201 ANC votes against 71 from the opposition, which included the National Party, the Democratic Party and the Inkatha Freedom Party Earlier during the proceedings, an NP motion to have the bill withdrawn was defeated by an ANC majority

Speaking during the second reading of the bill, Dr Nkomo defended Health Minister Nkosazana Zuma and attacked international pharmaceutical companies which he said had deliberately spread misinformation about the Government's plans to reform medicine control legislation.

Nkomo said Zuma's assurances that parallel importation would occur only if the local pharmaceutical industry failed to provide lower prices for medicines was a direct challenge to the pharmaceutical industry to bring down its prices voluntarily

"What we're doing is not new Norway, Japan, Iceland and the European Union countries already allow the parallel importation of medicines Yet it is only our minister of health who is lambasted by the giant pharmaceutical companies If she was wrong, why are they silent on the other countries? Is it because they see the developing world as a soft touch?" Nkomo charged

He rejected allegations that the legislation would sidestep companies' patent rights by importing cheaper alternatives to primary branded medicines

Introducing the debate on the most controversial of her three bills, Zuma said steps would be taken to ensure that quality medicines would be imported

Star 22/10/97 (183)

# Adcock Ingram defers retrenchment meeting

(183)

**By Wilson Ramothata**

A MEETING aimed at resolving a dispute involving about 300 workers facing retrenchment at pharmaceutical company Adcock Ingram has been postponed to next week

The Industria West company and the South African Chemical Workers Union (Sacwu) as well as the Chemical Workers Industrial Union (CWIU) are expected to meet on Monday after their meeting which was scheduled for this week could not take place

Sacwu general secretary Mr Manene Samela said the meeting was postponed because the union financial expert was still compiling the company's financial data that could assist in resolving the dispute

Adcock's financial data would be evaluated to determine its income, he said

Last week the union said it was unfortunate that management was closing the most profitable plant in the company

The redeployment of most of the employees who are likely to be affected by the closure would be discussed, said Samela

He said management was negotiating with Blista-Pac and a German company called E Merck Pharmaceutical to absorb the workers

He said Blista-Pac would take over the Industria West plant, saying both companies would continue manufacturing their own products and those of Adcock Ingram

Last week CWIU and Sacwu members went on strike to protest against the company's decision to close the plant

Among their demands was a five-week pay package and transport allowance for those who would be deployed to other plants

Sowetan 23/10/97

# Row erupts ahead of Zimbabwe trade week

**Michael Hartnack**

BD 23/10/97

HARARE — A planned SA-Zimbabwe "promotion week" has so far proved to be a source of friction rather than goodwill, with Confederation of Zimbabwe Industries president Jonee Blanchfield saying it was inappropriate as long as Pretoria kept up its protective tariffs.

Blanchfield, who warned last year of a possible "trade war" if SA failed to rectify the R2bn annual trade imbalance in its favour, said the week would be "merely another attempt by the South Africans to increase their exports"

However, organising committee chairman Morrison Sifelani said the week-long schedule of events would give businessmen a chance to address the trade imbalance.

"The remark by the confederation is expected," said Sifelani, former head of the export promotion organisation, Zimtrade. "However, this promotion programme extends beyond the vision that she sees"

Echoing remarks by SA's President Nelson Mandela, who was confronted by Blanchfield over the trade issue when he visited Harare earlier this year, Sifelani said partnerships with South Africans could be formed only through dialogue

The Zimbabwe-SA week, scheduled for the month-end, includes a tourism exhibition, food promotion, business seminar and other events sponsored by the SA high commission

Continued SA subsidies on exports, dropped by Zimbabwe four years ago, are a major source of resentment by Zimbabwean would-be exporters.

Other bones of contention are SA's high tariffs and the small quotas that received restored preference when the moribund 1964 "most favoured nation" trade pact was renegotiated for sectors such as clothing and textiles.

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# Tardiness in resolving oil subsidy dispute slated

BD 23/10/97 (183)

**Linda Ensor**

CAPE TOWN — The minerals and energy department was criticised yesterday by Parliament's standing committee on public accounts for being tardy about resolving a dispute within the fuel industry over annual subsidies worth about R12m a month paid to oil companies by motorists.

The department was mandated to submit a plan of action to resolve the dispute to the committee by the end of next month.

Committee members felt the department, as the representative of the taxpayer, and the government, as the shareholder in Mossgas, should use its "weighty influence" to solve the disagreements within the industry which had lasted for nearly 10 years. Deputy auditor-general Bertie Loots also believed the department should take the lead in finding a solution.

Deputy director-general Theuns Burger was optimistic about a solution to the problem of what price Mossgas was paid for its fuel, saying that oil companies had indicated their willingness to pay import parity prices. He believed a more favourable agreement for Mossgas was possible

The committee's inquiry was based on a special report by auditor-general Henri Kluever question the reasonableness, from the taxpayers' perspective, of the subsidies paid out of the Equalisation Fund to oil companies to compensate them for the "harm" caused by Mossgas's existence.

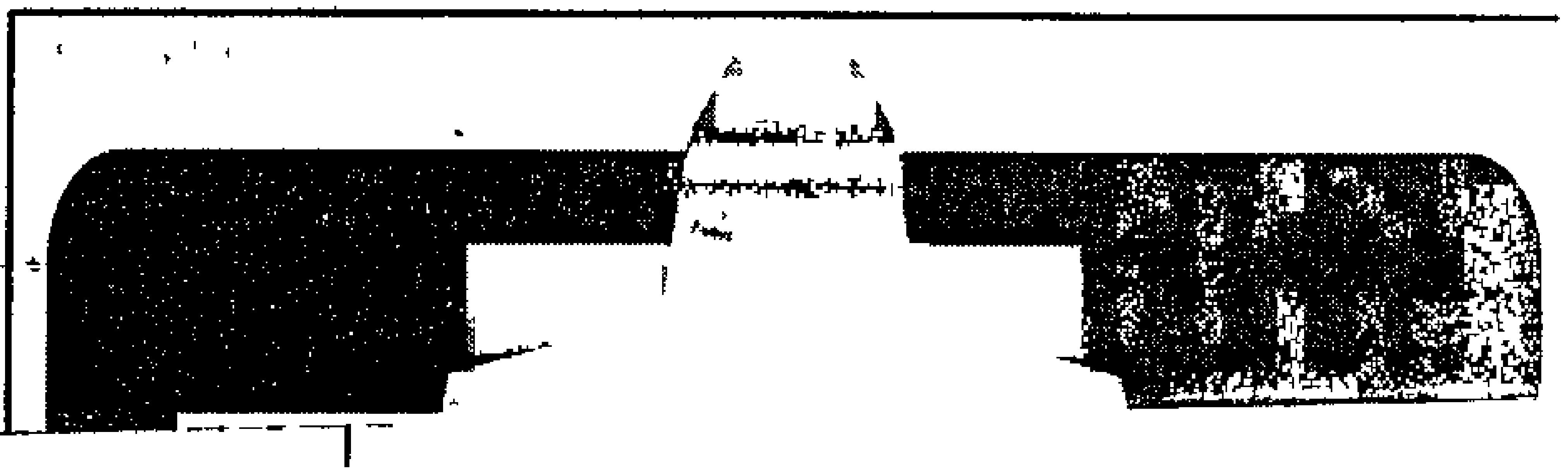
Instead of paying Mossgas the in-bond landed cost (IBLC) of fuel, it was paid the lower export price for as long as oil companies were obliged to export excess supplies. The equalisation fund, financed by a synfuel levy paid by motorists, then recompensed Mossgas for being paid the lower price

Mossgas MD David Day called for a levelling of the playing fields by having one price, the IBLC, throughout the industry. Burger warned that the industry could then refuse to uplift Mossgas's products.

In his report Kluever noted that the oil companies, which had been importing fuel for some time, had refused to open their books for him

Democratic Party finance spokesman Ken Andrew noted that there was no great incentive to resolve the dispute as one party, Mossgas, would neither gain or lose from the outcome, while the other, the oil industry, would have to sacrifice something if the current situation was changed.

The only party which would benefit from an amendment, the equalisation fund and the taxpayer, was not represented.

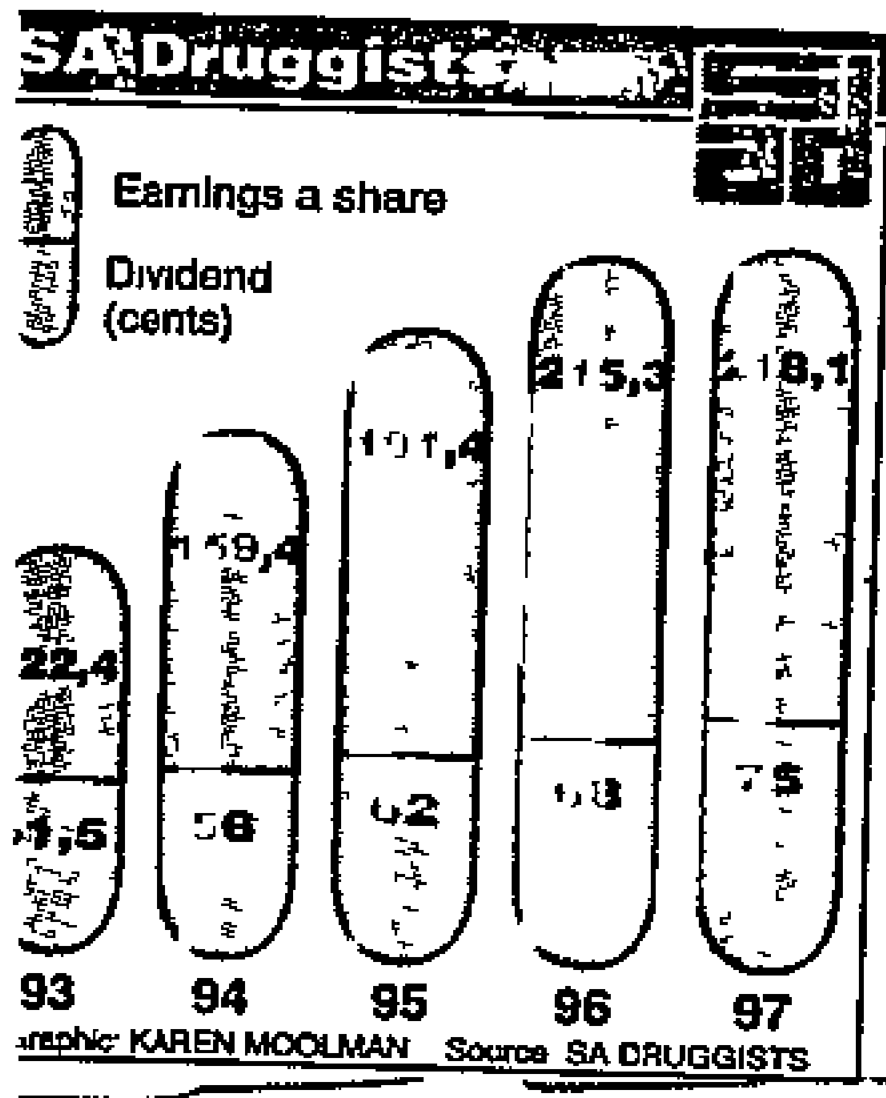


# Health care drags down SA Druggists' earnings

(183)

BD 23/10/97

Ingrid Salgado



Graphic: KAREN MOOLMAN Source: SA DRUGGISTS

PHARMACEUTICAL group SA Druggists reported a pedestrian 9% rise in earnings to R164m for the year to August

The results, marginally below the market's consensus forecast, translated into a 1,3% rise in earnings to 218,1c a share CE Peter Beningfield said the group was hit by bad performance at the chemical and health care divisions

The final dividend rose 4c to 44c a share, bringing the total dividend for the year to 75c from 68c This was ahead of market expectations as dividend cover declined to 2,9 times

Beningfield said the group was looking forward to returning to real growth in the next financial year Another solid performance was expected from the pharmaceuticals division, while the dismal results of chemicals and health care would be reversed

Beningfield, still smarting after predicting that earnings would rise15% in the last financial year, declined to hazard a forecast for the present year's growth

During the year under review, turnover increased 13% to R3,4bn, spurred by a 16% rise in volumes at the health care division to R1,45bn Pharmaceutical sales rose 11% to R1,2bn and chemical sales were up 12% to R714m.

Group operating profit rose less rapidly, swelling 12% to R262m This was largely due to a 32% plunge in operating profit within the health care arm, which Beningfield attributed to teething problems at the Medicross chain of 38 clinics

The chemicals division also recorded an 8% drop in operating income as weak demand from the mining and industrial sectors kicked in. Pharmaceuticals came to the rescue with a 22% rise in operating profit to R213m

Beningfield said a lower-than-budgeted intake of doctors at Medicross affected patient intake and related revenues However, the clinic's chain had increased the number of doctors to 290 — capacity existed for 300 doctors — and the new year would begin "on a far better footing"

The pharmaceutical arm's solid performance was due to good results across the board as market share and operating margins increased International operations added about 25% to operating profit within the division, although their growth in the next financial year was expected to slow

Beningfield was comfortable with the debt equity ratio, which stood at 26% at the year-end against 24% last year.

The group, which had cash in hand of R107m, would "move forward cautiously and get things stabilised" in the next year.

SA Druggists' share price gained 2,5% to close at R30 on the Johannesburg Stock Exchange yesterday, well down on a high of R45 reached almost a year ago

Beningfield said the market was waiting for an improved performance in the health care division before a significant rerating would occur.

ain style.

output, and its $200m partnership with Portugal's

*Cabinet approves formation of working group to advise government*

# Fuel deregulation a step closer

CT (BR) 24/10/97 (183)

**Lynda Loxton**

PARLIAMENTARY CORRESPONDENT

Cape Town — The South African Petroleum Industry Association (Sapia) has welcomed the decision by the Cabinet to establish an expert working group to advise the government on the long-stalled reregulation or deregulation of the liquid fuels industry.

"We are pleased that we are to be represented on it (the working group) and hope this marks a move forward to good policies," Colin McClelland, the Sapia director, said yesterday.

The group will consist of representatives of government and Sapia as well as organised labour and business. Officials from the minerals and energy department could not give any indication yesterday when the group would be appointed and start work.

The Cabinet said the group would advise the government on the process of restructuring the regulations governing the liquid fuel industry.

This is the first concrete action by Penuell Maduna, the minerals and energy minister, since he took office last year to deal with the tricky issue of restructuring the oil industry. It follows months of intensive investigation by his top officials.

Thulani Gcabashe, Maduna's special adviser, said in a recent paper that the process had been lengthy because Maduna had had to examine regulations and practices inherited from the apartheid era and assess how they could be adjusted to meet new aims, including black advancement in the oil industry.

The delay has placed pressure on the margins of the oil industry. It has also meant the pricing impasse between Mossgas, the oil-from-gas producer, and the oil industry could not be resolved.

According to Gcabashe, other issues needing urgent attention in the industry included tensions between Soekor, the oil-from-gas producer, and Mossgas on the best way to explore gas and oil deposits in the Bredasdorp Basin, tariff protection for Sasol and Mossgas, and the real nature of the assets of the Central Energy Fund.

MEDICINES CONTROL BILL

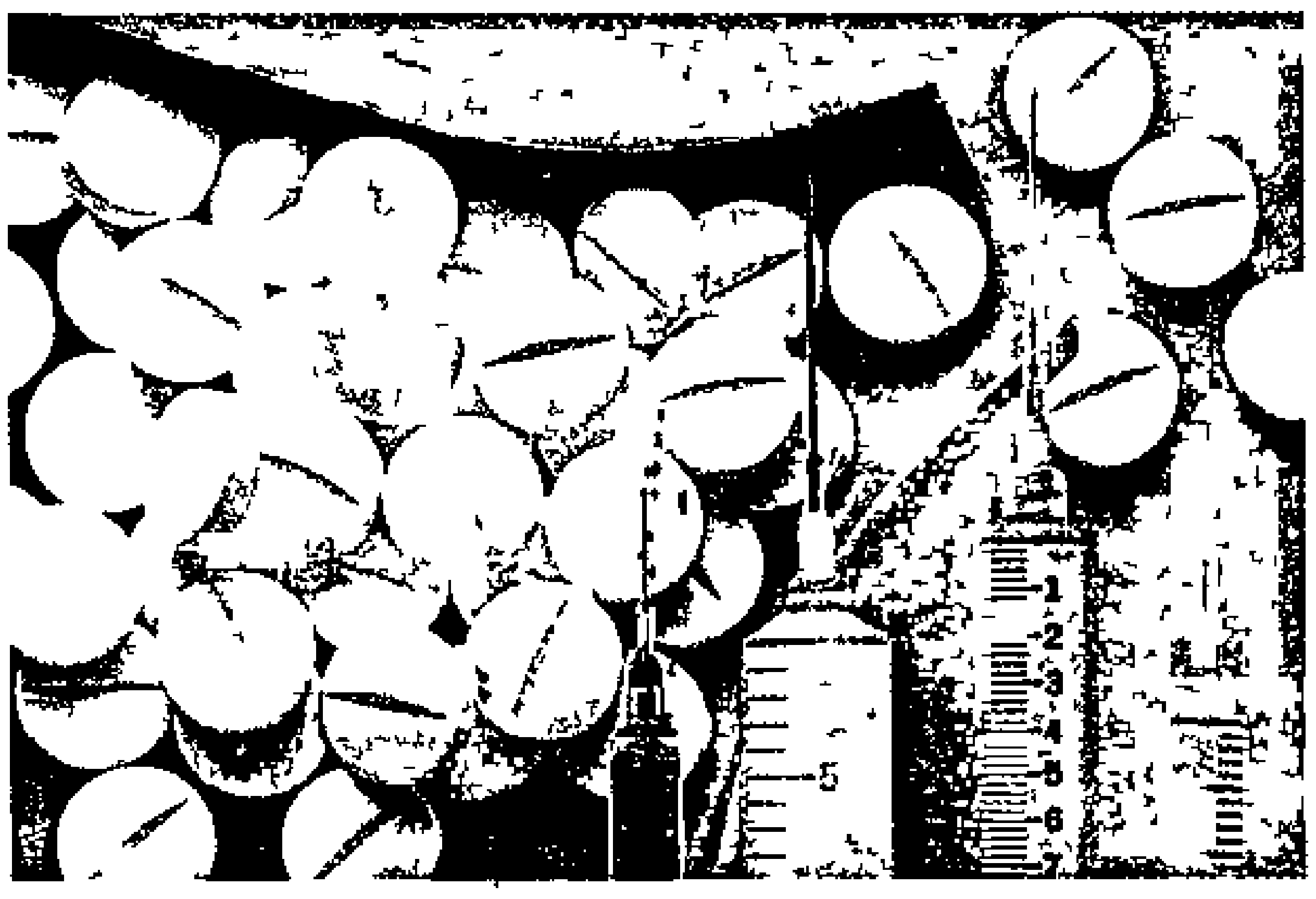
# Beware of counterfeit medicines, Kenya warns SA

FM 24|10|97 (183)

Kenya has banned as unsafe a key element of the controversial medicines Bill which the ANC has pushed through the Assembly

The National Assembly has passed the fiercely contested Medicines & Related Substances Control Amendment Bill which aims to make medicine cheaper, but dire warnings from Kenya indicate where SA may be headed

Kenya has outlawed a key strategy of the Bill — parallel importation — having found evidence of substandard and counterfeit drugs in the country



This warning is contained in a letter to Medicines Control Council (MCC) chairman Prof Peter Folb from the director of the Kenyan National Quality Control Laboratory, Dr Elizabeth Ominde-Ogaja

The letter, dated October 14, aims to alert Folb to Kenya's failed experiment with parallel importation and the consequences of allowing political interference in the scientific decisions of the drug regulatory authority — the two most contentious aspects of Health Minister Nkosazana Zuma's Bill

The letter was leaked to the *FM* by a third party and is used with Folb's knowledge but not his permission

Parallel importation occurs when a third party is allowed to import into a country a patented drug from another country where it is cheaper, bypassing the manufacturer's official distribution network

Though parallel importation can mean cheaper drugs for consumers, Folb repeatedly warned the health portfolio committee that unless the Bill stipulated that these drugs be subject to the same safety and registration procedures as local medicine, it would open the door for counterfeits

Despite his evidence and the opposition of the pharmaceutical industry and the US and European Union, who regard it as a violation of universally accepted principles of patent protection, the committee passed the relevant section unamended

The letter says the Kenyan authorities' biggest problems were ascertaining whether parallel imports had been produced in accordance with good manufacturing practice, and their inability to recall unsafe products

Other problems included the persistent threat of patent infringement challenges and consumer confusion over multiple presentations of the same product

Kenya has uncovered "alarming evidence" of substandard and counterfeit products and the Pharmacy & Poisons Board has outlawed parallel imports, mainly for safety reasons

Parallel importation is also illegal in the US, both as an infringement of patent rights and because the US Food & Drug Administration feels it cannot adequately monitor the quality of medicine imported

*Prof Peter Folb*

Quizzed on this topic during committee hearings, Zuma's special adviser Dr Ian Roberts said parallel importation is used successfully in the UK In SA, importers will be required to present various clearance certificates and a clear audit trail will, in theory, enable the MCC to trace parallel imports back to their source to ensure safety standards are maintained

Zuma says the Bill will achieve savings of up to 10% But DP MP Mike Ellis says that not only has the Health Department failed to provide any documentation to prove any of its claims, but far greater savings can be achieved by stopping theft of 30%-50% of the medicines at State facilities

One of the most contentious aspects of the Bill is that it allows Zuma to replace the Registrar of Medicines and to veto and reverse the decisions of the MCC, one of the top 10 drug regulatory authorities in the world

In Kenya the exact opposite is happening the Health Ministry is making the Pharmacy & Poisons Board financially and politically independent The board's previous registrar was a Ministry official, "resulting in the hindrance of the board's objectivity with decisions often being made on political rather than public health grounds," says Ominde-Ogaja

It is a warning that SA ignores at its peril The letter's main points were raised repeatedly in the committee by numerous organisations, not least by Folb himself Given the lack of counter-evidence from the department, hard questions must be asked about the committee's handling of the Bill

Though it allowed sufficient time for public hearings, ANC members stand accused of putting blind faith in Zuma ahead of the evidence before them

"The overall impression created by the ANC and the department was that they were not prepared to entertain or apply their minds to any of the many amendments proposed by the NP or other opposition parties," says NP health spokesman Kobus Gous

"They are virtually acting in a vacuum of what their ideals and ambitions are," says Malcolm Barlow, international health consultant to SmithKline Beecham

Barlow visited SA last week to discuss strategy with the pharmaceutical industry, which is girding for a long and costly legal battle over the Bill first in SA courts and, failing that, at the World Trade Organisation

SmithKline Beecham shares the approach of US drug multinational Merck, which has said it will evaluate all future investments in SA against the Bill

"The real tragedy," says Barlow, "is that we look at SA as the regional hub for exporting our products into southern and ultimately sub-Saharan Africa That won't happen if we cannot find a free market situation here "

The Bill was passed by the ANC majority in the National Assembly on Tuesday It now goes to the National Council of Provinces for further debate

**Claire Bisseker**

# Zuma's medicine for the nation

(183)

## Minister speaks of need for 'national consensus' on the question of quality care

Star 24/10/97

**By Jovial Rantao**
Cape Town

Taking a leaf out of Deputy President Thabo Mbeki's book, Health Minister Dr Nkosazana Zuma has called for "a national consensus" on the plight of the poor, the sick and the vulnerable

Her call echoes Mbeki's appeal earlier this year for national consensus on nation-building.

Zuma addressed the National Assembly in Cape Town yesterday, where the Pharmacy Amendment Bill, the last of her three controversial health bills, was passed by the assembly amid objections from the Democratic Party, Pan Africanist Congress and the African Christian Democratic Party

The National Party and the Inkatha Freedom Party voted in favour of the measure

She said quality health care was a matter on which there should be a national consensus, irrespective of party affiliation

"Listening to the debate on the other two bills, I could not help but feel sad about the fact that the passionate speeches of those who opposed the bills had nothing to do with the plight of South Africans who need access to health care

### Last of her three bills is passed

"The thread that runs through was defence of the fittest, the privileged, the wealthy and the powerful No compassion was expressed for the poor, the sick and the vulnerable.

Sad as this may be, it indicates that indeed an ongoing debate is necessary to reach a national consensus, particularly on the type of society we're creating," Zuma said

She said the pharmacy bill was about transformation, both in the manner in which pharmaceutical services were rendered and the statutory council that would be responsible for ensuring that pharmaceutical services were rendered in the interests of the public and under strict and ethical conditions

Among others, the Pharmacy Amendment Bill provides for the ownership of pharmacies by non-pharmacists

The Department of Health has argued that many communities in rural areas and black townships do not have access to full pharmaceutical services

The legislation seeks to make it possible for non-governmental organisations to set up pharmacies in the underserved areas

The only condition required by the bill is that the pharmacies must be operated under full supervision and management of a qualified and registered pharmacist

This legislation has been vehemently opposed by pharmacists who fear they would be pushed out of the market by big supermarket chains

Democratic Party health spokesman Mike Ellis said his party's objection was not against the objectives of the bill, but against the powers it granted to the minister

### Anyone can own pharmacy

■ The National Party is to ask President Nelson Mandela to delay signing the Medicines and Related Substances Control Amendment Bill into law because a crucial memorandum from a government committee on patent rights was withheld from the health portfolio committee.

# Govt denies Zuma held back report on health bill

BD 24/10/97 ~~(93)~~ ~~83~~ (183)

**Jacob Dlamini**

CAPE TOWN — The trade and industry department yesterday denied National Party (NP) claims that Health Minister Nkosazana Zuma had withheld a vital departmental report on one of the controversial health bills from Parliament's health committee.

NP spokesman Kobus Gous alleged that Zuma had failed to release a report issued by the trade and industry department's advisory committee on patents, trademarks, copyright and designs in June this year.

Gous said the committee had advised Zuma against putting the bill through Parliament because it violated SA's international obligations to the World Trade Organisation (WTO).

The Medicines and Related Substances Control Amendment Bill was approved by Parliament earlier this week It will enable government to import parallel drugs from cheaper sources and encourage generic medicines.

Gous said the NP would ask President Nelson Mandela not to sign the bill into law until his claims had been probed.

But the NP claim has been rejected by Greig Burtham-Durham, the department's acting registrar for patents, copyright, trademarks and designs.

Burtham-Durham said no report had been issued and that the advisory committee, chaired by a senior judge, had not met formally to consider the draft bill.

Zuma's spokesman Vincent Hlongwane accused the NP of making mischief.

Hlongwane said the department had been consulted and that it, in fact, had drafted clause 15C of the bill, which allowed for parallel importation

Hlongwane said the department had been unhappy with the health department's formulation of the clause in the first draft and had carefully rewritten it to ensure that it complied with WTO regulations He denied a report had been issued.

The third of Zuma's health bills, the Pharmacy Amendment Bill was read a second time yesterday and supported by all parties except the Democratic Party (DP). It is designed to open ownership of pharmacies to lay people.

A DP spokesman said the pharmacy profession would become subject to the political and personal bias of the health minister once the bill became law.

# Fears over move to allow psychologists to prescribe

(183) CT 27/10/97

**LISA TEMPLETON**

PSYCHOLOGISTS may soon be able to prescribe medicines, but psychiatrists fear their lack of medical training may endanger their patients' health and possibly their lives

To date the prescription and administration of medicines has been the strict domain of doctors and dentists, who are medically trained, but the Medicines and Related Substances Control Act would open the way for other health workers to prescribe.

The controversial act, which has been approved in principal and is expected to be passed later this month, is a move to broaden the base of prescribing health professionals to make them more accessible to people in rural or disadvantaged areas

Other professionals to benefit from the act include opticians, dieticians and physiotherapists.

The possibility that psychologists will be able to prescribe medicines has outraged their medically trained counterparts, the psychiatrists, who fear the psychologists' lack of medical training could put their patients at serious risk.

"For example, if a patient with serious heart problems is prescribed a common anti-depressant, there is a 60% chance that the patient will die in two weeks," one psychiatrist said

Dr Saths Cooper, president of the Psychological Society of South Africa (Psyssa) said the following conditions were fundamental to the right of psychologists to prescribe and administer medicines

- They would have to undergo training in psychological pharmacology.
- They would be limited to a list of medicines approved by the Professional Board of Psychology

"In practice a lot of health professionals like nurses have been prescribing, but legislation is so archaic — with almost Victorian prudishness — that prescription has remained the preserve of doctors and dentists," Cooper said.

"The effect of this has been high costs because clients had to get medicines prescribed by a doctor or psychiatrist after seeing a psychologist."

> *'Legislation is so archaic that prescription has remained the preserve of doctors and dentists.'*
> *— Saths Cooper*

In practice too, many psychologists have been making recommendations to general practitioners as to what to prescribe for their clients, but this is illegal

At present, Psyssa and the Professional Board of Psychologists are discussing with universities and training institutions the roles of training and registration of psychologists, and a draft paper is to be debated at universities countrywide

The issue is also being debated in Britain and America, and the American Psychological Association has offered South Africa its training package and back-up

"As this is a new area of practice with very serious ramifications for patients there will have to be liability insurance.and intensive training for psychologists," Cooper said.

So what do psychologists stand to gain from this?

Professor Graham Lindiger, of the University of Natal in Maritzburg's psychology department, said "The sub-text is about power and money, but no one is saying that The implicit message is that prescribing medicine gives one status and financial rewards "

Professor Don Foster, of the department of psychology at UCT, said it would bring fees parity between psychiatrists, who now earn substantially more, and psychologists. How have psychiatrists reacted?

Dr Francois Daubenton, of the department of psychiatry at UCT, said· "The prescription of medication requires an understanding of pharmacology, the anátomy and physiology of the body and the possible interaction between psychiatric medications and those prescribed for other illnesses In medicine these disciplines take three to four years of training "

Professor Clifford Allwood, president of the Society of Psychiatrists of South Africa, called for pschologists to be made accountable, so they could be censured like doctors

The Star Monday October 27 1997 N

# Warning on 'drug meddling'

(183)

## Council nervous about interference in regulation of drugs

Star 27/10/97

**By Janine Simon**
Medical Correspondent

The Health Ministry and its department risk causing deaths and the total decline of the health system if they abandon their promises and meddle in the drug regulatory process, the Medicines Control Council (MCC) has warned

The health minister's newfound legal rights over drug regulations were sealed last week when the hotly contested Medicines and Related Substances Control Amendment Bill was passed by the National Assembly

The bill gives the minister the right to appoint a new council and committee of scientific appeal, and to intervene in setting the regulations for drug registration. She can now also sidestep local manufacturers and "parallel-import" a drug already registered and distributed in South Africa

Manufacturers said parallel importing represented the wholesale abrogation of their patent rights, and opened the way for counterfeit drugs to flood into the country.

The effect on the authority of the council has been likened to putting an independent judiciary under government control

The council, one of the World Health Organisation's model drug regulatory authorities and one of only two effective agencies in Africa, has decried the bill as thoroughly unsound.

Now that the law has been changed, the challenge was to ensure that no political interference took place, chairman Professor Peter Folb said.

The council did not expect catastrophe, provided the minister kept her assurances to the portfolio committee on health that all imported medicines, and the facilities in which they were manufactured, would be subject to rigorous council examination

"If there is interference we can't say what will happen, but the public will know, and it is the duty of the MCC to tell them," Folb said.

In a worst-case scenario, political interference could lead to deaths. The more subtle long-term threat was that the breakdown of the regulatory process for medicines had been at the heart of the breakdown of the pharmaceutical and health systems in some countries surveyed by the World Bank, he said.

Good regulation kept drug prices down because it guaranteed the quality of unknown brands. Without it, better-grade drugs became a scarce, expensive commodity, and the poor suffered, Folb said.

The mixing of drug regulation with political function is opposed by the World Health Organisation

In a recent letter to the council – released by a third party and not by the MCC or with Folb's permission – the Kenyan National Quality Control Laboratory warned that parallel importing made it difficult to assess whether the drugs were made according to sound manufacturing processes, or to recall them if they were found to be unsafe.

Kenya has now banned the process and is again separating its drug-regulatory body from political appointments

The MCC considers itself efficient by comparison with other regulatory authorities. It does 70 000 spot checks a year on drugs in the market, has 8 500 interactions a month; and takes an average of 240 days to evaluate a generic drug, although this can be shortened when the use of a drug is in the public interest

# Medicines easier to swallow in 1998

(183)

## They WILL cost less in spite of controversy and threats of legal action

ARG 27/10/97

# INSIDE STORY

In spite of all the controversy around the new health bills, medicines will cost less next year, reports **JENNY VIALL**, Health Reporter

The Medicines and Related Substances Control Bill has been passed by the National Assembly – and amid the controversy and threats of legal action against the Government one thing is certain medicines will cost you less from next year

That's the opinion of Aslam Dasso, of the Representative Association of Medical Schemes (RAMS)

Three provisions of the legislation make this possible The first is the removal of the profit incentive from the sale of medicines, the second is the setting of a single exit price for manufacturers and the third is forcing pharmacists to give people the option of buying a generic medicine

The new law says that anybody who dispenses medicines may not profit from the sale of that medicine but may charge a professional fee to be determined by a pricing committee This committee will take anything from six months to a year to function fully and RAMS has negotiated a fee for the interim period.

This is how it will work and how it will save you money

When you buy prescription medicine now you pay the cost of the medicine to the pharmacist plus a 50% mark up It makes economic sense for the pharmacist or doctor to sell you the most expensive medicines because these make the most profit.

That contributes to the private sector's annual very high R7 billion medicine bill This means higher medical aid premiums, which are already increasing at almost double the inflation rate

That system will no longer operate The new bill says there will be no profit on medicines, the mark up is taken away and this is replaced by a professional fee

From January pharmacists and doctors who dispense medicines will be paid the dispensing fee according to a system worked out by RAMS

A single dispensing fee is not feasible, says Dr Dasso, because cheaper medicines then become too pricey

Mixed medical aid schemes (catering for both the top and lower end of the market) would come out "budget neutral", but those at the lower end of the market would end up paying more.

A medicine now priced at R10, with a 50% mark up, costs you R15 Under the new system, if you add a R20 dispensing fee, the same medicine will cost R30, which is clearly not a cost reduction.

At present for expensive drugs, for example a R200 item, a 50% mark-up makes it R300 But with only the proposed professional fee of R20 added, the medicine would cost R220, clearly a saving.

"So we said here is the dilemma The pharmacy council could not countenance a differential fee because dispensing is a service and is not linked to price of medicines

"The Government has its own battles and the pharmacists want the best deal they can get," says Dr Dasso

The compromise is an innovative solution which takes into account everybody's concerns

All medicines costing up to R30 will still have a 50% mark up

Drugs costing more than R80 will attract a flat professional fee of R24 an item up to three items (the rest at cost price)

Those medicines from R30 to R80 will have a sliding scale fee of R15 to R24

Medical schemes will have the option of adopting the pricing scheme, but it is likely that most of them will do so

"Medicines cost the private sector R7-billion a year If we can save even 1%, it is worth it," Dr Dasso says

The second change is the pricing structure of drugs

"The core issue was finding out what manufacturers were selling medicines for, the true cost price It was an exercise of great frustration.

"Eventually, we got hold of a list and we will meet manufacturers soon to discuss cost prices " says Dr Dasso

Further savings will be effected by the provision in the bill that pharmacists tell people about generics – drugs which have exactly the same active ingredients, but are much cheaper

"Medical information has been kept secret for too long: knowledge is power," says Dr Dasso

"If doctors write N/S (no substitution), the pharmacist may not substitute a generic So everyone is catered for

"Generics in this country are safe and they work. And they cost a whole lot less," he says

Why do we need to reduce health expenditure in the private sector and why has the private sector reacted so strongly against this bill?

"Projected services to medical scheme members in 1997 will cost R20-billion for just under seven million people, 17% of the population The Department of Health's budget is R20 billion, for 83% of population," says Dr Dasso

"This stark disparity underlines how screwed up our health care system is

"High drug prices make the private health care system unprofitable and overheated.

"And it is dumping people on to the state "

**Cheaper care?** Health Minister Nkosazana Zuma, who wants to lower medicine costs

*R219m spent on acquisitions, R194m on capital expenditure*

# Time for the assets to deliver, says Afrox

CT (BR) 30/10/97 (163)

**Jonathan Rosenthal**

Johannesburg — Afrox, the gases, welding and healthcare group which has invested more than R650 million in the past two years, said yesterday it would slow capital spending and focus on "making the assets deliver" in the current financial year

Royden Vice, the chairman, said the group had spent R219 million on acquisitions and R194 million on capital expenditure in the past financial year

During the year the group commissioned a 110 000 tons-a-day gas producing plant in Mpumalanga, acquired Caltex's liquified petroleum gas cylinder business, bought four hospitals and built another two — mostly financed out of the group's cash flows as net debt at the September 30 year-end rose by R126 million to R528 million

Working capital requirements were reduced by almost R52 million, although the group's cash position was strained by dividend payments of R72 million

During the year the group reported a real growth in attributable earnings of 11 percent, after inflation had been taken into account, on a 14 percent rise in turnover to R2,7 billion

Vice said the Mpumalanga plant was a low-cost supplier of oxygen, nitrogen and argon that would start delivering real earnings growth in the second year after commissioning

Afrox is the only subsidiary of the British BOC group with hospital interests These generated about 25 percent of annual earnings

Vice said Afrox would continue investing in hospitals but would keep the ratio of industrial and healthcare investments fairly constant

☐ **Business Watch**

**INVISIBLE EARNINGS** *Royden Vice, chairman of gas, welding and healthcare group Afrox, says the group has invested more than R650m in the past two years Efforts would now be concentrated on making the acquired assets productive and to keep group turnover rising* PHOTO JOHN WOODROOF

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# FBC beats heavy costs of merger

**Richard Stovin-Bradford**

Johannesburg — FBC Holdings, the banking group which emerged from the amalgamation of Citizen Bank, Msele Corporate and Merchant Bank, BBS and Futurebank, delivered attributable income of R8,3 million for the half-year to September 30, the group said yesterday

The figure was up 233 percent from the R2,5 million reported by Citizen Bank for the comparable period last year However, at this stage, the group's results are not a meaningful guide to the performance of FBC Holdings because its retail banking subsidiary FutureBank was launched in May after the formation of FBC Holdings itself in February this year

Total income was R52,2 million, of which net interest income represented 67,2 percent at R35,1 million Non-interest income stood at R17,1 million but should rise as the group's merchant banking activity becomes fully operational

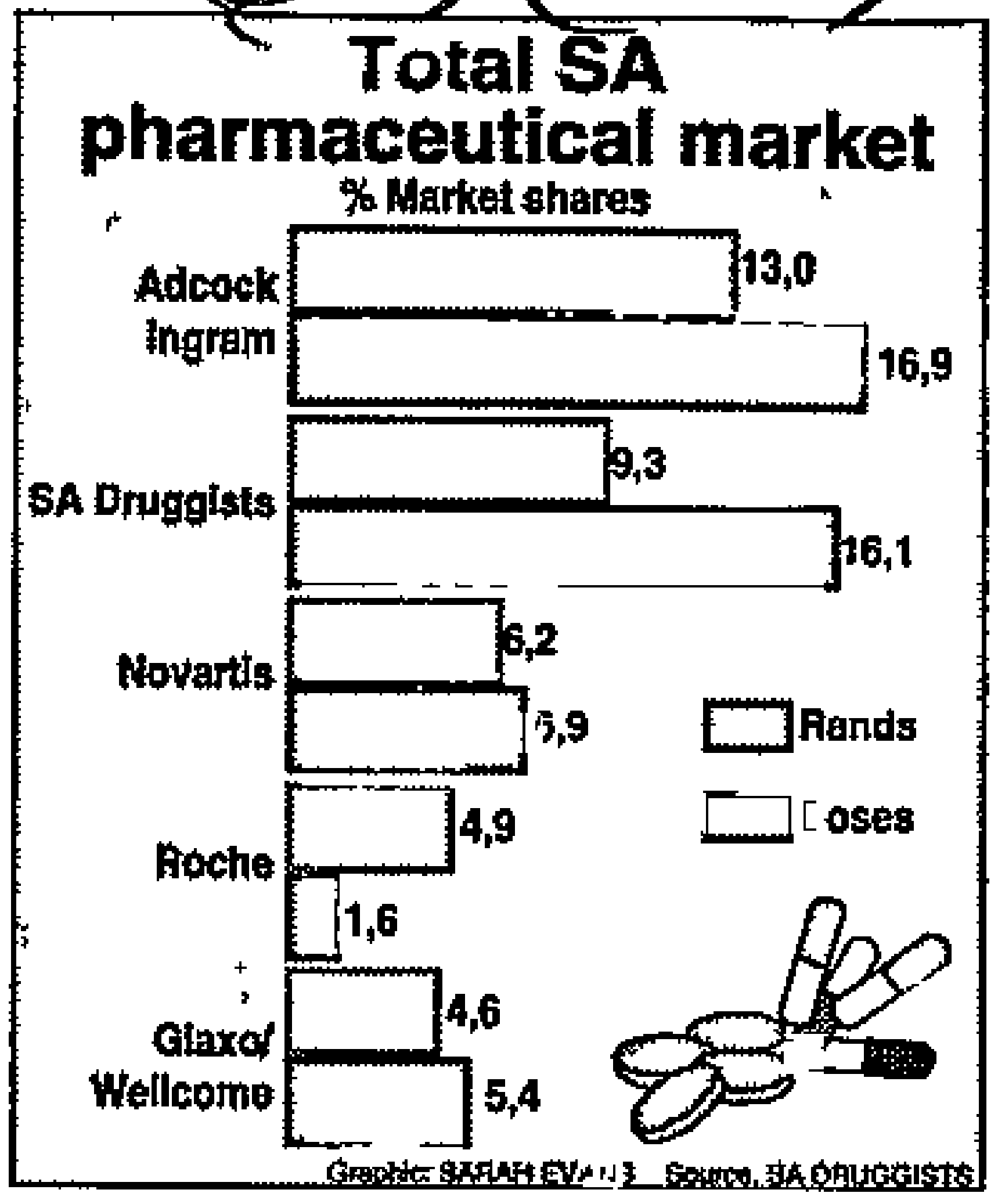
Fully diluted earnings a share stood at 28,9c, 45 percent up on the Citizen Bank figure for the prior period

A dividend of 9,6c was declared The FBC counter closed at R19, up R3 on the day

☐ **Business Watch**

# Drug law tonic for SA industry

(183) BD 28/10/97



Graphic: SARAH EVANS Source: SA DRUGGISTS

MULTINATIONAL drug companies may be jumping up and down about the latest health legislation, but local manufacturers are not

Adcock Ingram and SA Druggists (SAD), both of which reported year-end results last week, are unconcerned about Health Minister Nkosazana Zuma's new legislation, which is intended to cut SA's high medicine costs.

Unlike the multinationals, who rely mainly on the manufacture of so-called "ethical" (original research-based) drugs, the local manufacturers derive much of their revenue from cheaper "generic" medicines and over-the-counter self-medication drugs.

Precisely how the new law will work is unclear as the regulations have still to be promulgated But Adcock Ingram said it was strategically well placed "with its strong position in the hospital products and over-the-counter markets which are less susceptible to proposed legislation and more adaptable to market changes"

SAD chairman Peter Benningfield said last week the impact of the new legislation would be less for his group than for others in the industry. Ethical drugs were likely to be under threat and SAD could benefit from a swing to generics.

Total market figures are not available, but SAD estimates only 17% of the R2,7bn worth of drugs prescribed annually by SA's private doctors are generics. In the UK, by contrast, 60% of drugs used are generics.

Benningfield said SAD was well placed to take advantage of the new laws, since its average cost per dose was 25c against an industry average of 44c SAD measures a dose as the smallest unit of medicine — one tablet, capsule or 5ml of liquid SAD estimates the leading multinationals in SA, Novartis, Roche and Glaxo Wellcome have seen their share of SA's private pharmaceutical market fall over the past year while SAD gained market share both in value and dose units Adcock Ingram also gained in value but lost slightly in dose units

Adcock raised headline earnings a share 27% in the year to September, the first full year of operation of the "new" Adcock created by the merger last year with Premier Pharmaceuticals As the graph shows, it has the leading share of SA's R6,9bn pharmaceutical market, followed by SAD

Analysts reckon much of Adcock's earnings growth came from rationalisation and synergy benefits flowing from the merger Some are asking what will drive Adcock's growth 12 to 18 months on, once merger benefits are all through. "It needs a major acquisition — but there is nothing large to buy in SA," says one analyst The group has cash resources of R645m and is ungeared. It is believed to be out shopping, but the question may be to what extent it can deploy its funds offshore.

SAD is also looking to further offshore expansion to add to its interests in the UK (generics distributor Lagap Pharmaceuticals) and Italy (Pharmatec). Benningfield notes SA's pharmaceutical market represents only about 4% of the world market "We have to look internationally to ensure our long-term future," he said

SAD's headline earnings a share rose by a mere 1,3% in the year to August Its pharmaceutical division, Pharmacare, did well, contributing 81% of the group's operating income But the managed health care and chemical divisions underperformed

# Sentrachem under fire again

(183) CT (BR) 30/10/97 (~~[illegible]~~)

**Jonathan Rosenthal**

Industrial Editor

Johannesburg — Sentrachem, the chemicals group, came under widespread criticism yesterday for delaying the publication of its year-end results to await the finalisation of a R2,3 billion takeover bid by US-based Dow Chemical.

Sentrachem said yesterday it could not release its results, or give a date on which it would release the results, until the takeover was finalised

The takeover itself, which was announced in August and has been accepted by more than 90 percent of Sentrachem investors, is awaiting the outcome of anti-trust proceedings in the US

Dow's offer to minority shareholders, most of whom have handed over their share certificates, was contingent on it receiving regulatory approval, which Dow said it expected to be finalised by early December

The Securities Regulation panel said yesterday it had no power to force the release of results but raised concerns that Sentrachem could be opening the door to insider trading by withholding publication

"My concern is that, if the results are known and they haven't released them, its a great breeding ground for insider trading," said Richard Connellan, the executive director of the Securities Regulation Panel

"I would think it's a little irresponsible, not that the panel can force it (to release the results) but I just don't think that it's good shareholder relations or good corporate governance," he said

John Burke, the head of the JSE listings department, said companies were only obliged to release results within three months of year-end That rule would give Sentrachem until the end of November to publish its results But he too expressed concern over delaying the publication of results

"I would advise anyone to put that into the market as soon as possible, because if you don't you have the chance of someone trading on that information," Burke said

He said Sentrachem had not informed him of its decision and he did not know if there were compelling reasons for the results to be delayed

David Sylvestor, the chairman of the Shareholders' Association of South Africa, said withholding the results was "unacceptable" He said shareholders who had handed over their certificates were unable to trade in their shares and now had no idea of what was happening in their company

"Minority shareholders are trapped between a rock and a hard place," he said

Dow's takeover bid came under fire shortly after it was announced amid revelations that its advisers had bought large blocks of shares before it went public with the takeover bid

# Afrox recovers in the wake of a difficult year

BD 30/10/97 (183)

**Ingrid Salgado**

AFRICAN Oxygen (Afrox), the leading gases, welding and health care group, recovered from one of its most difficult years to post an 11% increase in attributable earnings to R201m in the year to last month

Royden Vice, the chairman and MD of the British Oxygen Company subsidiary, said yesterday that the results were "pleasing" given low levels of infrastructural spending which had knocked its industrial division Competitive pricing, uncertainty in the health care arena and high interest rates had also taken their toll

Real share earnings — Afrox charges earnings with additional depreciation — increased 9% to 66,5c In lieu of a capitalisation share award, a final dividend of 22,5c was declared, leaving the total for the year 11% higher at 35,5c

"We think our performance relative to the market has been good," said Vice, pointing to an improved performance expected in the next year after heavy capital spending was incurred

The group had embarked on its largest-ever investment programme, spending R413m on capital expenditure and acquisitions in both the industrial and health care divisions "We are well placed to make our assets work On the gases and welding side, we are in a low-cost producing position," Vice said

The industrial division had received the lion's share of capital investment A 1 100 ton-a-day Mpumalanga gas producing plant and 50km pipeline had been commissioned and Caltex's liquefied petroleum-gas cylinder business was bought The expansion also included a 130 ton-a-day carbon dioxide plant and a dry ice plant

The health care division had increased capacity by 500 beds to 3 000 beds after four private hospitals were bought and another two were built Afrox now owned 20 private hospitals and had minority interests in five others

Although the health care operation increased sales by 17% to R738m during the year, profit rose only 4% to R101m The division reduced its contribution to group earnings from 30% to about 25%, but Vice forecast double digit growth in health care earnings in the present financial year.

Profit at the gases and welding division increased 13% to R267m on the back of a 12% increase in sales to R1,55bn. Volumes grew across the spectrum of the gases and welding product range, although margins came under pressure. Costs were well maintained and plans were in place to improve efficiencies.

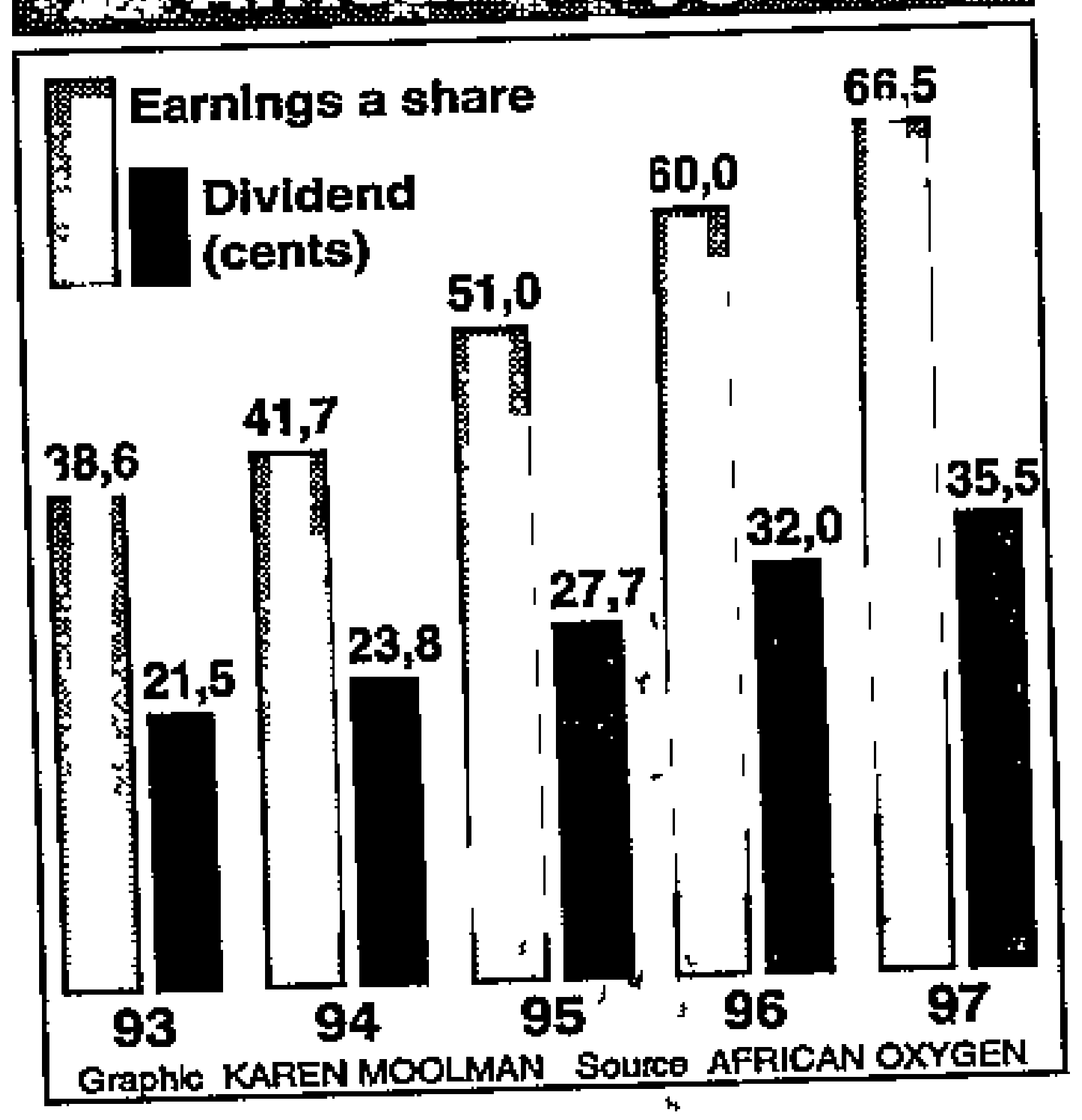
Afrox, which is active throughout southern Africa and recently bought a majority stake in Zambia Oxygen, said non-SA business added about 15% to sales Group turnover rose 14% to R2,3bn and operating profit growth slowed to 11%, or R420m

Vice said a healthy balance sheet indicated strong income-producing assets Afrox hoped to reduce year-end gearing of 41%, but the group was "not uncomfortable" with this ratio, he said

Vice forecast real growth in the coming year, which would be a period of consolidation for Afrox. Profit was expected to exceed growth achieved during financial 1997.

Afrox shares gained 25c to close at R13 on the Johannesburg Stock Exchange yesterday after market turbulence took the group to a yearly intraday low of R10,50 on Tuesday. The stock reached a high of R17,75 in May.

African Oxygen



Graphic KAREN MOOLMAN Source AFRICAN OXYGEN government gramme projects

# Medicine bill ‘in conflict’ with international rights

BD 3/11/97 (95)(183)

**Pearl Sebolao**

THE SA Institute of Intellectual Property Law has criticised the passing of the Medicines and Related Substances Control Amendment Bill by the National Assembly last week, saying it is in conflict with various articles of the Trade-Related Aspects of International Property Rights (Trips) agreement to which SA is obligated

Institute president Reinhard le Roux said that although the institute supported Health Minister Nkosazana Zuma’s quest for affordable health care, it was concerned that section 15(c) of the bill, which sought to bypass pharmaceutical patent rights to permit parallel importation was wholly in conflict with SA’s international obligations.

As a member of the World Trade Organisation (WTO), SA was automatically a signatory to the Trips agreement.

The institute, whose membership consists of more than 200 SA lawyers specialising in patents, trade marks, copyright and related fields, had made presentations to the parliamentary health committee in this regard.

Le Roux said SA would be perceived as a country which did not provide adequate protection for intellectual property rights and by failing to honour its obligations to the WTO, it could be faced with severe international sanctions.

The institute warned that far from making medicines cheaper, many pharmaceutical products would no longer be available in SA as the international drug companies would withdraw their products and investments because of inadequate patent protection

Parallel importation was not the solution and would open avenues for dangerous counterfeit products, he said.

Le Roux said that the law was unnecessary since the SA Patents Act made provision for Zuma to use an invention for public purposes. It also made provisions for her to obtain a compulsory licence if patent rights were abused

# Govt approves increase in fuels' wholesale margins

BD 31/1/97 (183)

GOVERNMENT has approved a 2c/*l* increase in the wholesale profit margin on petrol, diesel and paraffin from Wednesday

The Central Energy Fund said the retail profit margin on petrol would increase by the same amount

Petrol prices paid by the consumer would rise 3c/*l*, diesel 5c and paraffin 4c

Margins are set by government as part of a regulatory framework set up during the apartheid era, and the oil industry has been asking for an increase in the wholesale margin for some time

Government is revising the system, but has yet to implement a new policy.

Analysts said the decision to increase the margin should be seen as an interim measure until the new policy was in place.

Colin McLelland, director of the SA Petroleum Industry Association, said the increase in the margin was an act of good faith by government.

The 2c/*l* increase translated into an increase of R360m a year in earnings for the industry, which had requested a 3c rise in the wholesale margin in terms of the old rules.

"One cent is worth about R180m (a year to the industry). On a monthly basis it is worth R30m," McLelland said. — Reuter

# Medicine bill 'in conflict' with international rights

BD 3/11/97 ([illegible])(183)

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CT(DR) 4/11/97

# Lion Match's attributable income rises

(183)

**RAVIN MAHARAJ**

Durban — Lion Match, the match manufacturer and producer of other domestic items, lifted attributable income by 9 percent to R20,4 million in the year to September 30 (R18,8 million previously), but brand investment costs served to compress margins and restrict trading profit to R12,9 million (R14,7 million).

Peter Smith, the financial director, said continued local consumer demand for company products and a further focus on exports should enable the company to report a satisfactory rise in earnings for the full year

He said despite continuing high levels of unemployment, the recent decline in inflation and interest rates would augur well for renewed growth in private consumption expenditure

Revenue from product sales grew 13 percent to R80,3 million, supported by a stable domestic market and continued growth in exports

Headline earnings were up to R44,8 million (R41,1 million), and an interim dividend of 14c was declared

Smith said inconsistent production output at the Durban match factory — in the first two months of the period under review — together with initial brand investment costs which were required to launch Duel, a new shaving brand, had served to compress margins and restrict trading profit to R12,9 million

Despite this, enhanced dividend and interest income generated from the investment of liquid resources had enabled the increase in attributable income

In addition, the planned replenishment of inventories had increased working capital and, with further net cash invested, had resulted in a R12,2 million decrease in liquid resources, Smith said

# Gauteng to hold public hearings on controversial drug legislation

(183)

BD 4/11/97

**Josey Ballenger**

SIXTEEN organisations were expected to make submissions to the Gauteng legislature's health committee in public hearings on Thursday on legislation allowing government to import "parallel" drugs, committee coordinator Charity Ndlovu said yesterday.

The Pharmaceutical Manufacturing Association (PMA), which represents many multinational companies and has been one of the most vocal opponents of the Medicines and Related Substances Control Amendment Bill, said its submission would not be substantively different from the one it made to parliament last month

Public hearings on the medicines bill will also be held in Mpumalanga on Friday as part of provincial government consultations on legislation falling under their jurisdiction. The consultation follows the National Assembly's approval of the bill and precedes its referral to the National Council of Provinces.

The council will vote on this and two other health bills on November 20.

The parties scheduled to make submissions included the National Association of Pharmaceutical Manufactuers, representing mainly generic drug companies; the Pharmaceutical Society of SA; the Medical Association of SA; the SA Chamber of Business, the SA Institute of Intellectual Property Law; and generic and over-the-counter drug group SA Druggists.

The US government and multinational drug companies such as Merck and SmithKline Beecham are among those who claim the bill violates international agreements on intellectual property rights under the World Trade Organisation, and have threatened legal action against the SA health ministry if the bill becomes law

Local Merck subsidiary Merck, Sharpe & Dohl has already put a R50m manufacturing investment on hold following its re-entry to the country last year.

The US embassy's information officer in Pretoria, Bruce Wharton, said the US government would not comment, as it wished to scrutinise the legislation in its final form.

# Minister says Tehran is not interested in SA oil storage

BD 4/11/97 (7183)

PRETORIA — Iran was at present not interested in using SA's oil storage facilities at Saldanha Bay in the Western Cape, visiting Foreign Minister Kamal Kharrazi said yesterday.

"Right now we don't think there is such a need," he said after meeting his SA counterpart Alfred Nzo in Pretoria.

Kharrazi said his country had a strong shipping line to move its oil to end users, removing the need for a storage facility along the way.

The idea of Iran storing about 15-million barrels of oil at Saldanha north of Cape Town was raised in 1995. Although no agreement on the matter has been signed, a study on the environmental impact of such a move was commissioned.

Nzo said Kharrazi was likely to discuss the matter with Energy and Minerals Minister Penuell Maduna today.

Kharrazi questioned the accuracy of reports that Iranian crude oil exports to SA had fallen by about 12-million barrels last year while those from Saudi Arabia rose to about 16-million barrels. "Actually, I don't think there has been a decrease," he said.

"We have very good relations in terms of oil sales to SA. I don't think there will be drastic change in the amount of business we have with SA."

Kharrazi and his delegation are visiting the country for the second sitting of the joint commission of Iran and SA.

Signing agreements on the abolition of double taxation and the protection of investments, the two foreign ministers came out strongly in favour of stronger bilateral trade links.

Nzo said ways to rectify the trade imbalance in favour of Iran would be discussed yesterday afternoon and today. "Narrowing the gap would also require the SA private sector becoming a little more proactive and engaged with their counterparts on that side, in looking for opportunities."

Nzo said he and his visitor had also agreed that the Southern African Development Community and the Economic Co-operation Organisation (ECO) might link their trade activities.

The ECO is a central Asian trading bloc which was reactivated in 1992 by Iran, Turkey and Pakistan.

The other member countries are Afghanistan and the six Muslim republics of the former Soviet Union. This regional bloc encompasses more than 300-million people.

Kharrazi said there was a strong political will in SA and Iran to enhance their economic relations.

"What remains is for us to promote trade relations between our two countries," he said. — Sapa

# SAB takes a fresh look at its portfolio

(182) BD 5/11/97

**Ingrid Salgado**

SA BREWERIES (SAB) is reviewing its portfolio of businesses as speculation mounts that this week's sale of supermarket chain OK Bazaars might prompt a sale of other noncore assets

SAB MD Graham Mackay said yesterday the group was conscious of the need to re-examine its portfolio with a possible view to stripping out noncore operations.

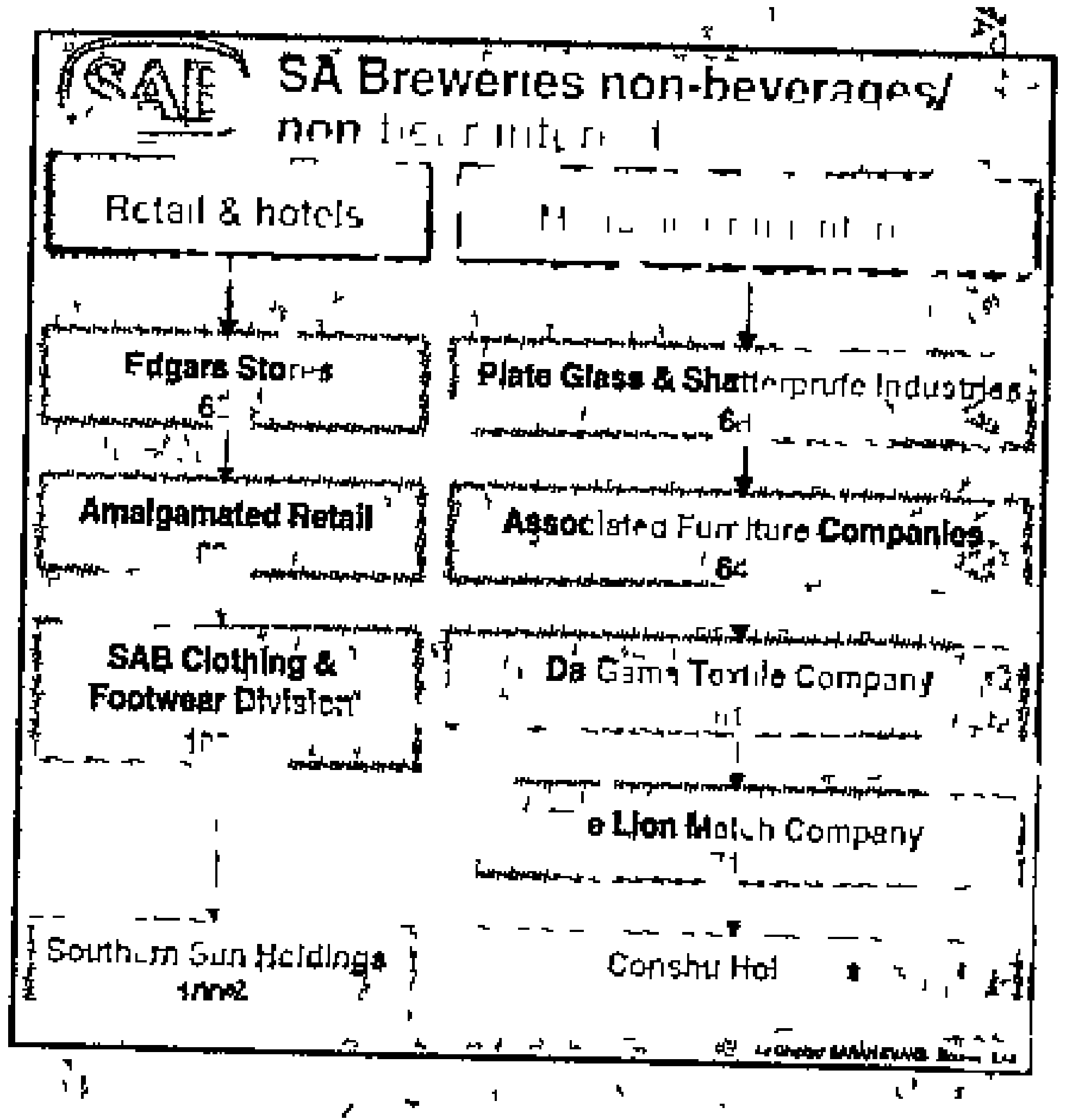
However, SAB was not involved in "immediate detailed negotiations"

The sale of the loss-making OK to Shoprite for a nominal R1 was separate from the possible sale of other noncore businesses, Mackay said.

"The OK problem was one of a kind When we looked at OK, we did not start from an opening position that we were going to sell the business."

Foreign exchange controls remained a major factor inhibiting a disposal strategy, he said

SAB is believed to be most likely to invest cash from the disposal of operations in offshore activities, especially in Africa and central Europe, given its dominance in the local market



Mackay would not comment on speculation that the group's stakes in Conshu Holdings, Da Gama Textile Company, Amalgamated Retail and Associated Furniture Companies (Af-

Continued on Page 2

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## SAB

(182) BD 5/11/97

**Continued from Page 1**

col), Stellenbosch Farmers' Winery (SFW) and Distillers would be among the first to be up for grabs.

SAB has indicated that it will increasingly focus on businesses that enjoys sustainable competitive advantages, that are large enough to warrant focused management attention and that can guarantee superior financial returns.

The group is the most diversified brewer in the world's top 10 brewing category, a legacy of the previous political environment in which SAB attempted to reduce the risk associated with being concentrated in the SA market with only one product.

In 1997 SAB's beer interests represented 30,5% of turnover — with retail and hotels adding 38,8%, complementary beverages 6,2% and manufacturing 24,6%. This compares to Anheuser-Busch, the world's largest brewer, with beer interests that make up 94% of its sales, and to Heineken, where beer contributes 80% of turnover

An analyst who asked not to be named said SAB was likely first to sell smaller noncore businesses in the face of the foreign exchange bottleneck. The larger disposals were likely to materialise only with a substantial easing of forex restrictions.

The timing of disposals was also a factor, he said. For example, Afcol was at the bottom end of a cycle and the brewer was likely to sell the company only on an upturn in order to realise a higher price.

Given the recommendations of the draft liquor bill — which prevents overlapping between the manufacture, wholesale and retail of liquor — SAB's 30% stake in SFW and Distillers was likely to be among the first sold.

SMK Securities analyst Wynand van Zyl said the sale of OK Bazaars had helped SAB cross a major "psychological barrier" The disposal increased the likelihood of SAB turning its attention to disinvestment from other assets that did not comply with the group's investment criteria.

BUSINESS DAY, Thursday, November 6 1997 3

# Maduna apologises to DP's Jordaan for comments

BD 6/11/97 (183)

**Linda Ensor**

MINERAL and Energy Affairs Minister Penuell Maduna apologised last night in the National Assembly to Democratic Party energy spokesman MP Kobus Jordaan for statements he made in a committee which could have been interpreted as suggesting Jordaan was a spy for the apartheid government

Maduna attacked his longstanding critic Jordaan a few months ago during a briefing to the mineral and energy affairs portfolio committee He threatened to reveal secrets about Jordaan's past unless he refrained from attacking him

The minister suggested the reason Jordaan provoked him at every turn was because he feared the "secrets" he harboured about his past

Meanwhile, the African National Congress (ANC) has proposed Parliament study ways of allowing complaints about the auditor-general without them being made public, thereby running foul of parliamentary rules and the constitution

The constitution and Parliament's rules require that the dignity and impartiality of institutions such as the auditor-general's office be protected

Willie Hofmeyr, acting chairman of the ad hoc committee which has been appointed to probe the appropriateness of comments made by Maduna against Auditor-General Henri Kluever, suggested at a committee meeting yesterday that parliamentary rules were inadequate.

The terms of reference for the long-delayed investigation by the committee have not yet been finalised, and the parties agreed to submit their written suggestions by the end of the week so that the matter could be dealt with when Parliament reconvened for a few days towards the end of this month

A subcommittee, mandated at the last committee meeting to draw up the terms of reference for the inquiry, failed to meet

All parties were unanimous that the issue was a crucial one and that it should be dealt with speedily

Differences emerged between the ANC and the National Party over whether the investigation into Maduna's conduct should be structured in terms of the constitution or the rules of Parliament

NP MP Pierre Coetzer said in an interview that the minister's conduct would be far more serious if found to have transgressed clauses of the constitution, as this would require disciplinary action by President Nelson Mandela He did not think the terms of reference should be defined narrowly in terms of parliamentary rules

Hofmeyr, however, said the relevant constitutional principles had been given concrete expression by Parliament in its rules This should, therefore, provide the ambit for the inquiry

"If you look at whether a person acted appropriately in terms of the constitution, it boils down largely to whether they complied with rule 99 Rule 99 is the measure taken by Parliament in terms of the constitution to implement its principles "

In terms of rule 99, MPs are prohibited from reflecting on the "competence or honour" of supreme court judges and other office-bearers — such as the auditor-general — appointed by Parliament

# R3m for shady Liberian

ex M+G 7-13/11/97 (183)

**Mungo Soggot** *investigates an extraordinary deal undertaken by the Central Energy Fund*

A confidant of two of Africa's most notoriously corrupt leaders has landed an extraordinary R3-million a year contract as an adviser to South Africa's state-run oil company, the Central Energy Fund

Former Liberian finance minister Emanuel Shaw II and his son, Emanuel Shaw III, pulled off the deal without going through tendering procedures and without the knowledge of the Minister of Minerals and Energy Penuell Maduna

Shaw got the highly influential job in July on the recommendation of the company s chair, Don Mkhwanazi, who also introduced him to senior ANC leaders, including Deputy President Thabo Mbeki in 1992

Shaw II served as Liberia s finance minister under the comic-opera dictator Samuel Doe In addition to the South African post, he was recently appointed ambassador extraordinaire by Liberia's current President, Charles Taylor Shaw is also economic and financial adviser to Taylor, a former warlord and fugitive from justice in the United States, where he is wanted on fraud charges. The two men were believed to be together in Taipei this week after stopping over at the Ritz Hotel in Paris

A successful court action was brought against Shaw in Johannesburg in 1995 for the recovery of an alleged debt of R55 000 At the time of the action Shaw was involved in negotiations to mint Liberian coins in Cape Town

Shaw's contract gives him enormous power over the Central Energy Fund (CEF) His agreement with the company states he will steer its restructuring — and possible privatisation — and will also be advising Mkhwanazi on "all issues affecting the chair's position" The agreement also says Shaw's company should "expand its advisory role to encompass the execution and implementation of the corporate strategy"

Shaw is not new to the CEF Two years ago he was involved in a management audit of the company's oil trading operations Maduna's predecessor, Pik Botha, and the auditor general say the audit was instigated on the advice of Mbeki During the final stages of the audit, the deputy president's office came to Shaw's rescue when he was expelled from the country because of visa problems

Shaw will share his CEF package with his son who has also been present at the CEF's Johannesburg's office The son declined to discuss their work with the *Mail & Guardian* this week Shaw s contract with CEF, signed on July 14 stipulates they be paid quarterly in advance and they have already received their first tranche

The chair of the CEF, Mkhwanazi, omitted to inform the parliamentary portfolio committee on minerals and energy about Shaw's appointment this week when he briefed the committee on the state oil company's restructuring He said restructuring plans were at an early stage He told the *M&G* after the briefing that he had not yet appointed consultants

Mkhwanazi — who was congratulated by members of the parliamentary committee for his straight talking — admitted later in the week that Shaw had got the contract. He said Shaw had worked with him on his National Empowerment Trust, and was particularly well qualified for the job because of his prior work with the CEF

**Penuell Maduna Ignorant of the deal**

He said he had first met Shaw when he came to South Africa in 1992 and asked to be introduced to the ANC leadership He introduced Shaw to Mbeki, who was then head of international affairs after checking his background.

Asked whether Shaw's tenure under Doe was a problem, Mkhwanazi said Shaw told him he was imprisoned by Doe The *M&G* could not confirm this and understands from numerous sources — who dismissed the possibility — that Shaw was a close confidant of Doe and fled the country when it became clear Doe's days were numbered

Mkhwanazi said Shaw's credentials had also been confirmed when Taylor offered him Liberia's finance ministry this year Mkhwanazi said Shaw had showed him Taylor's written invitation. "He is more than qualified to do what he has to do," Mkhwanazi said, adding that Shaw had also worked in Liberia's national petrol company He was not aware of the details of Shaw's contract, but believed his remuneration was in line with normal consultants' fees.

Mkhwanazi confirmed the deputy director general of the Department of Minerals and Energy, Dr Gordon Sibiya, had written to him to express his unhappiness at the appointment He said he had not yet discussed the matter with Maduna

Sibiya said this week he was unhappy about the appointment as it had taken place without the approval of the board and without any open tender procedure Sibiya, who is also a member of the CEF board, said he was not aware of Shaw's expertise in the oil industry and did not know why he had been selected for the job

Maduna said the CEF had not yet discussed with him the appointment of Shaw's company, International Advisory Services, and that he had not yet seen a copy of the firm's contract with the CEF He said he had instructed the CEF to inform him of any appointments linked to the company's restructuring, which is a politically sensitive matter

The minister said he discussed some energy policy matters with Shaw shortly after he took over the portfolio last year But he dismissed oil-industry 'talk that Shaw 'recommended Mkhwanazi's appointment as the CEF chair

Maduna recalled that he first became acquainted with Shaw when Shaw was carrying out the CEF audit two years ago The minister said Shaw had been having problems with his visa — "he might even have been sent out [of the country]" — and the deputy president's office had asked Maduna, who was then deputy minister of home affairs, to investigate as Shaw had to complete the CEF investigation "I was called by the deputy president's office to investigate That is actually how I got to know him [Shaw] "

It is understood that other officials in Maduna s ministry and department are uncomfortable about Shaw's appointment

The contract pays Shaw's company a monthly retainer of R125 000 and a monthly "secondment fee' of R75 000 — as well as a $1 000 *per diem* fee for work done outside South Africa and R2 500 *per diem* for work done inside South Africa. The Shaws will also have access to an expense account which will be fed by a float of R50 000 The contract says that of the R75 000 monthly secondment fee, Shaw gets R55 000, his senior research assistant (his son) gets R15 000 and their secretary R5 000

The contract was signed by the CEF's acting general manager Howard Roberts who this week said he believed the remuneration was in line with normal consultants' fees He was unable to say how often Shaw and his son were at the CEF

Shaw's background in either the oil industry or privatisation is not clear — except for the fact that during his time in the Doe regime he presided over the neo-privatisation of the Liberian Petrol Refining Company Local newspapers reported that the company's core activities were taken over by a new company which was widely believed to have senior government officials as shareholders.

One of Shaw's other notable achievements was to mastermind an arrangement between Liberia's main iron ore mine and a company called the African Ministry Corporation (AMCL), in terms of which AMCL took over management of the mine

AMCL was set up expressly for the deal and is run by a man called Ethelberg Cooper, who is a partner in Shaw's International Advisory Services consultancy AMCL took over the mine in 1989 and has yet to submit financial statements, despite receiving calls to do so by Liberia's mines minister

In November 1988, USAid recalled a team of 17 officials who had been loaned to Doe's government to help counter financial impropriety by co-signing all financial transactions Doe's government continually found ways of avoiding the US watchdogs, so USAid decided that to continue the project would be a waste of US taxpayers' money

Shaw's appointment coincides with unprecedented turmoil at the CEF, which has been wracked by the controversial suspension of its top oil trader, Kobus van Zyl It is understood that Shaw was extremely hostile to Van Zyl.

Mkhwanazi told the parliamentary committee this week that the company had paid accountants firm Nkonki Sizwe Ntsaluba R1,2 million for its probe into the company's accounts, which triggered a clash between Maduna and the auditor general The board has set aside R2,5-million for the probe

Financial Mail

**OIL INDUSTRY**

# Maduna opens the way to a new deal

SA's oil giants claimed they were entitled to a 3c/*l* wholesale price increase, but until last week government argued that the formula lacked legitimacy

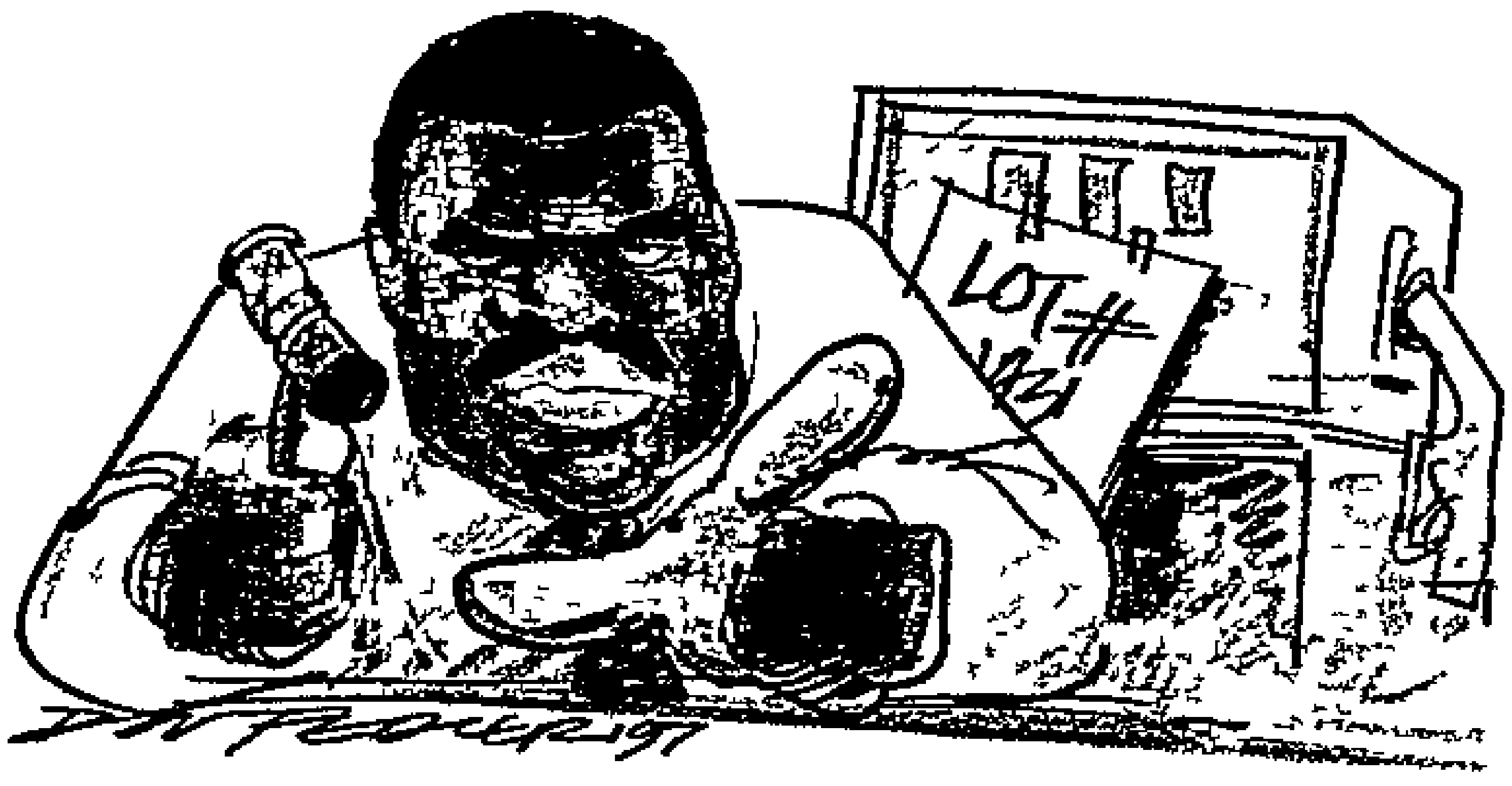
FM 7/11/97 (183)

Two recent major announcements could signal an end to the long-standing deadlock between the oil industry and government over pricing mechanisms for liquid fuels

The Central Energy Fund (CEF) announced last Friday that government has (at last) approved a 2c/*l* increase in the wholesale profit margin on petrol, diesel and illuminating paraffin, effective from November 5 It should increase the industry's earnings by about R360m/year The industry had asked for a 3c increase, effective from January 1 last year An increase was overdue under the obsolete M-Par formula committing government to allow a minimum return on industry assets Government has also awarded a 2c increase to the petrol retailers and a further 2c to the Road Accident Fund

These are interim measures pending reconsideration of the entire policy framework — as announced by the CEF on the instruction of Mineral & Energy Affairs Minister Penuell Maduna To assist with policy-making for liquid fuels, government is also setting up an advisory forum

The centrepiece should be the creation of a major integrated energy company out of the CEF's existing assets plus other State-owned energy assets — to be listed on the JSE



Prominent among the policy goals are an increase in competitiveness as well as the redistribution of ownership "wherever logical" in the interests of black empowerment SA should formulate an integrated Pan-African energy strategy and develop joint ventures with international partners We must strive to reduce the energy cost to the State wherever possible

The increase in the wholesale margin signals a softening in the atmosphere of hostility between the oil industry and government While one sympathises with government over its resentments dating back to the apartheid era, what now counts is strong economic growth

In this context, there has never been any real alternative for government except to work with the oil companies (and with Sasol) as the providers of essential transport fuels and important raw materials for the chemical industry

But this does not mean major problems do not lie ahead At a fundamental level, the truth is government's bag of oil assets are not really coherent In terms of capital commitment — most of which is admittedly sunk capital — the most important is Mossgas That cost the previous government through its various agencies about R12bn

The most important cause was the inherently high cost of turning natural gas into synthetic fuels using then-available technology Nor did Mossgas benefit from Sasol's astute timing of its giant Secunda synthetic fuel plants in relation to crude oil prices and the collapse of the rand Then there are the notorious problems at Mossgas about the sufficiency of the gas reserves over the planned life of the synthetic fuel plant Through committing substantial (but arguably not exorbitant) amounts of extra capital, the life of the plant has now been extended well into the first decade of the next century, while still more gas fields might be developed within an economic distance of the plant

Mossgas is cash-flow positive before protection, without providing a return on the sunk capital So, theoretically, it could be included in a financially viable venture But this is heavily contingent on product prices — which are determined by the oil price and exchange rate

This brings us to the most vexed question of price assistance (called protection by Sasol and Mossgas and a subsidy by many others) which kicks in when the rand oil price falls below certain limits

The reference price at which the synthetic producers' protection kicks in has already been sharply reduced They have received no assistance for most of this year Despite government's best intentions, merchant bankers might still insist it give some minimum guarantees to cover times of weak oil prices before floating a company whose assets include Mossgas

Government's challenge is to reconcile retail price liberalisation and a final end to protection with maximisation of the value of public assets in a flotation (a serious conflict here), plus facilitating the entry of black players (an equally serious conflict) The exercise should still be completed, so that the State can exit the oil business entirely, now that SA has free access to supplies Economic efficiency and the fiscus would gain — also motorists through modestly cheaper fuel But more retail competition might hit weaker black proprietors ■

Sunday Times Business Times
November 9 1997

# Engen ups the octane in earnings

(183)

ST 9/11/97

OIL COMPANIES

**By DON ROBERTSON**

HIGHER international refining margins, a weaker rand, improved cost control and emphasis on profitability above volumes, enabled Engen to report a 14 9% hike in attributable income in the year to August, and a 2 8% rise in earnings on the increased issued capital

Chief executive Rob Angel says the company has changed its accounting policy to comply with international accounting standards and includes the introduction of replacement cost income reporting

This results in the exclusion of the inventory impact and reflects the average cost of crude and refined product during the year Angel says this policy will provide a better insight into the group's underlying strengths

In addition, the results of Energy Africa, in which Engen has a 60% stake, are consolidated

The refining margin on a replacement costs basis increased by 30 5% to $5 26 from $4 03 and this, together with the weaker rand, helped offset the negative impact on the inventory of R81-million compared with a gain of R98-million in the previous year It is not expected that these levels will be maintained in the current financial year

Total sales increased to R12,5-billion from R11-billion This helped produce a 61 2% increase in operating income to R719-million compared with R446-million, which, after provisions, left attributable profits at R401-million against R349-million With the issued capital increasing from R160-million to R179-million, earnings rose from 218c a share to 224c a share

A final dividend of 72c has been declared, taking the total to 108c a share against 96c, covered 2 4 times

The replacement cost based return on capital employed increased from 8 3% in 1996 to 11 4% in the past year Angel says that during the second half of the year, the return improved to 14 7%, which is closer to the target of 15% per year

Past problems at the Durban refinery have been resolved with both oil yield and throughput increasing. Domestic sales increased by 1 4% to 43 9-million barrels The southern African sales and marketing division performed well and the company is now market leader and the lowest cost oil marketing group.

The business ventures section had a very successful year, particularly the Aktol chemicals division Energy Africa had a good year increasing reserves in fields in production and under appraisal by 44% to 64 8-million barrels

Provided refining margins, crude prices and the rand exchange rate do not alter significantly, Angel is predicting an increase in operating profits in the current financial year

This forecast was made before the announcement of a 2c a litre increase in the wholesale marketing margin which should add substantially to profits

# Zuma offers olive branch to healthcare manufacturers

CT (BR) 11/11/97 (183) CT (BR) 11/11/97

**SHIRLEY JONES**

Durban — Nkosazana Zuma, the health minister, yesterday offered an olive branch to health care manufacturers at the opening of a Smith & Nephew wound care factory in Pinetown, KwaZulu Natal.

"Industry and the government should work together rather than take on one another," she said

However, she had to contend with strong criticism

Kelvin Johnson, a Smith & Nephew director, said the state should not ignore the value of investments such as the one which had resulted in the creation of a wound care facility capable of manufacturing to stringent export standards while serving up quality products to the local market.

"Without the state as a major customer, without the support of the private sector, our company and the jobs we provide are at risk," he said "Hopefully, our healthcare leaders share our vision that . there can be no compromise on quality .

"Our request to your administration, Minister Zuma, is not to entertain deteriorating standards, to resist the temptation for procuring cheap lines that in the long term cost our industry dearly . and to be constantly sensitive to the role local manufacturers can play in the supply of cost effective treatment regimes," said Johnson.

Zuma said she intended to extract the maximum value for each rand spent on providing a healthcare service for those who had been denied this in the past.

She accused industry and the media of distorting her intentions Once they understood these, it would be possible to identify the roles each could play in providing a cost effective healthcare system accessible to all South Africans, she said.

Zuma said the government had no intention of chasing away major healthcare manufacturers The sector was worth investing in and the government needed industry as much as industry needed the government.

Without industry, it would be impossible to provide a quality healthcare service "We're not in the business of providing primitive healthcare," Zuma said The health department would not compromise on standards.

It had had no increase in real terms since the days of the old government when it was catering for a far smaller portion of the population Marginal increases had been eroded by inflation, she said.

Although her department wanted cost effective rather than cheap medicine, it needed to look at the entire chain from prescriber to dispenser to manufacturer Zuma stuck to her guns — both over-servicing and high prices from manufacturers pushed up costs, she said

# Zuma fends off warnings about cheap medicine lines

**Nicola Jenvey**

(183)

BD 11/11/97

DURBAN — Health Minister Nkosazana Zuma fended off tense warnings yesterday with the private sector and KwaZulu-Natal premier Ben Ngubane, urging her against procuring cheap medicine lines that in the long term would cost SA "dearly".

At the opening of the Smith & Nephew R8m wound-care facility, Smith & Nephew medical director Kelvin Johnson requested the national administration "not to entertain deteriorating standards, to demand that procurement administrators adhere to minimum specifications on tenders, and to be constantly sensitive to the role local manufacturers played in supplying cost-effective treatment".

Johnson said the local market accounted for 80% of capacity and without the state as a major customer and the support from the private health-care sector, the employment provided by the company would be in jeopardy.

"Hopefully health-care leaders share the vision that in our industry there is no compromise on quality."

Ngubane echoed these sentiments, urging Zuma's ministry to acknowledge that without sufficient profits, health-care manufacturers would not continue in business. Production decisions were based on "realistic profit margins". He urged the state to favour those manufacturers that used labour-intensive production methods when awarding state tenders. This meant companies, including Smith & Nephew, would be rewarded with increased economies of scale for providing local employment.

Zuma said the responsibilities of the new government meant "nothing traps us in that (apartheid) past" and the new health policy had to include equity, accessibility and affordability.

"It is essential that all health-care role players play their (part) in assuring SA has affordable health care. The private sector has its role to play and so do individual companies, Smith & Nephew not excluded," she said.

While acknowledging the private industry had to be profitable to survive, Zuma found it unacceptable that SA was "burdened by a higher cost" for medicines and medical products than many countries around the world. She demanded the private industry provide competitive prices in a global marketplace for products that had reached world quality standards.

Zuma denied "taking on the giants", but rather demanded that those previously denied access to health care receive a value-for-money product.

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# Personnel eat up provincial budgets

**Jacob Dlamini**

BD 11/11/97

CAPE TOWN — Eight of the provinces spend more than 50% of their budget allocations on personnel costs, figures released by Constitutional Affairs Minister Valli Moosa yesterday show.

The Northern Province, which was allocated R10,3bn for the current financial year and is regarded as being one of the two poorest provinces in the country, spends 59,97% of its budget on personnel. Next is Eastern Cape, which spends 55,11% of its R13,7bn budget on the same item.

Of R4,8bn given to Mpumalanga, 54% goes on personnel. In the Free State (R5,5bn) and KwaZulu-Natal, allocated the largest amount of R15,4bn, the figure is 53%. In North West and Western Cape it is 52%. Gauteng spends 50,67% of its R12,9bn budget on personnel. Northern Cape, the biggest province in terms of land but with the smallest population, spends 46,04% of its R1,9bn on personnel.

# Traditional medicine fights for recognition

(183)

ARG 12/11/97

## 'Government has no clear plan'

**ARGUS CORRESPONDENT**

**Johannesburg – No complementary medicine is more avidly supported in South Africa than traditional healers and the plant-based treatments they prescribe for illnesses.**

More than 80% of the population consult a traditional medical practitioner before, after or in place of a clinic sister or conventional medical doctor They also use indigenous plants for home medication

Pietermaritzburg's Institute of Natural Resources has shown that traditional healers are used between 90 million and 100 million times a year. At an estimated R100 per visit, it would cost the state R10 billion – or around half the total health budget – to replace this health service

The practice is less stigmatised than in the past, when it was dismissed as close to sorcery Yet the area is fraught with problems

Angry healers say that despite a total shake up in health policy over the last three years, the Government still has no clear plan of how to fit traditional medicine into the formal health system

Attempts to formalise the registration of basic ingredients used by inyangas, and of setting up a national reference centre for traditional medicines, are top-down approaches, they say

The real needs of traditional healers – education, organisation, business skills and a way to secure the rapidly diminishing supply of wild medicinal plants – are not being addressed

The experience of the consultation is quite different from a medical doctor taking a case history

Diagnosis can be from something as simple as touching your hand

"For the diagnosis I look into his eyes, or conduct a palmist reading or bone throwing, " says traditional medical practitioner Nhlavana Maseko, international president of the Traditional Healers Organisation

"If they are mentally disturbed, or hungry, or have a stomach problem, I can tell you It could be food, or liver, even that the person is taking liquor "

Maseko is a trained homeopath who learnt the skills of traditional healing at his grandfather's feet

For the patient, the experience can be intense One nurse tutor, who asked not to be named for professional reasons, says her faith in traditional healing remains because of personal experience

**Medicine man:** Solomon Mahlaba sits on the committee for traditional African medicines

When she was 16, home from boarding school and out picking cabbages for her mother in rural KwaZulu Natal, she felt a burning pain in her back, and sat down to recover only to find her legs were completely paralysed

A family relative who was an inyanga burnt herbs in her room for her to smell, made small cuts on her joints and rubbed in a paste of other herbs, and made her drink an infusion and eat herbs in a little water hot from a frying pan

The process was repeated every half hour, and the next morning she could walk, the nurse says

Many indigenous plants have been scientifically identified and published But the healers who have given the researchers the information have yet to see any reward, say Solomon Mahlaba, who sits on the technical committee for traditional African medicines, set up under the Complementary Medicines Committee of the Medicines' Control Council

Mahlaba says that the properties of individual plants like wild ginger and the pepper bark tree, are now in the public domain and could be formalised into a registry

But, he says, the MCC is back pedalling Its new listing system for complementary medicines has focused on the imported folk medicines and plants, like homeopathic preparations, used by only seven percent of the population

Registrar of Medicines Professor Johann Schlebusch says the MCC can help but is waiting for guidance from Mahlaba's committee "It is problematic if there is no input from them, we can help collate information, but would prefer it to come from them "

Traditional healers are one-man businesses, whose stock-in-trade – plants – are becoming expensive and harder to source

Organising a representative body is hard It is said there are about 300 000 healers in the country, but some say a figure of 30 000 to 40 000 is more realistic

## Statistics on healers

Traditional healers provide a huge, parallel health care service, says Miles Manders of the Institute of Natural Resources

Institute research shows

■ In the Durban area, 84% of clinic patients use traditional medicine more than three times a year – excluding self medication It would cost R2-billion – more than half the province's health budget of R3,7-billion – to replace this service

■ In Durban, there are 1 500 healers who create jobs for 3 750 assistants and 7 500 gatherers In total, between 20 000 and 30 000 jobs are created in the province by the indigenous medicine industry

■ About 4 300 tons of plant material valued at R61 million are traded in KwaZulu Natal annually Not one plant is cultivated but the trade is worth a third of the provincial maize harvest.

■ Over 700 plants are traded and many are on the specially protected species list, which theoretically need permits to trade

■ About 40 tons of plant material is brought in from Mozambique annually, and plants are also brought from Namibia, Botswana and even Malaysia

# Trade dept's change of heart on medicines bill

Star 14/11/97 (183)

The Department of Trade and Industry has played down its criticism of the new medicines bill, saying only the World Trade Organisation (WTO) can determine whether it in fact violates its TRIPS agreement on intellectual property rights.

The bill was endorsed by six of the provinces in the National Council of Provinces yesterday, with the Western Cape opposing and KwaZulu Natal and Free State abstaining

Prior to the hearing the chairman and vice-chairman of the department's advisory committee told the Free State legislature it was their opinion that Section 15(c) of the Medicines and Related Substances Control Amendment Bill violated international and local patent rights.

But department spokesman Themba Rubushe maintained that the broad consensus of opinion sought worldwide was that the bill did not contravene the agreement. The department remained convinced that the legislation was within the law, and would go ahead unless the (WTO) ruled otherwise. – Medical Reporter

MAIL & GUARDIAN
November 14 to 20 1997

**Penuell Maduna: The minister is understood to have been startled when he learnt of the contract**

(183)

# Minister orders probe into R3m contract

M+G 14-20/11/97

**Mungo Soggot**

The Minister of Minerals and Energy, Penuell Maduna, has ordered a full investigation into the award of a R3-million state oil job to Liberia's former finance minister, Emanuel Shaw II

Maduna — who also sought advice from Shaw last year — is understood to have been startled when he learnt of the appointment in July He immediately advised the Liberian to reject the job, but Shaw refused

Maduna has now told his officials to probe Shaw's contract The results of the probe will be made public

The minister's department this week accused state oil company chair Don Mkhwanazi of riding roughshod over standard procedures to give the job to Shaw

And the deputy director general of minerals and energy, Gordon Sibiya, is to quit as board member of the state oil company, the Central Energy Fund (CEF), after leading the attack against Shaw's appointment

"I have a lot of important work I am doing for my minister in the department. For this reason and for the sake of peace between Mkhwanazi and myself, I have decided to approach the minister shortly, requesting him to relieve me of my duties as a member of the board of the CEF," Sibiya said

The department was not informed that Shaw was also employed as a consultant by a listed oil company, Engen — which represented a clear conflict of interest Shaw's brief at the CEF includes its possible privatisation The state oil company also regulates the profits earned by petrol companies in South Africa. "Good grief," Sibiya said, when informed of Shaw's Engen work

Sibiya also dismissed Mkhwanazi's main defence of Shaw's appointment — that it was an everyday management issue which did not need the approval of the fund's board

Sibiya said Mkhwanazi had no authority to appoint Shaw's little-known company, International Advisory Services, without seeking the approval of the board of the fund or the department Mkhwanazi should have also put the job out to tender

"It [restructuring] is the one issue that involves the board and other government task teams which deal with restructuring Mkhwanazi is obviously not aware of government guidelines on restructuring I would like to know who has given him these sweeping powers "

Engen's human-resources department has confirmed Shaw started working there last year, helping them forge ties in Africa

It is believed Maduna may have been tipped off about Shaw's background by the National Intelligence Agency

**Who is Don Mkhwanazi? PAGE 30**

# Oil man's CV of sleaze

**Mungo Soggot** *documents the extraordinary history of the Liberian set to earn R3-million a year in South Africa's oil industry*

The Liberian charged with reshaping South Africa's state oil industry helped cream off millions from his country's own oil business and had ties with a company which pumped oil into apartheid South Africa

Emanuel Shaw II — who is set to earn at least R3-million a year from the South African taxpayer — spent much of the 1980s concocting money making ploys with a partner known as "The Godfather of Liberia" The *Mail & Guardian* has obtained correspondence between Shaw and his partner, Gus Kouwenhoven, in which Shaw details his involvement in their scams

Don Mkhwanazi, the chair of South Africa's state oil company, the Central Energy Fund (CEF) is standing by his decision to recruit Shaw as his chief adviser He says the Deputy President, Thabo Mbeki, endorsed Shaw for another state oil job in 1995 Mbeki's office said this week Shaw was a consultant to a London based oil audit company at the time and there was no "special relationship" between Shaw and the deputy president's office

The *M&G* revealed last week how Mkhwanazi ignored state tendering rules, state oil company policy and the Department of Minerals and Energy to recruit Shaw and his son, Emanuel Shaw III The Liberian was a confidant of the West African country's former president, Samuel Doe, and rose to become the notorious dictator's finance minister

Shaw has recently been appointed Liberia's "ambassador extraordinaire" by the country's new president, former warlord Charles Taylor

By taking up the job at the CEF Shaw opens himself to an obvious charge of a conflict of interest, because he has also been working for South Africa's biggest petrol company, Engen.

Shaw's letter to his partner, Kouwenhoven, indicates the two men were outright rogues It was written to justify a claim by Shaw for a greater share of their ill gotten gains

Shaw details how he gave Kouwenhoven the BMW dealership in Monrovia, the sole control of Monrovia's top hotel, the Hotel Africa, and how he established a string of front companies to give Kouwenhoven a cut in the purchase of a new aircraft for Doe In some instances Shaw went as far as to change Liberian law to give Kouwenhoven plum deals, all of which earned him a healthy commission

Kouwenhoven is understood to have accompanied both Shaw and President Taylor on a visit last week to Taipei.

The letter, which has become part of Liberian business folklore, was first published by a Liberian magazine in 1991, and subsequently by several other Liberian newspapers. It was found on Shaw's computer after he fled Liberia.

In the Hotel Africa deal, Shaw also gave Kouwenhoven exclusive gambling rights by changing the country's gambling laws He says. "I wrote a gambling law and you got the opportunity to review and edit it to your satisfaction. I had the new gambling law passed by decree .. I supervised the drafting of your concession agreement and helped you protect your exclusivities and rights thereunder for all these years, making so many enemies for myself."

The article which quotes the letter was written by a Liberian journalist, Reggie Goodridge, who is ironically now Taylor's press secretary The article, entitled "Sovereignty on auction, the saga of Shaw and Kouwenhoven", is described as "an exposé that renders the activities of the Italian Mafia pale by comparison"

In the letter Shaw also explains how he managed illegally to arrange an insurance payout for Kouwenhoven after the Hotel Africa burnt down in a "mysterious" fire in 1983. Shaw says he falsified certificates about the value of the hotel's contents. Goodridge wrote that the letter also described the two men's involvement in Nigerian oil deals and in the astonishing saga of the Liberian National Petroleum Corporation.

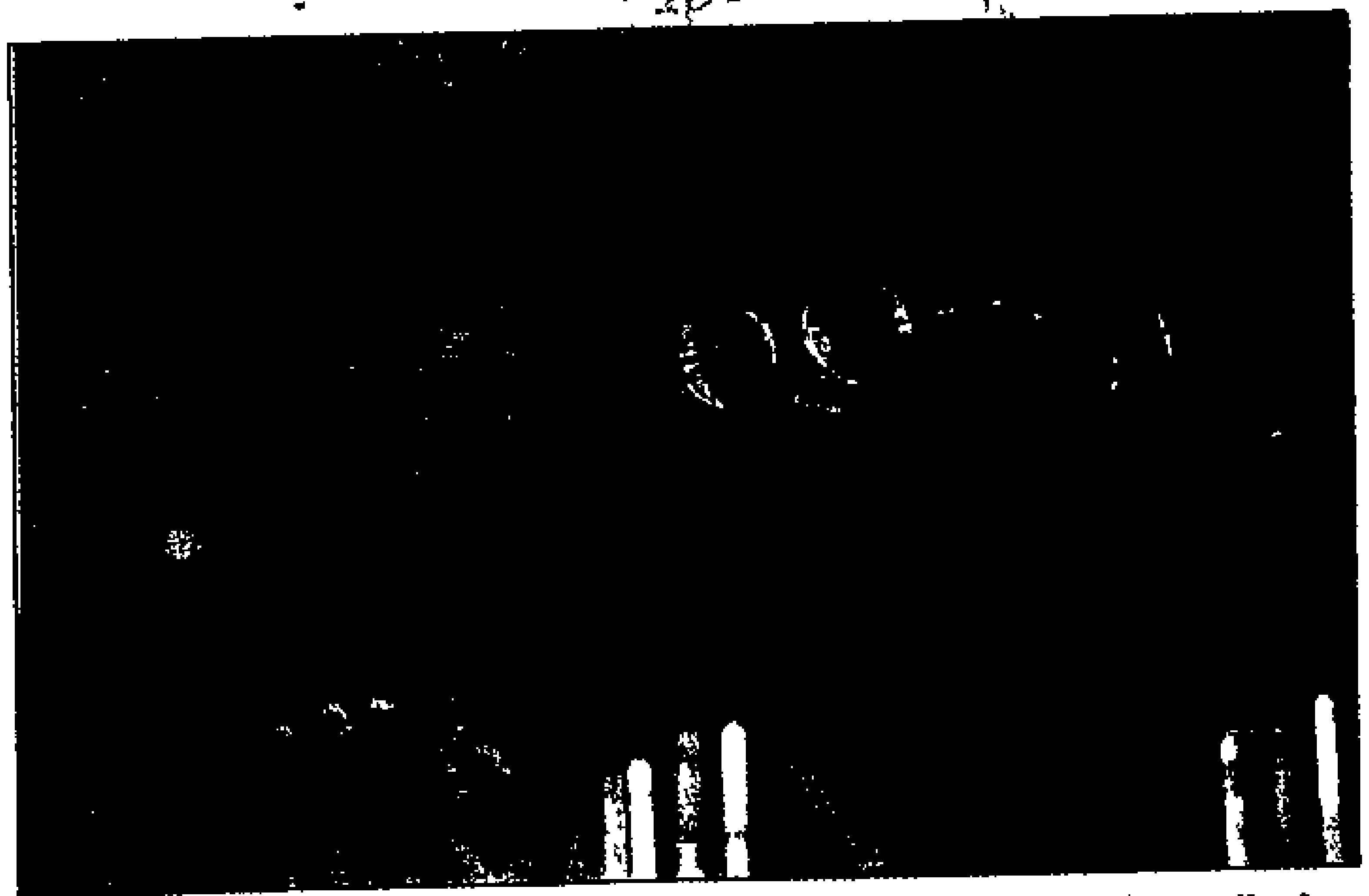
Shaw allegedly helped set up an oil consortium that took over the main functions of the the Liberian Petroleum Refining Corporation just before Doe was toppled in December 1989 Shortly after their new company was formed, the price of fuel in Liberia rocketed from $2,95 a gallon to $3,55 and, according to Goodridge, it was widely believed that the profits did not make their way back to the state's coffers

The shareholders in the company included Shaw, Kouwenhoven, Doe himself and the company's president, Mark Woolman, who also headed a mysterious oil company called Tiger Oil

Tiger Oil has been named as one of the companies which broke the oil sanctions against South Africa, in a submission to the truth commission by the Shipping Research Bureau in Amsterdam. According to oil industry officials, Woolman — who was murdered last year — worked with Shaw in Kenya before Shaw came to South Africa in 1992

Goodridge wrote that Shaw's letter is now a part of public record after it was used in evidence in New York and New Jersey courts, in a multi million-dollar case between the Liberian National Petroleum Corporation and the government of Liberia.

Shaw is also a shareholder in a company set up in 1989 to take over the operations of Liberia's main iron-ore company The company has yet to submit financial statements to the government.



**Don Mkhwanazi· The CEF's chair at the truth commission this week. He is standing by his decision to recruit the Liberian as his chief adviser. PHOTO· DANNY HOFFMAN**

## 'M&G will make Shaw rich'

M+G 14-20/11/97 (183)

**Mungo Soggot**

Don Mkhwanazi has accused the *Mail & Guardian* of singling out Emanuel Shaw II because he is black and he says both Shaw and Liberian President Charles Taylor will sue the newspaper

"He [Shaw] is livid and says he will be a very rich man from suing you," chuckled Mkhwanazi this week.

Mkhwanazi said Taylor had written to the South African Ministry of Foreign Affairs to complain about last week's article, which exposed Mkhwanazi s bizarre decision to give Shaw's little-known company a R3-million-a year job advising the state oil company

Mkhwanazi hit back at a press conference, playing the race card. SABC radio news reported Mkhwanazi as saying that "certain forces were not happy with black economic empowerment" and that "those black people who are here to prove a point, who are committed to the transformation of our country, will be singled out"

Mkhwanazi said Shaw was amply qualified for the job as he was a chartered accountant and had an MBA. He added that Shaw had also carried out a management audit of the state's oil-trading operations in 1995 — a job for which he was recommended by Deputy President Thabo Mbeki, according to Mkhwanazi.

The Minister of Minerals and Energy, Penuell Maduna, last week confirmed that the deputy president's office had to help Shaw with his visa when he was expelled from South Africa during the audit.

Mkhwanazi also excused Shaw's stint as confidant and finance minister to former Liberian President Samuel Doe by saying Doe had imprisoned Shaw in 1985 Shaw subsequently rose through the ranks of the Doe government before fleeing Liberia ahead of the notoriously corrupt dictator's downfall in 1989.

# Zuma deliberately misled Parliament on drugs bill, says DP

ARG 15/11/97

**PIETER MALAN AND SAPA**

**Health Minister Nkosazana Zuma's integrity has been called into question by opposition parties after it came to light that she had withheld information from Parliament.**

Opposition parties said yesterday Dr Zuma had withheld vital information from the National Assembly's health committee in her quest to bulldoze controversial medicines control legislation through Parliament.

National Party health spokesman, Kobus Gous, said his party wanted to know why Dr Zuma had misled Parliament. His Democratic Party counterpart, Mike Ellis, said the measure, designed to allow the importation of cheaper drugs, should be withdrawn.

The attack on Dr Zuma by opposition parties follows the disclosure this week of a document in which the Government's advisory committee on patents and trademarks said the proposed medicine bill would contravene a major international agreement on intellectual property rights that South Africa had signed.

Advisory committee chairman Judge Chris Plewman and vice-chairperson, Esmé du Plessis, said the Medicines and Related Substances Control Amendment Bill would also violate South African patent law.

*'What is Mandela doing about the lack of transparency in his Government?'*

Their memorandum – a result of a NP investigation into the matter – was made public this week at a meeting of the National Council of Provinces' social services committee, which debated and approved the legislation.

Judge Plewman and Mrs Du Plessis also confirmed that their committee had given a similar opinion earlier this year on an earlier version of the bill, since withdrawn, and that this was made available to Dr Zuma.

Dr Gous said yesterday that the first opinion had not been forwarded to the National Assembly's health committee, and asked what President Mandela was going to do about the lack of transparency in his Government.

"What is Dr Zuma's real motivation behind bulldozing the bill through Parliament?"

Mr Ellis said it was absolutely unacceptable that Dr Zuma could have had the information, yet not told the portfolio committee.

"I am concerned that the minister has deliberately misled the committee and Parliament," he said. "It would not be the first time she has done it, this latest incident calls her integrity into question."

Judge Plewman and Mrs Du Plessis were approached on November 10 by the legal adviser of the Free State legislature, who asked for their opinion on the bill – then being debated by the province's health committee.

Judge Plewman and Mrs Du Plessis said they had not had time to convene the advisory committee, but that they believed that Section 15C of the bill, which will allow Dr Zuma to override local patent rights in allowing imports of generic medicines from other countries, was "not in compliance" with South Africa's obligations under the Trade Related Intellectual Property Rights (Trips) agreement.

The bill, which has been criticised by the pharmaceutical industry, opposition political parties, the Medicines Control Council and the United States government, is to be debated in the National Council of Provinces next week. It has already been approved by the National Assembly.

Mirryena Deeb, chief executive of the Pharmaceutical Manufacturers' Association, said her organisation welcomed the advisers' findings as confirmation of what her organisation had been saying all along.

"If this Bill is pushed through in the face of this advice from Government's own expert advisers, it will be a major miscarriage of justice and a deliberate attempt by the Departments of Health, and Trade and Industry to ignore the truth," she said.

*'What is her real motivation behind bulldozing this bill through Parliament?'*

Dr Zuma's spokesman, Vincent Hlongwane, said the Health Department had received advice from experts at the Department of Trade and Industry before drawing up the bill. "We have no reason to believe that the department (of trade and industry) would mislead its own government," he said.

Referring to the advice the minister had received earlier, Mr Hlongwane said: "Who advised whom about what is beside the point. The bottom line is that this bill is ensuring cheaper medicines for everybody in this country."

# Fertiliser plant faces shutdown after Caltex move

(183)

## *Pollution relief for Milnerton*

ARG 15/11/97

**WILLEM STEENKAMP**

**The Kynoch fertiliser plant in Milnerton – one of the big air polluters in the area – may soon be forced to close down.**

The adjacent Caltex oil refinery, which has also been under fire over its sulphur emissions, has for years been supplying Kynoch with gas to power its fertiliser plant

But now Caltex has cut its supply of gas to Kynoch because it uses the gas to reduce pollution from the refinery.

Gas is an environmentally clean energy source and Caltex now uses most of the gas – produced as a by-product in its refinery – as an energy source to cut down on its daily 28-ton sulphur emissions.

Industry sources say this is a calculated move by Caltex to avoid growing public anger over the pollution problem in the area

Although emissions from Kynoch are visible from kilometres away, public anger has been directed at Caltex

It is known to emit vast quantities of invisible sulphur dioxide, which can cause acid rain

Martin Burr, production manager at Kynoch, admitted that the plant was battling to survive He said besides the fact that Kynoch now had to buy more expensive naphtha fuel from Caltex, the worldwide fertiliser market was in a severe slump

Plans by Kynoch to commission new equipment to cut pollution by its operation now had to be shelved because of financial considerations The company hoped to be able to fund this project at a later stage

He said although Kynoch was struggling to make ends meet, a decision on the future of the plant would only be taken late next year But industry sources said the move by Caltex to cut back on gas supplies to Kynoch would make the closure of the plant inevitable

"Although the emissions from Kynoch are more visible than those from Caltex, it is generally believed that the refinery sulphur emissions are more harmful to the environment

"However, the high visibility of the emissions from Kynoch is the catalyst which convinces people to complain about pollution in the area

"Invariably their anger is directed at the larger Caltex refinery and I have little doubt that this step by Caltex is a calculated move to hasten the closure of the fertiliser plant," said an industry source

Caltex spokeswoman Colleen Channon confirmed that Caltex had severely cut back on its supply of gas to Kynoch

She said this had been done so that Caltex could use environmentally friendly gas as an energy source in its own refinery operations In doing so the refinery is able to cut down on sulphur emissions from its operations

However, even if Kynoch should close down, its is doubtful whether this will appease anti-pollution lobbyists in the area

They believe the sulphur emissions from Caltex pose a real health risk to people living in the area and that the refinery should be forced to meet a promise made in 1994 to reduce sulphur dioxide emissions from its plant by 80% by 1999

## Submissions that health minister withheld information from Parliament

# Zuma under more fire over drugs bill

(183) Star 15/11/97

By PIETER MALAN and SAPA

Health Minister Nkosazana Zuma's integrity has been called into question by opposition parties after it was alleged this week she withheld information from Parliament.

Opposition parties said yesterday Zuma had held back vital information from the National Assembly's Health Committee in her quest to "bulldoze" controversial medicines control legislation through Parliament.

National Party (NP) health spokesman Kobus Gous said his party wanted to know why Zuma had "misled" Parliament, while his Democratic Party (DP) counterpart Mike Ellis said the measure, designed to allow parallel import of cheaper drugs, should be withdrawn.

The attack follows the disclosure of a document this week in which the Government's advisory committee on patents and trademarks said the proposed Medicines and Related Substances Control Amendment Bill would contravene a major international agreement on intellectual property rights which South Africa had signed.

Advisory committee chairman Judge Chris Plewman and vice-chairperson Esme du Plessis said the medicine bill would also violate SA patent law

Their memorandum – a result of a NP investigation into the matter – was made public this week at a meeting of the National Council of Provinces' (NCOP) social services committee, which debated and approved the legislation.

Plewman and Du Plessis also confirmed their committee had given a similar opinion earlier this year on an earlier version of the bill, since withdrawn, which had been available to Zuma.

Gous said yesterday that the first opinion had, however, not been forwarded to the National Assembly's health committee, and asked what President Nelson Mandela was going to do about the lack of transparency in his government?

AMBIGUITY. Did Health Minister Nkosazana Zuma mislead Parliament?

Ellis said it was absolutely unacceptable that Zuma could have had the information yet not told the portfolio committee "I am concerned the minister has deliberately misled the committee and Parliament. It would not be the first time This incident calls her integrity into question."

Plewman and Du Plessis were approached on November 10 by the legal adviser of the Free State legislature. He asked for their opinions on the bill, then being debated by the province's health committee.

They said they had not had time to convene the advisory committee, but that they believed section 15c of the bill, which will allow Zuma to override local patent rights in allowing imports of generic medicines, was "not in compliance" with obligations under the Trade Related Intellectual Property Rights (Trips) agreement.

It was their view the objectives as regards the affordability of medicines as set out in the introduction to the bill and in the general part of section 15c could be achieved in a manner which would not contravene Trips and would fit in with the Patents Act.

The bill, which has also been criticised by the pharmaceutical industry, opposition parties, the Medicines Control Council and the United States government, is to be debated in the NCOP next week. It has already been approved by the National Assembly

Mirryena Deeb, chief executive of the Pharmaceutical Manufacturers' Association, said her organisation welcomed the advisers' findings as confirmation of what her organisation had been saying all along.

"If this bill is pushed through in the face of this advice from Government's own expert advisers. it will be a major miscarriage of justice and a deliberate attempt by the Departments of Health and Trade and Industry to ignore the truth," she said.

Zuma's spokesman Vincent Hlongwane said the health department got advice from experts at the trade industry department before drawing up the bill. "We have got no reason to believe that the department would mislead its own Government.

"The bottom line is this bill is ensuring cheaper medicines for everybody in this country".

# Row over Zuma's cheap drugs Bill

(~~ETS~~) (183)

ST 16/11/97

**CRAIG DOONAN**

TRADE and Industry Minister Alec Erwin — and a committee which is meant to advise him and his department on intellectual property rights — are at odds over Health Minister Dr Nkosazana Zuma's new health legislation

The Medicines and Related Substances Control Amendment Bill will make it easier for South Africans to buy drugs made in India and other countries which do not respect US patents and copyrights

But, while Professor Esmé du Plessis, the deputy chairman of Erwin's patents advisory committee, has said the legislation contravenes international law, another ministerial adviser, Trevor Abrahams said "I can confirm it in no way undermines intellectual property rights."

He said the most controversial section of the Bill, Section 15C, "will not violate the intellectual property rights of any drug manufacturer in any form".

But, said Du Plessis, the section did not comply with South Africa's obligations under the Trade and Related Intellectual Property Rights agreement

"This section of the Bill has the potential of introducing discriminatory mechanisms that are not within the permitted framework envisaged by the Trips agreement," she said

Du Plessis said that while she supported Zuma's objectives, "this is not the correct way of doing it".

Du Plessis' views are shared by opposition parties, drugs manufacturers and the United States government

Zuma's spokesman Vincent Hlongwane said yesterday that the Department of Trade and Industry had been directly involved in drafting the clause "and they would ensure they didn't violate agreements which they signed on behalf of the government"

But Du Plessis said yesterday she was surprised that her committee was not consulted on the clauses because it had been set up for this purpose

# Maduna may chair Uneca

(183) Sowetan 17/11/97

**By Sowetan Business Reporter**

MINERALS and Energy Affairs Minister Penuell Maduna is expected to be elected chairperson of the United Nations Economic Commission for Africa (Uneca) at the second regional conference of African ministers to be held in Durban today

The six-day conference, which will be held by all African ministers responsible for the development and utilisation of mineral and energy resources, is a follow-up to the one which was held in Accra, Ghana in 1995

The conference will focus on the development of the minerals and energy industries in Africa and also review the implementation of the recommendations made at the Ghana conference

The conference, to be held at the Durban International Conference Centre, is jointly hosted by the Department of Minerals and Energy Affairs and the Uneca

A four-day technical preparatory committee meeting of government officials and private sector representatives will precede the ministers' conference which begins on Friday

## Keynote address

Maduna will officially open the plenary session of the technical committee while Deputy President Thabo Mbeki will deliver a keynote address during the African ministers conference

Other dignitaries include under-Secretary General of the United Nations and executive secretary of the Uneca Dr K Amoako and F Ohere-Kene, who is Ghana's Minister of Mines and Energy and also the Uneca current chairman

About 300 delegates and more than 40 African countries will be represented at the Uneca regional conference

Also represented at the conference are international organisations such as the Organisation of African Unity, the African Development Bank, the United Nations and the World Energy Council

The private sector in mineral and energy will take part in both the technical preparatory meeting and the ministerial meeting

> **“The conference will focus on the development of the minerals and energy industries in Africa”**

# Mkhwanazi's fate to be 'known soon'

BD 18/11/97

(183)

**Linda Ensor**

CAPE TOWN — The fate of the Central Energy Fund (CEF) non-executive chairman Don Mkhwanazi — whose controversial appointment of a Liberian consultant on a R3m-a-year contract without board approval has given rise to calls for his dismissal — should be decided by the end of next month, minerals and energy acting director-general Dick Bakker said yesterday

Mkhwanazi would also face the wrath of his fellow board members when the board met in Mossel Bay on December 4, sources said

Engen, which employed Emanuel Shaw II as a consultant to assist in setting up an African liaison network, would review its relationship with him, corporate affairs manager Nthobi Moahloli said Shaw, a former Liberian finance minister, has been accused of abusing his position to enrich himself in a number of ways, including siphoning profit from Liberia's oil industry

Moahloli said Shaw had been employed for about a year on a renewable contract which allowed each side to terminate it with six months' notice

Bakker was asked by Minerals and Energy Minister Penuell Maduna to appoint a high-powered panel to investigate Mkhwanazi's appointment of Shaw as his chief advisor Maduna was "shocked" by news of the appointment

Bakker said he hoped to constitute a powerful team including a lawyer, a representative of the public enterprises department and a corporate law expert The panel would examine Mkhwanazi's appointment of Shaw's consulting firm, International Advisory Services

In particular, the question of whether board or management approval was required and whether Mkhwanazi should have sought tender board approval would be probed

Moahloli said Engen was particularly concerned about a Mail & Guardian report that Mkhwanazi also employed Shaw to advise on restructuring state assets This could give rise to conflict of interest and the perception that Engen was privy to confidential information At the time of employing him, Engen had not been aware of his employment by the CEF

Deputy director-general and CEF board member Gordon Sibiya said Mkhwanazi's failure to consult the board showed disrespect and undermined its integrity Mkhwanazi had revealed "grave misunderstanding" if he believed restructuring the liquid fuels industry lay within his purview Task teams and an interministerial committee were addressing the issue

# SA chemical industry in transition

BD 19/11/97

(183)

**Robyn Chalmers**

THE acquisition of Sentrachem by US-based Dow Chemical Company would go a long way to changing the face of SA's chemical industry, Sentrachem MD John Job said yesterday.

Job told delegates at the Forum for the Globalisation of SA Business conference which began in Johannesburg yesterday that the international chemicals industry was in a transition characterised by the coalescence of companies into larger groups

Many of these companies were refocusing on their core businesses through disposals, restructuring and repositioning

ICI chairman Charles Smith said earlier this year that the global chemicals industry and many major companies would be unrecognisable in five years' time This was becoming increasingly evident in SA which, Job said, was influenced by global chemical industry trends following its re-integration into the world economy.

There were still constraints to SA operations, including the high cost of capital, limited access to raw materials and a small local market with limited growth

Job said Sentrachem's strategy had been to expand its international activities, strive to be internationally competitive, ensure it had a balanced portfolio and replace static or dying products with new investments.

To date, it had undertaken to restructure and focus on its core business through the disposal of noncore and sick businesses. It had also reduced its main subsidiaries to five from seven, embarked on an export drive and bought US-based Hampshire Chemical Corporation, Job said.

In part, this strategy had made Sentrachem attractive to Dow Chemical. After protracted negotiations, Sentrachem shareholders accepted Dow's R11,75 a share offer last month

Other speakers stressed the importance of SA playing a bigger role in the global business community, with particular reference made to the need for speed in the privatisation process.

# Demand for plastics to boost sector

(183) BD 20/11/97

**Lucia Mutikani**

THE SA plastics industry was forecast to grow 5,1% next year, boosted by a trend away from conventional packaging materials to plastics, analysts and industry sources said yesterday.

The plastics industry, which forms part of the depressed packaging sector, is forecast to grow 2,5% this year Plastic packaging accounts for about R3,4bn of the sector's R13bn turnover.

The major players in the industry include Nampak, Astrapak, PlastAfrica, Consol, Kohler, Colbyn, Premier and Durban Bag

Astrapak CEO Ray Crewe-Brown said although there was no enthusiasm in the general packaging market, the plastics industry was emerging as a high-growth area.

"The plastics industry has grown very rapidly and it is forecast to grow 6% in real terms over the next few years " Over the past 35 years plastics consumption has grown 10,4% in volume terms while paper has increased 4,4%, glass 5,3% and metals 3,3%.

Analysts said there was a shift in favour of plastics because it was a cheaper raw material.

"It is a niche market with high growth in the packaging sector, where margins are being squeezed from all sides There is a growing preference for lightweight packaging," one analyst said

Nampak MD Trevor Evans, while agreeing that the plastics industry was a rapidly growing area, said barriers to entry tended to be quite low, leading to intense competition.

"Our experience is that margins are not all that fantastic, but it is a rapidly growing industry in SA," he said

Meanwhile, Astrapak listed on the Johannesburg Stock Exchange yesterday.

The company's public share offer to raise R9m was two times oversubscribed, while its private placing to institutions was five times oversubscribed, raising an additional R72m

(183)

CENTRAL ENERGY FUND

FM 21/11/97

# Don assured of hot reception

Panel of inquiry will decide Mkhwanazi's fate

**When he** returns to the country later this week, Central Energy Fund (CEF) chairman Don Mkhwanazi will find little sympathy from Mineral & Energy Affairs Minister Penuell Maduna whose department blew the whistle on a more than R5m "advisory" contract given to Liberian businessman Emmanuel Shaw

The Department says Mkhwanazi acted beyond his powers in appointing Shaw without the approval of the board It has been alleged that Shaw, a former Liberian Finance Minister, has been involved in questionable business dealings in the West African country

Shaw was paid R425 000 two weeks after the contract was signed in July this year In addition he received a retainer of R125 000 a month and a daily allowance of R2 500 But Mineral & Energy Affairs deputy DG Gordon Sibiya says he is still awaiting a report from Shaw on work carried out

Mkhwanazi's West African connections go back to at least 1994 when he led a group of local black investors into a joint venture with African investors led by Bert Cooper, a Liberian businessman who is a partner of Shaw's International Advisory Services (IAS) consultancy firm

The joint venture company, SA Investment Corporation, signed papers to buy a 51% interest in the then listed Prima Bank Holdings for R24,4m and change the bank's name to Merchant & Investment Bank of Africa At the time, Mkhwanazi described Cooper as "a man driven by a pan-African vision"

That deal never happened It appears the money was never raised At the time, Mkhwanazi said the "Zulu mayhem" before the 1994 national elections had put off the foreign investors Fortuitously, Prima Bank was placed under curatorship a few months later and some of its assets sold to Unibank

Maduna's adviser Thulani Gcabashe, says he first became suspicious when he received a requisition for Maduna to authorise a "R5m plus payment" to Shaw's company, IAS

"There was already a contract, but I wanted to know if it had been approved by the board I wanted to know what work had been done and whether there had been an open tender process," he says

Sibiya, who is also a board member of the CEF, says Mkhwanazi acted beyond his powers

"He undermined his board and then expected us to rubberstamp this contract

"I hope that Mkhwanazi does not politicise this issue He has already dragged in the name of Thabo Mbeki and talked about his position in the ANC

Mkhwanazi's fate will be known by the end of the month after a departmental report to Maduna

**Duma Gqubule**

Robert Tshabalala

***Penuell Maduna*** *suffering from sympathetic ear block*

**OIL INDUSTRY** *Criticism of CEF's appointment of R3m-a-year consultancy contract blamed on racism*

# Conspiracy, cries Mkhwanazi

(183) CT(BR) 21/11/97

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Don Mkhwanazi, the chairman of the Central Energy Fund (CEF), yesterday defended his award of a R200 000-a-month, R3 million-a-year consultancy contract to International Advisory Services (IAS) without going through tender procedures by alleging that he was the victim of racism and sinister vested interests

Mkhwanazi said he had instructed the acting general manager of CEF to appoint Emanuel Shaw II — a former Liberian finance minister — after he had worked with Shaw He said he had on occasion hired Shaw to work in Mkhwanazi's own consultancy on several large projects

Mkhwanazi claimed the contract had been questioned because it had been awarded by a black chairman of a black board to a black company

IAS was appointed to advise on the restructuring of CEF, a company holding state oil assets that include Mossgas, the synthetic fuel producer

**ON THE DEFENSIVE** *CEF chairman Don Mkhwanazi, right, justifies his choice of consultant yesterday while Howard Roberts, the fund's acting general manager, looks on* PHOTO JOHN WOODROOF

Earlier this month the Mail & Guardian newspaper raised questions over the appointment The newspaper reported that Shaw was previously a finance minister under "the comic-opera dictator Samuel Doe" and was appointed ambassador by the current president, "former warlord Charles Taylor" It quoted Liberian press reports indicating that Shaw was involved in fraudulent insurance claims and that he had changed Liberian law to pass exclusive gambling rights to his partner

Mkhwanazi said "These advisers enjoy my confidence and have proven to be equipped, in my view, with the requisite skills and expertise "

Howard Roberts, the acting general manager of CEF, said he had appointed IAS on the basis of Mkhwanazi's recommendation, without opening the contract to tender or investigating the credentials of Shaw or IAS

"I assumed he (Mkhwanazi) had done it," Roberts said

When previous contracts worth more than R8 million were awarded "there was no query presumably because all these transactions and appointments involved whites only from both sides"

The Mail & Guardian dismissed the allegations of racism shortly after successfully opposing an interdict brought by Shaw's lawyers to prevent publication of further revelations today

Mkhwanazi also suggested that "vested interests" opposed IAS because it was looking at changing the regulated pricing structure of petrol

However, he refused to elaborate on his conspiracy theory or on why Gordon Sibiya, a well-known proponent of black empowerment, had opposed the appointment of IAS and resigned from the CEF board in protest newspaper

# Central Energy Fund consultant fails in court bid to gag

BD 21/11/97

**Stephen Laufer** (183)

THE Central Energy Fund's consultant on reshaping the SA oil industry, Emanuel Shaw II, failed yesterday in a court bid to gag reporting by the Mail & Guardian on his background and the circumstances of his appointment to the R3m 12-month contract

At the same time CEF chairman Don Mkhwanazi told a Johannesburg news briefing that the appointment had been above board, and that Shaw, a Liberian, possessed impeccable credentials for the job Allegations to the contrary and accusations that Mkhwanazi was overstretched were racially inspired

Shaw's work as a consultant to Engen on its African strategy posed "no potential conflict of interest"

The fact that Shaw had been asked to look at SA petrol pricing policies with a view to bringing prices down as an aid to job creation could have inspired a campaign against Shaw, Mkhwanazi said The CEF intended to co-operate fully with the inquiry into Shaw's appointment announced this week by Minerals and Energy Minister Penuell Maduna

At issue are allegations that Mkhwanazi improperly employed Shaw as an adviser to the CEF. Shaw, a former minister to successive Liberian presidents, was allegedly involved in breaking oil sanctions against the previous SA government and was a major shareholder in Liberia's National Petroleum Corporation

Opposition to Shaw from mineral and energy deputy director-general Gordon Sibiya represented a minority of one on the CEF board of eight, Mkhwanazi said. "One voice cannot be allowed to hold the board to ransom."

Judge Morris Flemming had found it would not be in the public interest to ban today's edition of the newspaper, the attorney for the Mail & Guardian, Karen Norvall, said. It had been his judgment that the editorial and an article — the third in succession on the matter — to be published today would not add substantially to the damage Shaw claimed already to have suffered

Shaw's lawyer, Steven Friedland, said Flemming had found the Mail & Guardian articles defamatory. He would be issuing summons for damages on behalf of his client next week.

But the newspaper reported Flemming had found that the potential harm to Shaw should be balanced against the public interest. If the articles were substantially correct, they "create a smell which reaches very high up, indicating incompetence,

Continued on Page 2

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## Consultant

(183)

Continued from Page 1

BD 21/11/97

flouting of what should be done, and doing what should not be done," the newspaper quoted the judge as saying

CEF acting GM Howard Roberts said Shaw's company, International Advisory Services, had been hired as a "preferred supplier" following instructions from Mkhwanazi This classification allowed the CEF to avoid cumbersome tender processes.

The CEF's usual procurement procedure was through three offers within a tender However, regulations allowed the appointment of a supplier without tender provided reasons were given and money had been budgeted.

Reasons given by Mkhwanazi in his letter requesting Roberts to arrange Shaw's appointment had given sufficient cause R5m of the CEF's annual budget of almost R40m had been set aside for consultants' fees

Mkhwanazi said he had written to Roberts extolling Shaw's strengths and experience as a business advisor and oil industry expert with whom he had worked on numerous occasions.

Mkhwanazi said he would place full-page advertisements in a number of newspapers in an effort to get his perspective on the matter across to the public The first is due to appear in the Mail & Guardian today Headed "Central Energy Fund chairman speaks out on inconsistencies and inaccuracies in the malicious reports on Central Energy Fund's legitimate contract with International Advisory Services," it is understood to have cost R12 000

Picture: Page 4

# Oil industry seeks wider consultation

(183)

DURBAN — The SA Petroleum Industry Association (Sapia) called yesterday for industry involvement in oil purchase deals signed by government with oil-producing nations.

"If there are going to be state-to-state deals, our appeal would be that there should be consultation with us if we are going to be involved in the refining of the oil," Sapia director Colin McClelland said

His remarks followed the signing of a deal with Saudi Arabia on Monday which envisaged SA lifting 15 000 barrels a day (bpd) of Saudi crude.

McClelland, who was attending a United Nations economic commission for Africa conference on the development and utilisation of Africa's energy and mineral resources, said the industry did not have to be involved if the oil was to be sold to another country

"But if they are buying oil to use in SA and to run it through the refineries of Sapia members, we believe value could be added if we were part of the process so we could get the right grade, be better informed and help the country do a better deal " BD 21/11/97

Sources said no representatives from the industry had accompanied President Nelson Mandela on his two-day trip to the Gulf

One source said Saudi oil was more expensive than Iranian oil — SA's main crude supplier at more than 200 000 bpd — and, as a result, purchases from that country had declined — Reuter

# Controversial new health bills approved by provinces

(183)

Star 21/11/97

STAFF REPORTER AND SAPA

The controversial trio of health bills allowing for parallel importing of cheaper drugs, community service for young doctors and lay ownership of pharmacies has been approved by the National Council of Provinces (NCOP).

The Medicines and Related Substances Control Amendment Bill, the Medical, Dental and Supplementary Health Service Professions Bill and the Pharmacy Amendment Bill have already been approved by the National Assembly and can now be signed into law.

They were opposed in the NCOP only by the Western Cape and KwaZulu Natal.

Health Minister Dr Nkosazana Zuma said she was happy the bills had been passed as they were meant to "shape and reform our health service in a way that will benefit all the people".

Zuma said she would now be able to look at when community service could "realistically" begin. She said she intended contacting the Junior Doctors Association of South Africa next week before going public with her plans.

Anna Sporaco, National Interns Alliance spokesman, said the alliance was prepared to launch legal action "within 12 hours" if the minister announced that community service would be implemented in 1998.

The Medical and Dental Council has already registered some 1997 interns under the 1974 legislation, Sporaco said.

The Medicines Bill, which some believe allows the minister to override patents in order to import cheaper medicines, has been strongly opposed by the pharmaceutical industry, and may be challenged through the World Trade Organisation.

Western Cape NCOP delegate Dr Quarta du Toit said in the debate that the bills were among the most draconian laws ever enacted in South Africa, and sounded the death knell for healthcare.

# ADVERTISEMENTS

(183) M+G 21-27/11/97

## CENTRAL ENERGY FUND CHAIRMAN SPEAKS OUT ON INCONSISTENCIES AND INACCURACIES IN THE MALICIOUS REPORTS ON CENTRAL ENERGY FUNDS' LEGITIMATE CONTRACT WITH INTERNATIONAL ADVISORY SERVICES (IAS)

Due to the deliberate failing of the Mail & Guardian to publish the other side of the story relating to this legitimate contract and its highly selective reporting we have been forced to place this advertisement to set the record straight Firstly we take strong exception to the campaign of innuendo insinuations and misinformation conducted by the Mail & Guardian to cloud the real issues

The Mail & Guardian has been insisting all along that the Hon Minister of Minerals and Energy suspended the General Manager of SFF At the Portfolio Committee meeting on Energy on 3 November 1997 Board representatives in the name of Messrs Mkhwanazi and Kunene (Directors of CEF) confirmed that this was a Board decision and not Dr Maduna s

Secondly the Mail & Guardian has insinuated that the special investigation surrounding the suspension of the SFF General Manager was being prolonged because there was no evidence to justify disciplinary action When the Chairman of the SFF Board Audit Committee Mr Keith Kunene confirmed that a disciplinary hearing against the suspended General Manager will take place soon we expected the Mail & Guardian to report this together with a correction of its earlier report that it was the Minister who had suspended the said General Manager

It is our view that the Mail & Guardian embarked upon a malicious campaign to distort these facts in order to cloud these issues and sow confusion

We welcome the inquiry ordered by the Minister because it will serve to confirm not only the distortion of facts by the Mail & Guardian but also prove that the appointment of IAS was within accepted norms and that there was no infringement of rules procedures and regulations governing such appointments

It is common knowledge that in 1992 Mr Mkhwanazi in his capacity as ANC Economic Advisor introduced Mr Shaw to the Deputy President Dr Thabo Mbeki when he was still ANC Director of International Affairs

The Deputy President did not at any time appoint Mr Shaw or M & L Inspectorate UK On the contrary it was the former Minister of Minerals and Energy Affairs Mr Pik Botha who appointed M & L Inspectorate UK who in turn assigned Mr Shaw to the Management Audit of CEF/SFF in 1995 Mr Botha himself has been quoted on several occasions as commending the work of Mr Shaw
Mr Kobus van Zyl General Manager of SFF even sent a letter to Dr Maduna when he was appointed Minister of Minerals and Energy requesting the new Minister to utilise Mr Shaw s report on the restructuring of the Group because of its quality relevance and excellence
The Mail & Guardian through innuendo incorrectly infers that the *Deputy President appointed Mr Shaw* At the same time it fails to comment on the impressive nature of the work done by him even when a man who is supposedly hostile such as Mr van Zyl acknowledges the quality of his work

- IAS has an impressive list of local and international clients It was not Mr Shaw and his son who were appointed in their personal capacities but IAS When Rand Merchant Bank is appointed no one says Mr G T Ferreira has been appointed or whoever is personally assigned to the task Clearly the Mail & Guardian applies different standards for white owned firms than it does for black owned firms

- Proper procedures were followed in the appointment of IAS Dr Howard Roberts in his capacity as Acting General Manager of CEF negotiated the terms conditions and fees and signed the contract on behalf of CEF The Chairman of CEF initiated the appointment in his efforts to strengthen the Chairman s office as the implementing agency for the Minister s strategic initiative The Chairman s office is charged with providing effective leadership for transformation and requires strong support both from an administrative as well as an advisory level

- The process did not involve a tender because it was a negotiated appointment with a preferred supplier This practice is not unusual There are a number of white owned consulting firms that were appointed in a similar fashion in 1994 1995 and 1996 by CEF management

  Amounts paid to these consultants varied from R500 000 per month to R380 000 per month and from R250 000 to R150 000 per month (in total R4 1 million for 8 months R3 8 million for 10 months and R452 138 for 3 months was paid) There was no query from the Mail & Guardian presumably because all these transactions and appointments involved whites only from both sides There were no blacks involved Most of these fees are well above what is being paid to IAS

- The fees provided for in the IAS contract for R3 million will not all go to IAS not to mention Mr Shaw and his son who are respectively a director and an employee of IAS This figure is a provision The maximum that IAS can be paid is R2 4 million in 12 months based on the current utilisation of the budget which averages R200 000 per month The contract pays US$1000 per day for any other IAS Director who is requested to work outside of South Africa exclusively on the contract and R2500 per day for any director of IAS who has to work outside of Johannesburg but within South Africa

- IAS employs Mr Shaw s son as a Financial Consultant His son holds two degrees one in Management and another in Finance He is paid a salary by IAS based on his qualifications and experience regardless of where he is assigned to work This applies to Mr Shaw himself A secondment fee is paid to IAS in arrears only on the basis of its staff working full time at CEF The fees are regarded as reasonable and in line with fees currently charged by International Consultants

- It is true that one director of CEF raised some concerns about the IAS appointment A full explanation was given in a spirit of openness transparency and candour which are essential and valued commodities The Acting General Manager in his report to the Board on 29 September raised the issue of the IAS appointment as a matter of routine The Board confirmed at its meeting that the magnitude of the IAS contract was such that it was within the General Manager s limits of authority to negotiate and sign The Board indicated that it was happy with the procedures followed and the appointment The appointment was made within the CEF budget, approved by the Board for the 1997/98 Financial Year The relevant Director was unfortunately not present at this boardmeeting However all correspondence from him outlining his concerns as well as the responses from the Chair were placed before the Board before it pronounced upon its position

- Certain statements are attributed to Dr Gordon Sibiya, an eminent member of the CEF Board and Deputy Director General of Energy in the Mail & Guardian of 7 November 1997 and 14 November 1997 We are not in the business of discussing other members of the Board through the media because we place a high premium on the dignity of members and the confidentiality of the Board process, whilst encouraging Board members to fully exercise their rights due diligences fiduciary duties and responsibilities However no matter how much the Board tries to reach consensus there are times when this will not be possible and one voice cannot be allowed to hold the Board to ransom Democracy is based on the will of the majority It has been claimed by Mail & Guardian that the Minister did not approve this contract nor was he informed about it This presupposes that the Minister had to be informed and/or approve this contract There is no such provision and/or practice precedent Even the Board was not expected to approve this contract This was within the CEF management s prerogative and operational authority The Minister appoints the Board which is entrusted with the responsibility of looking after the shareholders interests in a narrow sense and stakeholders interests in a broader sense However the Minister has the right to ask for any information pertaining to the CEF's Board including Board decisions and management activities. In a letter dated 10 October 1997 to the Chairman of CEF from the Ministerial Advisor Mr Thulani Gcabashe, the Minister inquired about the payment of Consultants Fees and other costs from the Central Energy Fund during the 1997/8 financial year A letter from the Chair dated 30 October 1997 captures our response The Acting General Manager also responded on his own under separate cover confirming a number of points including the normality of procedures and limits of authority adhered to

  The Chairman of CEF has been accused of not playing open cards with the Parliamentary Portfolio Committee on Energy about the appointment of IAS when he appeared before the Committee on 3 November 1997 The written submission to the Portfolio Committee dated 3 November 1997 speaks for itself in this regard In the written submission it is stated very clearly that Management of CEF appointed IAS as Internal Consultants How much more had the Chair to do in this respect?

- The Mail & Guardian reports that the Chairman is overstretched We do not know who is accusing him of being overstretched however it should be noted that he is a part time executive at CEF The Chairman spends a minimum of three days on CEF and related matters per week Under these circumstances his private and family business interests may well have suffered immense harm if it were not for his ability to delegate effectively Since his appointment in April (not in March as stated by the Mail & Guardian) as Chairperson of CEF Group he has been overseas five times, four of which have been on CEF Group related business Is this the behavious of a person who has devoted little time to CEF because he is overstretched? The Mail & Guardian does not say that this is the very Chairman who has travelled the length and breadth of the country addressing and consulting more than 1 600 CEF employees He is the first CEF Chairman to do so The Mail & Guardian article ignores the fact that this is the very Chairman who resigned some of his directorships including NAIL when he was appointed to the Chair of the CEF Group to commit more time to CEF activities He has never neglected his duty to report to Parliament Firstly he reports to Dr Maduna Secondly he responded to the first invitation by the Portfolio Committee by appearing at short notice on 3 November 1997

- The Mail & Guardian claims that the Chairman does not have post graduate qualifications
  - In the 1978/79 academic year he successfully completed a post graduate Diploma in Marketing at Kingston Business School in London
  - He completed a PMD at Harvard Business School in the USA in 1990 (although this is not a post graduate qualification people with degrees proven management experience and high potential are accepted at this prestigious school)
  - He obtained a Post Graduate Diploma in Company Direction at the Henley College of Management in UK in conjunction with The Graduate Institute of Management and Technology in Johannesburg

- Mr Shaw s consulting work with Engen through Fintech Consulting Services focusing on their African Strategy poses no potential conflict of interest with the IAS appointment Mr Shaw was not appointed but IAS was He will also not pocket R3 million A wrong impression is being created that R3 million is his salary His credentials have been called into question in a very serious manner while his CA and MBA qualifications remain intact

We are satisfied that he did not only serve Liberian former President Doe and/or current President Taylor who was recently elected in a democratically conducted election that was declared free and fair by an Oversight Committee of International Advisors headed by Former US President Jimmy Carter in a landslide victory giving him an overwhelming mandate of over 85% of the popular vote more than any other Liberian president before him

Mr Shaw has served at the highest levels in all Governments in Liberia at various times since 1979 except for a seven year interval occasioned by the civil war between 1990 and 1997 He was deputy Minister of State in the Office of President William R Tolbert Deputy Minister of State for Economic Affairs in the Government of the Peoples Redemption Council Deputy Minister of State for International Co operation and the Ministry of Commerce Industry and Transportation in the Government of the Interim National Assembly His Ministerial & Advisory posts under Doe and Taylor are now public knowledge and there is no need to repeat them

Mr Shaw s name has been dragged through the mud and he is duty bound to uphold and defend his name and integrity It is not for us to defend him However procedures followed in the appointment of IAS will be defended strenuously and their Terms of Reference still stand as follows

1 To act as co ordinating consultants for all re structuring activities at CEF including liaison with other external consultants either already appointed or to be appointed in future
2 To conduct a comprehensive review of all studies presently lodged with CEF in connection with re structuring and re organisation with a view to producing a collated report of all salient proposals which are in line with the restructuring objectives of the Minister as indicated above
3 To conduct research into the rationalisation of State oil assets in other countries
4 To review the overall corporate structure of CEF and propose changes and action plans to achieve the goals of the new strategy
5. To review the existing personnel structure of CEF and propose changes and action plans to achieve the goals of the new strategy
6 To act in a direct capacity as advisors to the Chairman in respect of all issues affecting his position
7 To develop a corporate finance strategy for the CEF Group which would include the recommendation of the necessary third party advisory and banking expertise required to achieve the developed strategy
8 To expand its advisory role to encompass the execution and implementation of the corporate finance strategy

It is totally misleading to say as the Mail & Guardian has done that Mr Shaw will restructure the State s oil assets singlehandedly The IAS is attached to the Chairman s office in an advisory capacity In the Terms of Reference for the IAS contract this is very clear It is also evident that External Consultants may be utilised as also submitted to the Parliamentary Portfolio Committee on Minerals and Energy

We clearly understand the restructuring process The Chairman is leading the process together with the Board The Chairman has already interfaced with the Government overall advisor on restructuring (HSBC) The Board is currently consulting with all interested parties, a process co ordinated by IAS At the end of the day the Board led by the Chairman will make recommendations to the Hon Minister of Minerals and Energy who in turn will submit these to the Inter Ministerial Cabinet Committee (IMCC) on Restructuring. The IMCC will pronounce upon the recommendations amend them and submit them to the Cabinet for approval After Cabinet approval it will go to Parliament With all these clearly stated steps one wonders how IAS or even Mr Shaw will restructure the State s oil assets singlehandedly

We have nothing to hide We have breached no rule or procedure and will forge ahead with our task of transforming, democratising and restructuring the CEF Group of Companies and enhancing and maximising the value of all state assets within the Liquid Fuels Sector There is no State oil scandal except the scandalisation of CEF its Chairman and Mr Shaw

In our noble task as mentioned to the Portfolio Committee in the Transformation Democratisation and Restructuring of these State assets we will be driven by three non negotiable guidelines

- Black Economic Empowerment and Affirmative Action as a major pillar of our approach to bring Blacks into this sector
- Government Macro-Economic Strategy of Growth Employment and Redistribution,
- African Renaissance is the third and final pillar of our approach to enable Africa to realise its full potential.

It is interesting that Mail & Guardian failed to report on this aspect. We are very much encouraged by the response of all major stakeholder groups to our restructuring invitation and the appointment of the Ministerial inquiry into the appointment of IAS

Facts are facts. Character assassinations won t change the facts We leave this to your imagination judgement and analysis, particularly the motives of the Mail & Guardian Rest assured we wont be intimidated by anyone Mail & Guardian or not

**ISSUED BY THE CHAIRMAN OF THE
CEF GROUP OF COMPANIES
DON D B MKHWANAZI**

CEF

# How Mkhwanazi set up oil man

(183)

M+G 21/11-27/11/97

**Mungo Soggot and James Butty**

State oil company chief Don Mkhwanazi laid the foundations for Emanuel Shaw II's South African business interests more than a year before handing his Liberian friend a R8-million government contract

It emerged this week that Mkhwanazi's Durban lawyers — who have established several companies for the black empowerment guru — set up Shaw's company, International Advisory Services, in August 1996

Barry Garland, a senior partner at the law firm, Mooney, Ford & Partners, confirmed this week that "an associate" of Mkhwanazi had asked his firm to set up the company He declined to give further details

These revelations illustrate how close Mkhwanazi is to his Liberian associates and throw yet more light on his extraordinary decision to give Shaw II and his son the contract to steer the state oil company's restructuring

Mkhwanazi has hidden behind the claim that he gave the contract to International Advisory Services — "a preferred supplier" with "an impressive list of local and international clients" — and not the individual, Shaw

Mkhwanazi said this week he had used many law firms "I don't know anything about it People are free to use any lawyers," he added.

After Shaw's appointment exploded into the public domain, the Minerals and Energy Minister, Penuell Maduna, ordered a full investigation and the deputy director general of his department, Gordon Sibiya, announced his intention to step down from Mkhwanazi's board

But Mkhwanazi this week hit back in a full-page advertisement in the *Mail & Guardian* — to which the *M&G* replies on page 24 Mkhwanazi also held a press conference an hour after the *M&G's* Thursday deadline

According to the companies' register at Company House in Pretoria, International Advisory Services was set up on August 7 1996 and Garland is its only nominee director Garland, whose firm no longer attends to the company, said that due to a nine-month delay at Company House, changes in directorship had not yet been recorded Garland confirmed his firm had set up several companies for Mkhwanazi

Meanwhile, in an interview with the *M&G*, Maduna, who has confirmed he also sought advice from Shaw last year, said Shaw had not been paid anything for his informal advice Maduna refused to be drawn on whether he would consider firing Mkhwanazi, saying he did not want to pre-empt the findings of his investigation

Maduna confirmed he had been to Shaw's Johannesburg residence and said Shaw had helped him with computer problems while he was finishing his doctoral thesis in June — a service which earned Shaw a mention in the minister's thesis

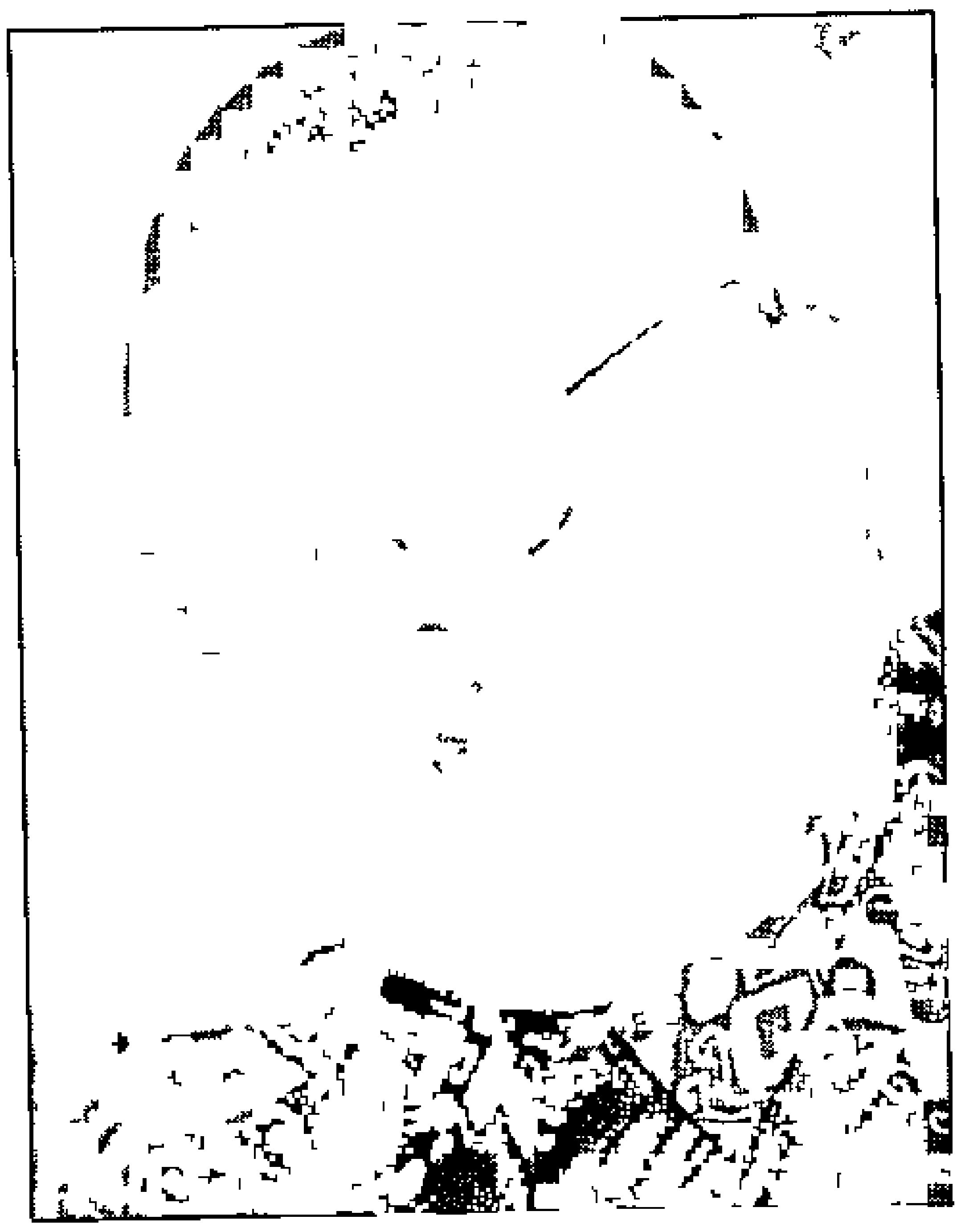
Maduna refused to comment on Shaw's startling past, but confirmed he knew about Shaw's sanctions-busting activities, which Shaw carried out while serving in the government of former Liberian president Samuel Doe

He said he had discussed the Shaw matter with President Nelson Mandela on their recent trip to Saudi Arabia and had told the president "We have a lot of people with a really shady past in this country I am entitled to pull out all the files on sanctions-busting "

Asked whether he knew Shaw had been involved in sanctions-busting, the minister said "Yes he was but he never hid it Look, I didn't say to him, who are you, what's your background, etc? I accepted him at face value "

Asked whether, with hindsight, it was unfortunate he had been involved with Shaw, Maduna said "There are lots of businessmen in South Africa who were involved in sanctions-busting Would it be fair for me to say to them, I am not going to deal with you, Mr South African businessman, precisely because in the past this is what you did? Then I would not be participating in the promotion of reconciliation "

He said his investigation would not probe Shaw's past He refused to comment on whether he could envisage Shaw keeping the contract even if his investigation cleared Mkhwanazi


**Don Mkhwanazi: Laid the foundations for Emanuel Shaw's South African business**

The *M&G* reported last week on a sensational letter Shaw wrote to his Liberian partner-in-crime, Gus Kouwenhoven The letter — which documents their scams — was part of the court record in a multimillion dollar case between the Liberian National Petroleum Company and the Liberian government which was fought in New York and London

A senior Liberian government official in the interim government after Doe was toppled said this week Kouwenhoven admitted at the time that he received the letter He also said that, in the court records, Shaw complained that the letter had been obtained illegally from him

A delegation of Liberian Cabinet ministers visited South Africa this week The country's Land and Mines Minister, Jenkins Dunbar, said they were not here to discuss diplomatic fall-out from the Shaw scandal Shaw is also ambassador extraordinaire and economic adviser to Liberia's current President, Charles Taylor

Dunbar confirmed that the company set up by Shaw in 1989 to run Liberia's iron-ore operations, AMCL, had not submitted any financial statements to the government AMCL is run by Ethelberg Cooper, who operates from International Advisory Services's Johannesburg headquarters

# Mossgas, industry pricing impasse

(183)

**Lynda Loxton**

PARLIAMENTARY CORRESPONDENT

CT (BR) 25/11/97

Cape Town — Time is running out for the minerals and energy department to find a way out of the pricing impasse between state owned oil from gas producer Mossgas and the oil industry, but officials said yesterday they would meet a deadline this week

Last month the parliamentary public accounts committee gave the department until the end of this month to provide a plan and a timetable to resolve the dispute, which dates back to 1992

"We will meet the cut-off date but I cannot say what, if anything, has been agreed yet," a departmental spokesman said

It is understood that the South African petroleum industry has asked for a meeting with Gordon Sibiya, the department's deputy director-general, to resolve the issue as soon as possible

Committee members expressed their frustration last month about the failure of the department and Mossgas to resolve the pricing dispute even though this was costing the taxpayer about R150 million a year

Henri Kluever, the auditor-general, had recommended "in the interests of the taxpayer and the motorist", the department should consider new ways of resolving the deadlock

The conflict arose when the informal agreement between the oil industry and Mossgas that oil companies would buy Mossgas fuel at a discount to the producer price or "in-bond landed cost" (IBLC) lapsed In return for being paid the lower price, Mossgas obtained a synthetic fuel levy from the equalisation fund run by the Central Energy Fund

No new agreement was negotiated and the informal arrangements stayed in place until the oil companies started having to import fuel because of technical problems at their refineries Mossgas argued that because the oil companies were no longer exporting surplus fuel, they should pay the higher IBLC

The oil companies had disagreed because they said they were not net importers of fuel

Nobody could broker any deal between the two even though, faced with growing capacity constraints, the oil industry did become a net importer of fuel last year and had offered to pay Mossgas the IBLC

# Zuma claims misleading, not improper, says Baqwa

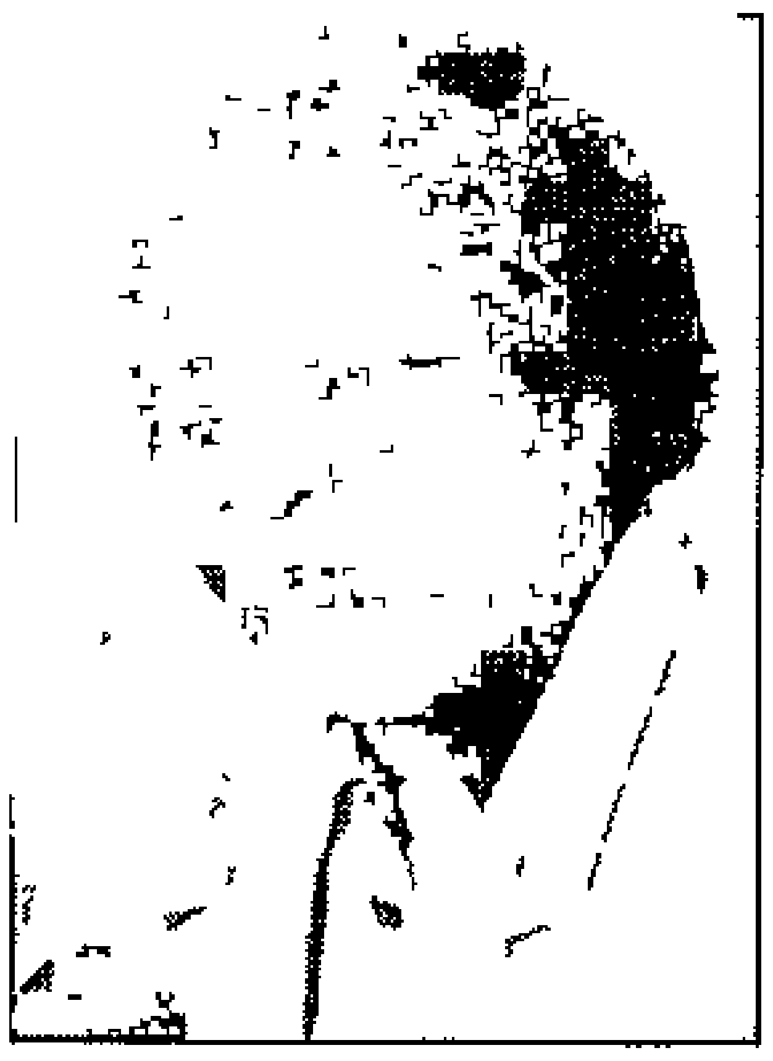
ARG 25/11/97

(183)

## *Drug price probe*

**Health Minister Nkosazana Zuma's department made grossly exaggerated and misleading claims about the relative expense of medicines in South Africa, Public Protector Selby Baqwa has found.**

However, in a report compiled after a complaint by the pharmaceutical industry, he made no finding of improper conduct and said it did appear pharmaceutical profits in South Africa were "substantial"



'Misleading': Dr Zuma

National Party health spokesman Dr Kobus Gous, said Mr Baqwa's findings confirmed suspicions that Dr Zuma had misled Parliament and the public

"We once again ask for her resignation and reiterate our call on the president to reconsider her position in Cabinet "

The complaint to the public protector was lodged by the Pharmaceutical Manufacturers' Association of South Africa in June at the height of its battle with Dr Zuma over her proposals to lower drug prices

The legislation, the Medicines and Related Substances Control Amendment Bill, cleared its final parliamentary hurdle last week when it was approved by the National Council of Provinces

Mr Baqwa said a statement by the Health Department – reiterated by Dr Zuma – that South Africa was among the five most expensive countries in the world for medicine, needed convincing data as back-up

Various documents submitted to substantiate the claim had failed to do so It was impossible to say that she was either able or unable to back up the statement, and it could be argued that the contrary was true

"Nevertheless, from the evidence presented, it can be deducted that pharmaceutical profits are substantial in this country; that the cost and price of pharmaceuticals in South Africa is high, and of the premium rand available for health care, the amount spent on medicine is nearly double to triple that of other major countries," he said

Mr Baqwa said Dr Zuma had conceded that another statement – claiming medicines were 4 000% more expensive than the world average – was based on an erroneous calculation. She had said the figure should have been 2 515% It also appeared the statement was based on the price difference of only one drug.

It became quite clear, Dr Baqwa said, that the information had been grossly exaggerated

Another department statement on the low level of prescription of generic medicines in South Africa could be misleading, but was not improper. – Sapa

# Health department exaggerated medicine prices

Cape Town – Health Minister Dr Nkosazana Zuma's department made grossly exaggerated and misleading claims earlier this year about the relative expense of medicines in South Africa, Public Protector Selby Baqwa has found.

However, in a report compiled after a complaint by the pharmaceutical industry, he made no finding of improper conduct, adding it appeared that pharmaceutical profits in South Africa were "substantial".

The complaint to the public protector was lodged by the Pharmaceutical Manufacturers' Association of South Africa in June this year at the height of its battle with Zuma over her proposed legislation to lower drug prices.

She used claims that South African prices were out of line with other countries to motivate formalisation of generic substitution and a controversial proposal to override patent rights in allowing imports of cheaper medicine

The legislation, the Medicines and Related Substances Control Amendment Bill, cleared its final parliamentary hurdle last week when it was approved by the National Council of Provinces.

Baqwa said he had appointed a five-person panel of experts to help him in his probe

He said a statement by the Health Department in March this year, which was later reiterated by Zuma, that South Africa was among the five most expensive countries in the world for medicine, needed convincing data as back-up.

The various documents that Zuma had submitted to substantiate the claim had failed to do so, and it was not easy to rate on a point-scoring method the accuracy of the numerous sources and statistics referred to.

It became quite clear, Baqwa said, that the information had been grossly exaggerated, but added that while the department's statement could be misleading, it was not improper – Sapa

Star 25/11/97 (183)

# DP wants 'R3m adviser' probed

(183)

**Linda Ensor**

BD 26/11/97

CAPE TOWN — The Democratic Party (DP) has called on President Nelson Mandela to appoint a judicial commission of inquiry to probe the appointment of Emanuel Shaw as a R3m-a-year adviser to Central Energy Fund chairman Don Mkhwanazi.

DP minerals and energy spokesman Kobus Jordaan moved a motion in the House of Assembly yesterday calling for an investigation into Shaw's background and his involvement in oil deals including those concluded during the pre-1990 sanctions period

Shaw allegedly participated in a series of shady business deals with Liberia's minister of finance

Jordaan proposed the commission also inquire into the circumstances surrounding Shaw's appointment; any possible role he might have played in the suspension of CEF GM Kobus van Zyl; and the role, if any, of Deputy President Thabo Mbeki, Minerals and Energy Minister Penuell Maduna and deputy director-general Gordon Sibiya in his appointment.

Such a judicial commission would be in addition to the departmental commission of inquiry appointed by Maduna about two weeks ago.

Jordaan said it appeared Mkhwanazi had misled Parliament at a meeting on November 3 about Shaw's appointment.

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# ANC rejects call for debate on health bill

BD 26/11/97

**Jacob Dlamini**

CAPE TOWN — The African National Congress (ANC) yesterday rejected a National Party (NP) motion calling for a parliamentary debate on the public protector's findings that Health Minister Nkosazana Zuma had made grossly exaggerated and misleading claims about the price of medicines in SA.

In a report released on Friday, Public Protector Selby Baqwa found Zuma had failed to prove the claim that SA's drug prices placed it among the five most expensive countries in the world

The claim that some medicines in SA sold for up to 4 000% above the world average was found to have been based on a wrong calculation and a statement by a health department official that SA paid 2 500% more for anti-tapeworm medicines was found to be misleading but not improper.

Baqwa found claims that medicine costs had increased at double the inflation rate in the past decade had been made by the media, and not the department.

He found Zuma had given misleading but not improper information about the use of generics in the UK, the US and Germany.

His findings followed a Pharmaceutical Manufacturers' Association investigation into the conduct of health department officials regarding the above allegations.

Baqwa said that while he had found no evidence to suggest Zuma and her officials had acted improperly, he called on the department to try to use correct information in public statements.

Baqwa did find that pharmaceutical profits in SA were substantial. The average amount spent on health care was nearly triple that of other countries

Zuma's spokesman Vincent Hlongwane welcomed Baqwa's findings and said the minister would take his advice about using accurate information in future.

Pharmaceutical association CEO Mirryena Deeb welcomed the findings and called for a review of the legislation allowing for the parallel importation of drugs, as Zuma's arguments had been based on incorrect data.

The association had asked President Nelson Mandela not to sign the legislation into law and would possibly launch a Constitutional Court challenge if he ignored their request, Deeb said

NP spokesman Kobus Gous, whose motion for a debate on the report was rejected as "cheap politicking" by the ANC, called for Zuma's resignation and for Mandela not to sign the bill into law.

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# 'Cost containment measures will save millions'

**Pule Molebeledi** (266)

RUSTENBURG — North West had introduced strong measures to manage its finances in a manner which would not allow for runaway expenditure to occur, the province's premier Popo Molefe said this week.

Molefe said North West was regarded as one of the provinces which was handling its expenses relatively better than others The province had projected over-expenditure of about R700m, but through cost containment measures, "we will be able to reduce it to R170m"

The entire country was experiencing fiscal constraints, with the result being insufficient money allocated to the provinces for their budgets. Provinces had found themselves overspending due to backlogs in social services like education, health and social welfare, as well as government's commitment to cash containment.

Molefe said he had introduced a string of measures to fight corruption within his government.

This included the appointment of a unit to fight corruption which had already been instrumental in 56 people appearing in the regional court on corruption charges

The special unit was investigating 118 cases of corruption, a number of which had been reported by members of the public through an anticorruption hotline in Molefe's office

BD 26/11/97

*Liberian tycoon's background called into question*

# DP seeks inquiry into choice of CEF adviser

(183)

CT(BR)26/11/97

**JONATHAN ROSENTHAL AND LYNDA LOXTON**

Cape Town — The Democratic Party (DP) called on President Nelson Mandela yesterday to appoint a judicial commission of inquiry into the controversial appointment by Don Mkhwanazi, the chairman of the Central Energy Fund (CEF) of Liberian tycoon Emanuel Shaw as consultant to the fund.

Kobus Jordaan, the minerals and energy spokesman for the DP, said the commission should examine Shaw's background, his involvement in pre-1990 oil deals and the "true facts" on the roles played by Thabo Mbeki, the deputy president, Penuell Maduna, the minerals and energy minister and Gordon Sibiya, his deputy director-general

Jordaan said all three had been implicated "through innuendo" in the scandal over Shaw's R3 billion-plus contract

Jordaan also alleged that Mkhwanazi had misled the parliamentary minerals and energy committee on November 3, when he briefed it on developments at the CEF

*Penuell Maduna*

Another dispute raised yesterday was of the alleged involvement of Maduna in the suspension of Kobus van Zyl, the general manager of the CEF

In a full-page advertisement in the national press yesterday, Mkhwanazi said he had informed the parliamentary portfolio committee on energy that the board had suspended Van Zyl

"This was a board decision and not Dr Maduna's," Mkhwanazi said

Mkhwanazi's statement is in conflict with assertions by Roy Pithey, who was the chairman of the CEF at the time

Pithey, who signed Van Zyl's letter of suspension, said "The minister's role in the matter of Van Zyl's suspension could not be denied

"It is my clear recollection that, based on the evidence he placed before the board, the minister recommended that Van Zyl should be suspended," Pithey said in a letter last month

Mkhwanazi also questioned the relationship between Mbeki and Shaw, saying Mbeki did not at any time appoint Shaw even though Pik Botha, the former minerals and energy affairs minister, said Mbeki suggested the appointment

# Enforce standards and recognise patent rights

(183) BD 26/11/97

## New medicines legislation effectively resists SA's globalisation process, says **Ruth Rabinowitz**

EMBRACING globalisation, SA became a signatory to the trade-related aspects of intellectual property rights (Trips) agreement But, as has been suggested, there are tensions between globalisation and the perceived ideals of the nation state, national unity and the African renaissance

The African National Congress is going to unprecedented lengths to promote those ideals, challenging the forces of globalisation in the process The measures it adopts may boost its popularity with the electorate, but may damage investor confidence in the long term and hurt the people the party claims to serve.

One such action is the implementation of parallel importation of medicines, with an abrogation of patent rights. US ambassador James Joseph, the American Chamber of Business, patent lawyers and CEOs of large companies urged Parliament's health portfolio committee to take note of their grave concerns about this provision in the Medicines Bill, partly because it was an affront to US and other international companies in SA, and secondly because it had the capacity to allow poor quality drugs to be imported into our country They stressed that this would not address the need to make health care more accessible and affordable to the masses.

New measures dealing with the purchase of medicines at manufacturer level could hurt the public in several ways The chances of cheap drugs being counterfeit or poor quality are increased by allowing third parties to import them in contravention of patent rights. Once the normal distribution chain is broken, tracking becomes more difficult and third parties do not have the same concerns about safety and quality as the manufacturer.

The bill's main objectives are equal distribution of health care and a reduction in medicine costs for the state and private individuals.

The drastic measures adopted in current legislation contradict research, which suggests opposite strategies would reduce medicine costs. They oppose also the common sense notion that people respond better to being treated equally and are drawn to disadvantaged areas with incentives, rather than by government order

More equitable distribution and lower prices could be achieved within the framework of freedom of choice, competition and government regulation to ensure a minimum standard of health care countrywide.

There are two sets of medicine prices in the country, one for the state, and one for the private sector Seventy percent of medicines are sold to the state These are sold by manufacturers at less than a tenth of the price the private sector pays — and about 50% are allegedly stolen

There is massive cross-subsidisation by the private sector of the state To lower the cost of medicines, their distribution to government institutions should be privatised, thereby cutting theft This would reduce costs for both sectors, since there would be less need for cross-subsidisation.

Competition at retail level would reduce the price hike in the distribution chain Allowing large stores and managed care companies to own pharmacies and buy in bulk at a discount would have this effect.

Simply privatising medicine distribution to the state, removing bonusing and bulk free sampling which allow middlemen to hold on to profits, and allowing large chains or medical aids to own pharmacies and pass on discounts to consumers, would result in government and private individuals paying less for medicines

Greater use of generics would, through competition, push down the price of ethical drugs Restored to our pockets would be money now residing with thieves, unscrupulous middlemen, inefficient pharmacies and medical aids, and manufacturers who overcharge

Our interests would be served by a health system which focused government resources on the disadvantaged, enforced minimum standards, but allowed a competitive private sector, recognising patent rights, to share freely the burden of providing different levels of care.

Instead, we will have a system which promises equal care, overregulates internal markets, defies the spirit of Trips and provides poorly for all

Resisting globalisation for the alleged goal of engineering equality will burden SA and threaten, rather than strengthen, national unity.

☐ *Rabinowitz is the Inkatha Freedom Party's health spokesman*

# Zuma exaggerated claims on prices of medicines – Baqwa

Sowetan 26/11/97 (183)

HEALTH Minister Dr Nkosazana Zuma's department made grossly exaggerated and misleading claims earlier this year about the expense of medicines in South Africa, Public Protector Selby Baqwa has discovered

However, in a report compiled after a complaint by the pharmaceutical industry, he made no finding of improper conduct

He said it appeared that pharmaceutical profits in South Africa were "substantial"

National Party health spokesman Dr Kobus Gous said in reaction that Baqwa's findings confirmed suspicions that Zuma had misled Parliament and the public at large

It was inconceivable that an unsuspecting public was fed wrong and exaggerated information on such an important issue as health

"We once again ask for her resignation and reiterate our call on the President to reconsider her position in the Cabinet," Gous said

The complaint to the public protector was lodged by the Pharmaceutical Manufacturers Association of South Africa in June this year at the height of its battle with Zuma over her proposed legislation to lower medicine prices

She used claims that South African prices were out of line with other countries to motivate the formalisation of generic substitution and a controversial proposal to override patent rights in allowing imports of cheaper medicine

The legislation, the Medicines and Related Substances Control Amendment Bill, cleared its final parliamentary hurdle last week when it was approved by the National Council of Provinces

Baqwa said he had appointed a five-person panel of experts to help him in his probe

He said a statement by the Health Department in March this year, which was later reiterated by Zuma, that South Africa was among the five most expensive countries in the world with regard to medicine prices, and needed convincing data as a back-up

The various documents that Zuma had submitted to substantiate the claim had failed to do so, and it was not easy to rate on a point-scoring method the accuracy of the numerous sources and statistics referred to

It was impossible to say that she was either able or unable to back up the statement – *Sapa*

# Fertiliser plant awaits nod

(183) CT(BR) 27/11/97

**RAVIN MAHARAJ**

Richards Bay — Indian Ocean Fertiliser (IOF), the manufacturer of phosphoric acid, sulphuric acid and granular fertilisers, would go ahead with an expansion project of about R600 000 at its existing site in Richards Bay, pending the outcome of an environmental impact assessment (EIA), Don Ireland, the managing director, said yesterday

Once completed, the new facilities would enable the company to increase its net foreign exchange earnings by about R330 million a year, and to expand current sulphuric acid and phosphoric acid production capacity by about 80 percent, Ireland said

The project would create 70 permanent jobs, and an additional 750 part-time jobs during the construction phase Ireland said the number of new jobs was relatively low because the project was aimed at increasing production while keeping fixed costs as close as possible to existing levels

Assuming construction starts early in 1999, Ireland expected to commission the facility towards the end of 2000 The company had yet to arrive at definitive project cost estimates as engineering designs and project financing were still being finalised

IOF exports 70 percent of its products Some new products may be sold locally but the plant would be built primarily for export purposes Richards Bay is well situated for shipping to India, Australia, southeast Asia and South America, Ireland said

The existing plant is the largest phosphoric acid producer in the southern hemisphere, capable of making more than 750 000 tons a year Over 500 000 tons of fertiliser is also produced the possibility of compensation While resources are naturally finite, sentencing could include a compensation order to the convicted criminal "Laws must be victim-friendly," De Lange says Community volunteers to comfort and counsel victims would help humanise the trial experience,

☐ Eliminating night sittings in bail applications — not least on cost grounds — and limiting the availability of dockets to accused persons until they actually come to trial — a measure designed to safeguard witnesses, and

☐ Eliminating abuses in debt collection and maintenance payments. In the latter case, defaulters will find their employers served with what would amount to garnishee orders on their salaries

The new bail law is intended as an integral part of the reform process, but it has been "misconstrued" by some, De Lange says He points to one major intended effect — the prioritisation of 10 serious crimes (murder, rape, armed robbery and so on) in such a way that any judicial officer will have to consider whether a suspect is denied bail, or a convict receives a minimum sentence

**De Lange** *striving to transform the justice system*

It is in bail and sentencing that inconsistencies are most marked within the current justice regime De Lange points out that Omar daily receives pleas to "do something about crime," which is not, strictly speaking, his remit However, by putting 10 "priority" crimes into bail and sentencing law, the judge will be compelled to become aware that a policy — rather than a departmental exhortation — is at work

This does not remove all discretion from the judicial officers But in allowing bail, or deviating from a minimum sentence, the reasons must be there for higher review

**Peter Wilhelm**

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HEALTH MINISTRY & THE PUBLIC PROTECTOR

(83)

# Baqwa wields wet noodle

No censure for Zuma, despite finding she misled the public

FM 28/11/97

**Health Minister** Nkosazana Zuma has little to fear from the Public Protector's report on the truthfulness of her department even though it finds that the department disseminated erroneous, grossly exaggerated and misleading information to support her contentious drug reforms

The report does no more than rap the department's knuckles, while effectively condoning the dissemination of inaccurate information by government as the legitimate exercise of free speech

"This is no surprise since the Public Protector, Selby Baqwa, has a long association with the ANC," says IFP MP Ruth Rabinowitz "It is unfortunate that he has a record of sheltering ANC Ministers from accountability"

In June the Pharmaceutical Manufacturers' Association (PMA) asked Baqwa to prevent parliament from considering the Medicines and Related Substances Amendment Bill until he had investigated the veracity of international drug price comparisons quoted by health officials in support of it After several delays, Baqwa released his findings last week — the day after parliament passed the Bill

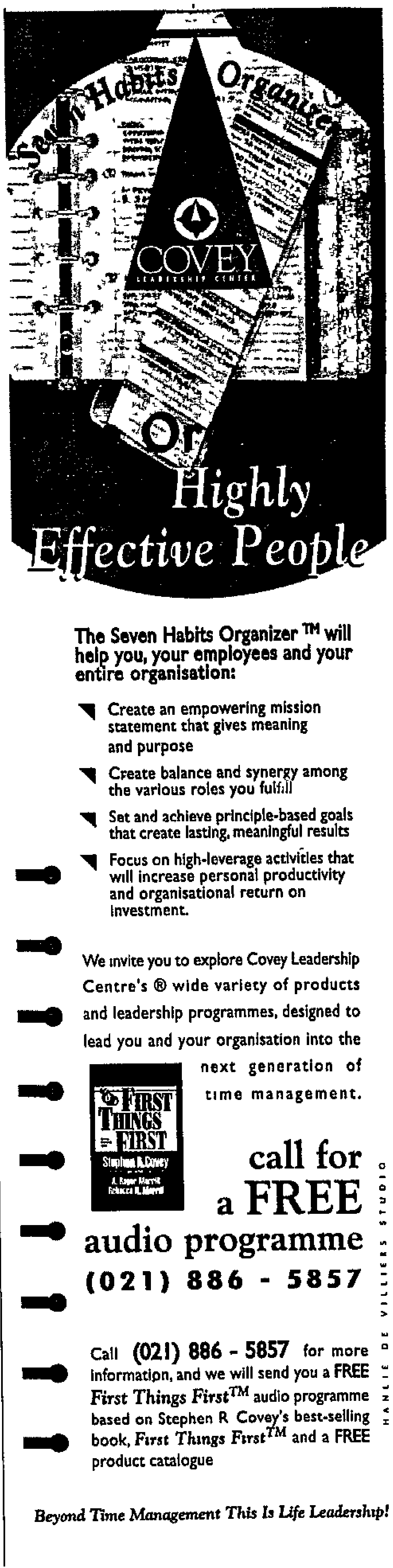
He finds one of the disputed statements was wrongly attributed to the department Of the remainder, though, he finds one is "grossly exaggerated", two are inaccurate, two could be misleading and two are based on inappropriate price comparisons

PMA CEO Mirryena Deeb says she is outraged that the findings were not released in time to inform debate around the Bill The PMA and 30 drug companies are preparing a Constitutional Court challenge to have the Bill set aside

The NP is again calling for Zuma's resignation and appealing to President Nelson Mandela to not sign the legislation It planned to table a motion in parliament this week calling for a debate on the issue

"It is now apparent that the department did not conduct the debate over the Health Bills in a considered or rational way but waged a propaganda war based on deliberate disinformation," says DP MP Mike Ellis "We are now left with flawed legislation based on flawed research"

**Claire Bisseker**



# Oilman is working here illegally

M+G 28/11 – 4/12/97 (183)

**Marion Edmunds**

The principal director in Emanuel Shaw II's fledgling consultancy, International Advisory Services (IAS), is working in South Africa illegally

Home affairs officials confirmed this week, that Ethelbert Cooper, a Liberian businessman linked to a number of Shaw's questionable deals, is not supposed to be working this country

It is not clear how Cooper — who is also an associate of state oil chief Don Mkhwanazi — managed to get into the country, but officials say they will pursue him.

"If Mr Cooper is working in Sandton, he is doing so illegally and should the department be informed of his residential or business addresses the matter will be pursued further," a home affairs representative said.

Cooper was unavailable for comment The *Mail & Guardian* established this week that Mkhwanazi played a crucial role in getting Shaw and his family into South Africa, helping them evade the red tape which entangles less well-connected visitors.

Home affairs effectively naturalised Shaw, his wife and four children in 1996, because the department was persuaded that his skills were invaluable to South Africa. None of the Shaw family need immigration permits to live in South Africa, and can come and go as they please

Shaw s effortless entry into South Africa runs counter to the department's supposed attempts to tighten controls on foreign work seekers and immigrants Applicants must prove themselves to be of exceptional value for their application to be seriously considered.

"The exemptions were granted on 24 June 1996 in the light of representations made regarding the knowledge and experience of Mr Shaw that could be extensively utilised in the RSA," the department says

The representations included one from Mkhwanazi, from Charles Stride, special adviser to Finance Minister Trevor Manuel, and from Neo Moikangoa, executive vice-president for technology and development at the Council for Scientific and Industrial Research.

Stride, himself one of South Africa s highest paid government consultants, says he was asked to write a letter reflecting work Shaw had already undertaken. He says he cannot remember who asked him to write the letter

Shaw's son and fellow Central Energy Fund (CEF) consultant, Emanuel Shaw III, was able to ride into South Africa on his father's ticket. In his application forms of 1996, he was registered as a student, but on arrival in South Africa took up the job at the CEF

Home affairs says Shaw III was a student of finance at the Virginia Polytechnic Institute and State University in the United States. The Shaws also promised to bring R150 000 into South Africa, but a home affairs representative said that the department had not checked whether the money had been deposited.

Home affairs officials say they could reconsider the Shaw family's status, depending on the outcome of the probe into the IAS contract recently ordered by Minister of Minerals and Energy Penuel Maduna.

Maduna, also a friend of Shaw s, was home affairs deputy minister at the time the Liberian was waltzing through the immigration process.

Shaw's experience is not uncommon. *M&G* inquiries to home affairs show the rich, famous and infamous tend to enjoy a smoother ride through South African customs than most.

South Africa is home to a number of renowned international characters, seeking to escape attention in their home countries These include American dentist Robert Hall, controversial Sicilian businessman Vito Palazzolo, Mark Thatcher, son of former British prime minister Baroness Margaret Thatcher, German financier Jurgen Harksen and the late Princess Diana s younger brother (and alleged multiple adulterer) Earl Charles Spencer

**Welcome to sunny South Africa. Rich people like Mark Thatcher (left), Victor Palazzolo (centre) and Jurgen Harksen pass through immigration quite easily, despite sometimes shady associations**

Most come in loaded with cash, which seems to blind home affairs officials rather than raise their suspicions. Officials say that they seldom query the origin of the money, which is presented as a guarantee of an applicant's bona fides

Senior home affairs officials say poorly paid clerks are often bribed — though there is no suggestion that the people named above would stoop to such measures — to ease applications through

Home affairs says Palazzolo obtained South African citizenship through naturalisation in September 1994.

"The department was aware of Mr Palazzolo's history, but was nonetheless prepared to grant him citizenship in view of the fact that the security authorities had no objection in this regard." Officials say the department can reconsider Palazollo's presence in South Africa if "negative information" about him is brought to their attention

The department says it is unable to substantiate any allegations against Thatcher — which they picked up from the local press — when considering his application for permanent residence in 1996 Thatcher brought in more than R1,3-million, describing himself as an "investor"

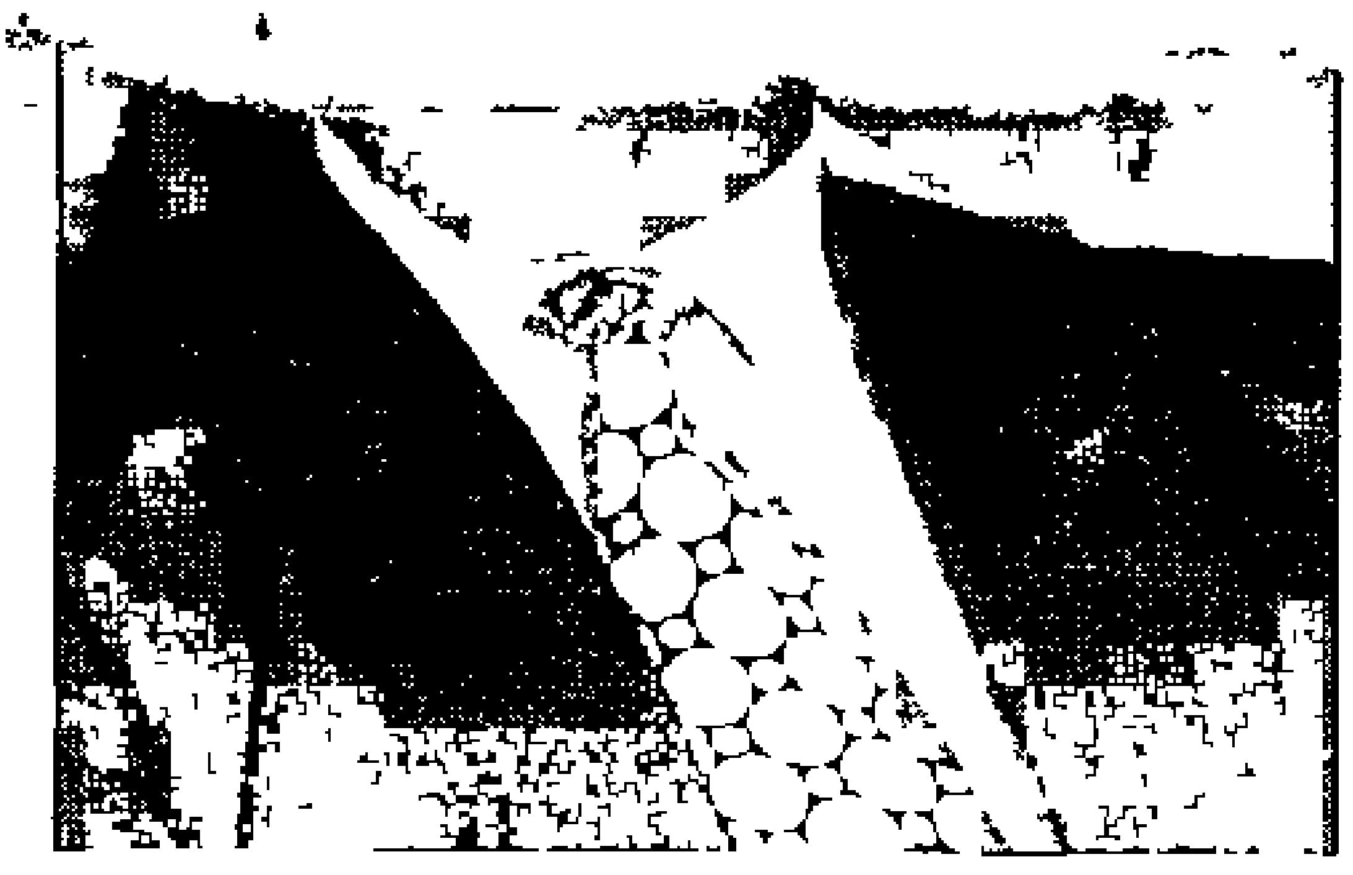
Harksen, whom home affairs now wants to leave the country, came in December 1993 with a seductive R7,8-million Nine months later, it emerged he was being sought on fraud charges in Germany, and the department withdrew his permanent residence permit.

Three years later, Harksen is still in the country, fighting extradition with the best and most expensive legal team South Africa can provide

Charles Spencer is here on a temporary work permit, extended to September 1998 Home affairs originally said that his work permit qualified him to conduct his own business, but now says the aristocrat is a freelance journalist.

"It s a world wide recognised concept that the foreign new media agencies make use of their own nationals for media coverage," the department insists.

Spencer is currently battling with his estranged wife, Victoria Lockwood, over divorce proceedings in the Cape High Court



Penuell Maduna: Shaw apparently claimed to be 'a good channel' to the minister of minerals and energy

[illegible] his death from [illegible] scores in the brutal Cape Flats drug trade But when police looked through his briefcase, they found it contained a number of diplomatic passports in his name — and one belonging to Emanuel Shaw II, by then a trusted associate of some of South Africa's senior politicians

In the weeks before his death, Wolman had all but given up the fight against years of drug addiction He was unwashed, his clothes dirty But drugs together with the lucrative oil trade, were what had made him

Police sources this week confirmed Wolman had been in contact with the "Big Five", Cape

st seen alive on December 16, the [illegible] before his body was found, allegedly getting into a Mercedes belonging to arguably the most notorious Cape drug lord of them all, Neville Herholdt, leader of the Americans gang Herholdt (alias Jackie Lonti or "Jackal") has subsequently been arrested on an unrelated murder charge

Wolman's association with Shaw, who is now at the centre of a major controversy over his appointment as state oil adviser, goes back many years Wolman, son of a prominent Cape Town family, probably made his entry into the world of international oil intrigue after 1978, when he

# Shaw II in $10 000 bribe

(183)

M+G 28/11-4/12/97

**Mungo Soggot**

Penuell Maduna's Liberian adviser, Emanuel Shaw II, took $10 000 from a top European oil trader after saying he could promote the trader's interests with the minister

Maduna knew of the transaction and asked another businessman — and not Shaw — to repay the trader the money Shaw had taken The trader, Fakhry Abdelnour, a prominent Egyptian who heads a Geneva-based oil company, was not reimbursed

Maduna has already admitted seeking unpaid advice from Shaw, who has secured a R3-million-a-year job to steer the restructuring of the state oil company, the Central Energy Fund.

But despite ordering a full investigation into how Shaw got the job, Maduna has refused to distance himself from the Liberian It is now clear that Shaw — who has bragged to many about his access to Maduna and Deputy President Thabo Mbeki — was at times a close confidant of the minister

Shaw returned from Liberia this week and is due to attend the state oil company's *bosberaad* in the Drakensberg this weekend. He failed last week in a bid to gag the *Mail & Guardian* from publishing more information about him, and threatened another high court interdict this Thursday

Abdelnour, the head of African Middle East Petroleum, told the *M&G* this week the transaction with Shaw took place in Abdelnour's suite at the Sandton Sun & Towers Intercontinental Hotel last November He said that during the lunch Shaw told him he was "a good channel" to Maduna

"He bragged about how close he was to the minister," recalled Abdelnour, "and he said he was going to have dinner with Maduna that night. During the lunch he made me understand he needed $10 000 in his account in Florida."

Abdelnour said he called his bank and made the transfer The *M&G* has a copy of the bank deposit slip He said Shaw contacted him again while he was in Moscow a few weeks later and asked if they could repeat the same transaction, only this time he offered to repay Abdelnour in South Africa — which would have been foreign-exchange fraud Abdelnour refused.

Abdelnour, who has co-ordinated a longstanding contract between South Africa's state oil company and the Egyptian National Oil Company, said about a month earlier he had given Shaw the draft of a letter that he suggested Maduna write to his Egyptian counterpart to renew the contract. The two were lunching at the Marco Polo restaurant in Johannesburg

Abdelnour said Shaw had later reported that the minister "wanted to do it his way" In the end, the contract was drastically cut and Abdelnour was excluded from any further deals A month later, at the Sandton Towers lunch, Shaw reminded Abdelnour that he could promote Abdelnour's interests with the minister

Abdelnour said Shaw frequently boasted how close he was to Mbeki The deputy president has dismissed any suggestion of a special relationship with Shaw Abdelnour said Shaw acted in an obsequious manner to the minister in his presence, referring to Maduna as "my minister"

Three sources have confirmed that Maduna — who himself has a reputation for never accepting money — asked another businessman to repay Abdelnour

Maduna was in Windhoek this week and could not be contacted for comment by his special adviser, Thulani Gcabashe

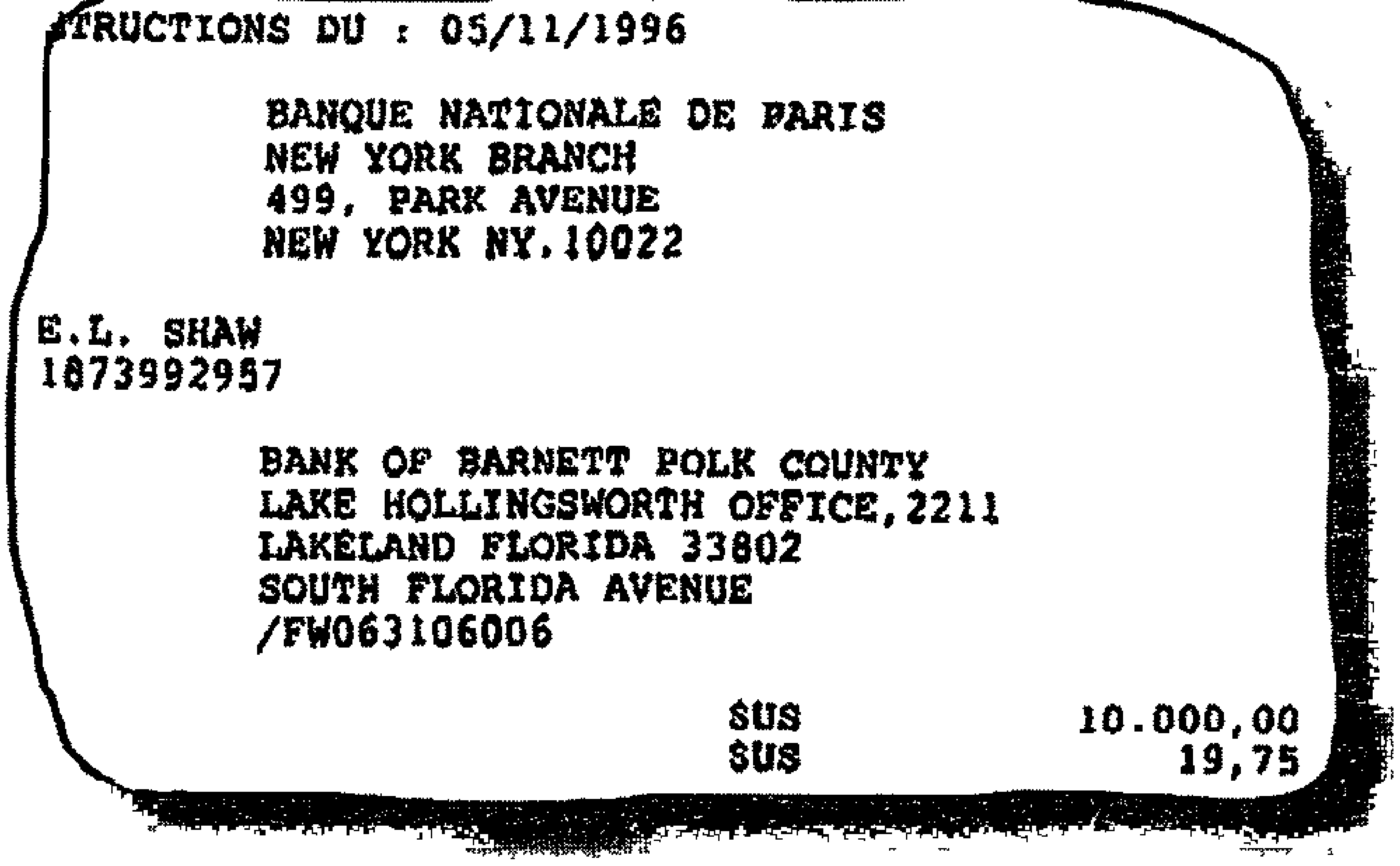
Shaw's version this week was that Abdelnour had wanted to recruit him as a consultant. "It had nothing to do with the minister " Asked why $10 000 had been paid into a US bank account for him, Shaw said. "That was a simple matter of a transfer We never entered into an agreement. I asked him to make a transfer for personal expenses and I would repay him here "

Asked why he never did repay Abdelnour, Shaw continued "No, no, no This was a pay cheque, but when it was decided I would not act on his behalf, I asked him to send me a bill, which he never has In the end I decided not to take up the assignment " Shaw denied approaching Abdelnour again in Moscow

Abdelnour scoffed at Shaw's consultancy story "What would I do with his consultancy? To do what? What are his qualifications? He bragged about his relationship with the minister and then told me of his problem in Florida He didn't give me any chance to say no "

He said Shaw's knowledge of the oil business "is equal to nil At one point I thought I was in Disney One of the schemes he was trying to sell to the minister was to pipeline oil all over Africa "

It is understood that while he was working with the minister last year, Shaw recommended to Maduna he appoint Don Mkhwanazi to head the Central Energy Fund, the former



TRUCTIONS DU : 05/11/1996

BANQUE NATIONALE DE PARIS
NEW YORK BRANCH
499, PARK AVENUE
NEW YORK NY.10022

E.L. SHAW
1873992957

BANK OF BARNETT POLK COUNTY
LAKE HOLLINGSWORTH OFFICE,2211
LAKELAND FLORIDA 33802
SOUTH FLORIDA AVENUE
/FW063106006

| | |
|---|---|
| $US | 10.000,00 |
| $US | 19,75 |

Black and white: A copy of the deposit slip transferring $10 000 into Shaw's account

# bidder for Project 2003

ST(BT) 30/11/97 (183)

CHEMICAL INDUSTRY

**By ZILLA EFRAT**

STATE-owned synfuel refinery Mossgas has dropped out of the race to house and provide ethylene feedstock for Project 2003.

The R7-billion project, spearheaded by Polifin, will involve the construction of an ethylene cracker and downstream plants and will rank among the largest investments made by the SA chemicals industry

"Mossgas has been advised that its option is the least competitive of the three being considered, primarily because of its unfavourable location, restricted port facilities and limited synergy potential," says Polifin CEO Trevor Munday He declined to comment further

However, Mossgas had expected the outcome

Its involvement would have entailed integrating the cracker with its existing infrastructure but the feedstocks used would have been petrol-based, imported rather than indigenous, gas

Still in the running are Sapref (the BP-Shell joint venture refinery) and Sasol, which together with AECI controls Polifin.

Sapref is punting its Durban refinery as a supplier while Sasol is proposing its inland Natref refinery Both have announced they are considering huge expansions of their refineries

Munday says the offers from both are competitive and in the final stages of completion

Certain outstanding details need to be completed, which means Polifin's project team cannot complete its evaluation and comparisons by year-end, as expected

"We need more time . This is a decision for both Polifin and the entire plastics industry and, while speed is important, we have to ensure our recommendation to the Polifin board is thoroughly prepared and properly motivated."

The company which emerges as the project's feedstock provider will secure a supply contract worth between R1 25-billion and R1 5-billion a year.

The main aim of Project 2003 is to counter a looming shortage of ethylene, an essential feedstock for the fast-growing plastics industry. Ethylene is produced by Polifin from feedstocks extracted as a byproduct from Sasol's fuel-from-coal process.

Polifin, SA's sole ethylene producer, churns out 420 000 tons a year, which is insufficient for SA's growing requirements.

The proposed cracker will produce an additional 500 000 tons a year and will be linked to downstream polymer plants making polyethylene, polypropylene, PVC and various aromatic products

# Opec move unlikely to benefit SA

BD 8/12/97 (183)

**Helmo Preuss**

SA CONSUMERS were unlikely to see the full benefit of the recent decline in oil prices following the decision by the Organisation of Petroleum Exporting Countries to raise its production limit 10% last week, analysts said on Friday

Joachim Hartleb, minerals economist at Gencor, said quota cheating by Opec members meant the 10% nominal increase translated into an actual increase closer to 3% "The oil industry had anticipated an Opec quota increase, so a fall in prices was already factored in even before last week's Jakarta meeting There may be a short-term break below $16 a barrel on the Dubai oil price, but this is not sustainable

"I think Dubai will trade between $16 and $19 a barrel during the northern hemisphere winter months," Hartleb said

The Dubai price declined to $16,53 a barrel on Tuesday from a monthly average of $18,18 in November and $19,02 in October and $21,76 in January.

This resulted in a 2,96c/l over-recovery in the retail petrol price last week despite the recent depreciation in the rand If recent trends were sustained, there could be a 3c/l cut in the retail price in January

But industry sources said this was unlikely as there were various players, who "needed" more, despite a 6c/l allocation to non-oil levies in November

"We would love to have more, as our members are being bled dry and every day another retailer ends belly up," said Johann Scholtz, Fuel Retailers' Association director

A recent study by the Potchefstroom University jointly with the association and government estimated that there had been a 4,3c/l under-recovery at retailers' level in the year to February As retailers got only a 2c/l interim increase in November, the latest estimate is that retailers need at least another 3c/l increase to break even

"Nobody undertakes a business just to break even Some of the oil companies have increased their rentals by as much as 12%," Scholtz said Wage negotiations, currently under way, will squeeze margins further "If there is not going to be wholesale blood-letting in this industry, we need that 3c/l and we need it soon," Scholtz said

In November retailers were given 2c/l, wholesalers 2c/l and the Road Accident Fund 2c/l out of the retail price of petrol The total amounts going to these parties as a percentage of the December retail petrol price in Gauteng was 8,9%, 7,1% and 5,5% respectively, while government got 35,7%

Martie Grobler, a Deputy Director at the Central Statistical Services said the decline in the international oil price would be reflected in the producer price index, as that measured oil prices once the oil was in SA, while the consumer price index would reflect change at retail level — I-Net

# Auditors implicate fuel fund official

(187)

BD 8/12/97

Linda Ensor

CAPE TOWN — Numerous irregularities involving suspended Strategic Fuel Fund GM Kobus van Zyl, and a company headed by an Egyptian businessman, have been alleged in an auditors' report submitted to the fuel fund's board of directors

Auditors Nkonki Sixwe Ntsaluba investigated an Egyptian crude oil contract which led to Van Zyl's suspension earlier this year They found irregularities involving him and Interstate, a company run by Egyptian businessman Fakhry Abdelnour, now residing in Geneva, Central Energy Fund chairman Don Mkhwanazi said at the weekend The Strategic Fuel Fund is a subsidiary of the Central Energy Fund

Abdelnour, who heads the Swiss company, African Middle East Petroleum, has accused Mkhwanazi's adviser, Emanuel Shaw II, of setting up a $10 000 bribe to promote his interests with Mineral and Energy Minister Penuell Maduna He later allegedly attempted to solicit another $10 000 bribe from Abdelnour

Abdelnour told the Mail & Guardian last week that Maduna knew about the bribe Maduna denied this and accused Abdelnour of acting out of bitterness because he was cut out of a contract last year

Mkhwanazi said the disciplinary inquiry into Van Zyl's actions — scheduled for November — had to be delayed until next year because Van Zyl could not attend the hearing before the end of this month for medical reasons

Van Zyl was suspended following the discovery during a preliminary audit that hundreds of millions of rands, linked to two 1992 oil contracts between SA and Egypt, had disappeared

In the first contract, SA ordered crude from Egyptian state company EGPC for 250 000 tons a year over three years. SA apparently paid 15c a barrel more than the ruling price The second contract was with US company Amoco, which dealt in Egyptian oil SA apparently overpaid 6c a barrel for up to a million tons

According to previous reports, Thulani Gcabashe, the adviser to Mineral and Energy Minister Penuell Maduna, said the extra funds did not make its way to EGPC or to Amoco It was unclear where the money went

Until 1993, the fuel fund-bought crudeon behalf of SA oil companies to circumvent a UN oil embargo

Gcabashe said the auditor-general's office would have to explain why no irregularities were found in the Central Energy Fund's accounts in previous audits

# Sasol to build a rare gases plant in Secunda

CT(BR) 8/12/97

(183)

**SHERILEE BRIDGE**

Johannesburg — Sasol, South Africa's fuel-from-coal producer, said last week it would go ahead with its plans to establish a R30 million krypton and xenon extraction plant at Secunda and was taking steps to commercialise the production of beta-carotene for the global market

The announcements reflect Sasol's strategy to reinforce its competitive advantage through a co-ordinated and focused programme of globalising operations further

Construction of the krypton and xenon plant at Sasol Synthetic Fuels, to open in mid-1999, will boost Sasol's production of the gases by 4,9 million litres of krypton and 1,3 million litres of xenon a year

The new plant brings Sasol's total marketable production to 9,5 million litres of krypton and 2,5 million litres of xenon a year.

Alfonso Niemand, the communications manager at Sasol, said that almost the entire production would be exported

The world market for krypton is estimated at 40 million litres a year, with xenon at 6 million litres a year Worldwide demand for these rare gases is increasing, with both being used in light bulbs, double-glazed windows and high-precision lasers

Niemand said there was a growing demand for xenon in particular, which was finding wider uses in healthcare and electronics

Air Liquide, the French gas company, has been awarded the design, construction and commissioning contract for the extraction unit as well as an exclusive contract for the marketing of these rare gases.

Niemand said Sasol was considering the commercial production of beta-carotene, following the successful running of a pilot plant at Sasol Technology in Upington

Beta-carotene is a naturally occurring antioxidant that is used in vitamin supplements and health foods

# IDC prompts ADE to unbundle

**SHERILEE BRIDGE**

Johannesburg — Atlantis Diesel Engines (ADE), the Cape-based diesel engine manufacturer, planned to unbundle into five business units after an Industrial Development Corporation (IDC) announcement that it would reduce its holding in a number of its subsidiaries, ADE said yesterday

The restructuring is expected to attract third-party investors, including black investors

ADE, which has held a diesel engine monopoly in South Africa, is also positioning itself for the advent of increased international competition brought about by the government's Motor Industry Development Programme, which lifts protective tariffs on diesel engines

This move, combined with growing truck imports, was expected to reduce engine assembly from 8 680 units to 5 818 next year

The company has, however, reported an increase in export earnings

CT(BR) 8/12/97

**TRADE** *A good year means more products, bigger market share*

# Lever Ponds builds on success

(183) CT(BR) 8/12/97

**RAVIN MAHARAJ**

Durban — Lever Pond's success this year would enable further big investments in new products next year, Clive Butler, Unilever's director of home and personal care, said last week

Lever Ponds, with a R2,5 billion turnover, is the South African home and personal care subsidiary of the international company Unilever In South Africa, the company employs about 2 000 people It is a market leader in 10 of the 13 product categories in which it is present

Butler said this year's investment in new products would increase market share in laundry, dishwashing, sanitary and toilet soaps and cleaners, and in hair, dental and skin products This was supported by a 23 percent increase in advertising investment.

Lever Ponds also introduced innovations in many of its products, including Omo, Surf, Sunlight, Handy Andy, Domestos, Lifebuoy, Lux, Ponds, Organics, Timotei, Dimension, Vaseline, Impulse, Shield and Mentadent.

Butler said the South African consumer base was likely to change "enormously" over the next few years "Therefore Unilever ... will have to plot out the future carefully"

Unilever said in its annual report that South Africa had had a good year last year despite the devaluation of the rand. The company's exports increased by 23 percent in 1996-97, and Unilever recently reported a 27 percent increase in net profits for the third quarter

Butler said Unilever had ploughed back over R1 billion in world-class manufacturing facilities since 1990, including a R50 million personal products factory in Durban this year

He said emerging markets were at the forefront of the company's growth, but market turbulence in southeast Asia and Latin America was temporarily slowing growth

"But in a few years we expect growth in emerging markets to account for between 45 to 50 percent of our business"

**MARKET MAKER** *Clive Butler, Unilever's director of home and personal care, gives the South African consumer a glimpse of product innovations for the new year* PHOTO BARRY TUCK

# Sentrachem's last JSE results show a R235m loss

CT (POR) 10/12/97 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg—Sentrachem, the chemicals group about to be delisted from the JSE in the wake of a successful takeover bid by US-based Dow Chemicals, yesterday reported a R235 million loss for the year to August 31

In a brief statement released yesterday, which contained only a summary of the group's results, the company said sales had increased by R100 million to R4,9 billion, but the group's operating profit had fallen to R364 million from R433 million in the previous year.

The group reported a full-year attributable loss of R235 million from an attributable profit of R249 million the previous year

At the half-year, when Sentrachem also reported substantial losses, the group said it expected to break even over the full year

"The performance of the company in the second half did not achieve expectations, due mainly to the rapid downturn in economic activity in South Africa towards the end of the second quarter and early in the third quarter," the statement said

Although the group did not provide a full income statement or reconciliation between headline and attributable earnings, it said exceptional items of R376 million were accounted for

At an operating level, the group reported headline earnings before exceptional items of 46c a share

The group said Safripol, a 50 percent-held joint venture with Hoechst South Africa, had posted record operating profit that was 46 percent higher than the previous year

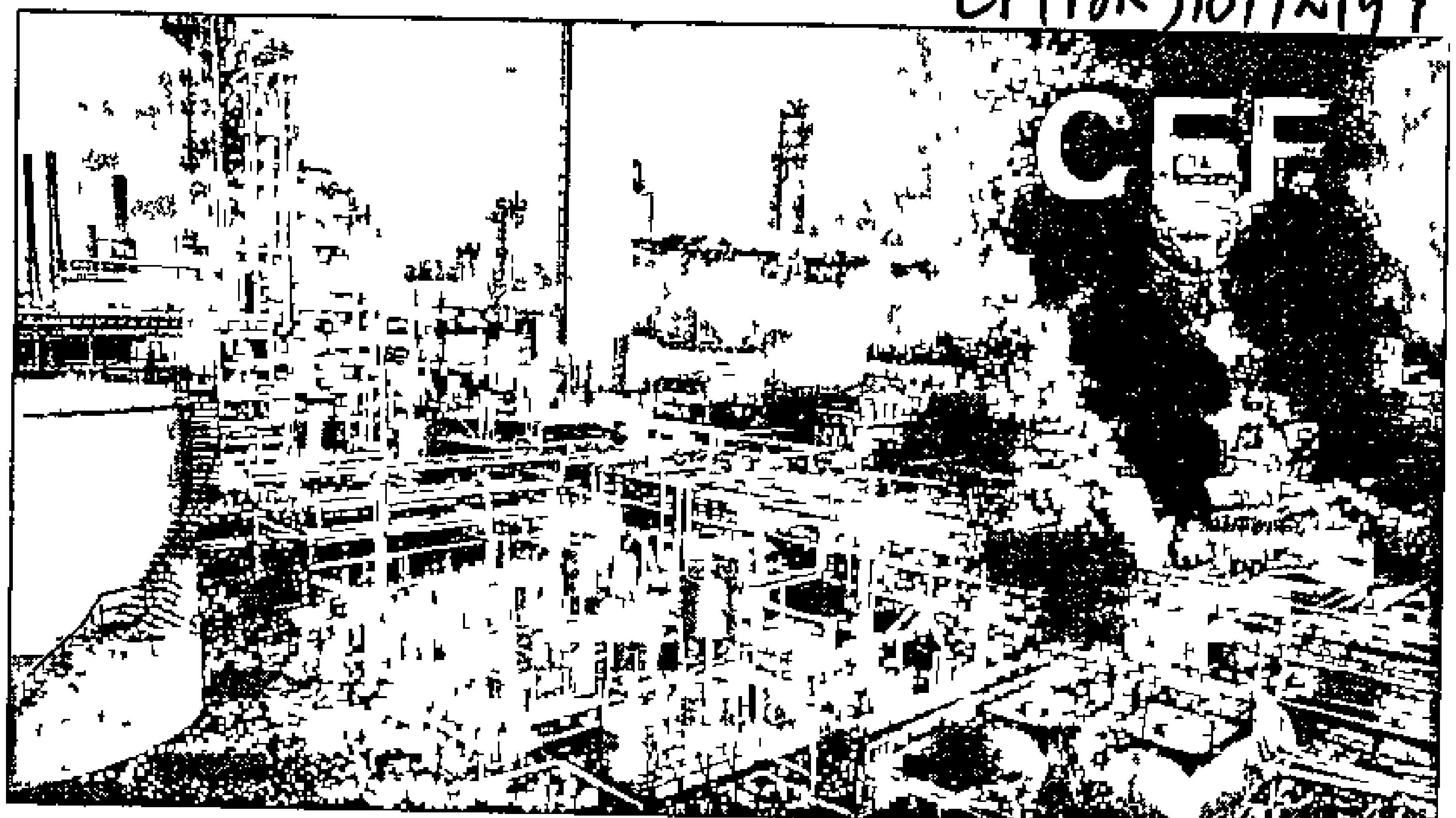
Borrowings during the year were reduced by R181 million, and $85 million worth of convertible preference shares were restated as interest-bearing debt because the shares would no longer be redeemable through an issue of Sentrachem shares

CENTRAL ENERGY FUND

# Past mysteries, present shenanigans

ET (MR) 10/12/97 (183)

**Jonathan Rosenthal**



Step into the tastelessly decorated offices of the Central Energy Fund (CEF) on the first floor of a small building in Sandton, and there is nothing to indicate that this was the nerve centre of a shadow trading empire oiling the wheels of apartheid

There are no autographed photographs of the Shah of Iran or gift scimitars from his successor, the Ayatollah Khomeini, South Africa's two great oil suppliers throughout the embargo years

There is not even a bouquet of plastic roses with a thank you note from Marino Chiavelli, South Africa's now-deceased oil baron, who, according to the Shipping Research Bureau, earned $7,5 million a month for brokering a secret deal to import oil from Saudi Arabia in 19-0

The Dutch-based organisation, which tracked oil flows to South Africa, went so far as to claim that none of the income was ever declared or brought into South Africa

Almost any premium was worth paying, and in the aftermath of the fall of the Shah, when it was uncertain what the attitude of the new Iranian government would be towards South Africa, almost any risk was worth taking to keep the oil flowing

In the 1979 Salem oil scam, a ship picked up $56,5 million worth of Shell's oil The ship, on being renamed, was then sent to South Africa where it unloaded and sold the oil to the Strategic Fuel Fund (SFF), the CEF's oil trading and stockpile subsidiary The ship was latter scuttled off the coast of Senegal, but its secrets did not sink with it and the SFF ended up having to compensate Shell for its loss

Traders at SFF are believed to have been equally happy in the arms trade as the oil trade.

A US federal indictment against Armscor and Fuchs, which charged these companies with exporting US weapons to Iraq, alleged that South Africa was to be paid for weapons in crude oil, a deal that could have threatened the embargo-busting supply of Iranian crude to South Africa during the Iran-Iraq Gulf War

Oil traders, working for several of the multinational oil companies in South Africa, claim that most of the deals involved middlemen of some description and that premiums and commissions were routine.

Perhaps the most famous of the middlemen was Marc Rich, the owner of a Swiss-based oil trading company, who is believed to have become South Africa's largest oil supplier

With millions of rands changing hands each day, in a market characterised by oil price fluctuations throughout the day, a couple of cents on a barrel could easily go missing, claim some traders

When the oil embargo was lifted in 1993 and oil companies could legally import oil into South Africa, the SFF and all its minions found themselves without job security Yet the move into the world economy has still left in place a range of vested interests, and almost none of them are willing to give up their source of easy money

When Penuell Maduna took over the mineral and energy ministry, he is reliably believed to have been approached and offered a substantial amount of cash if he didn't rock the boat He is also reliably believed to have refused the offer and launched a series of investigations

The source claims the investigations were hampered by the mysterious disappearance of computers, packed with information, just before Maduna took office

Within months Maduna had brought in outside investigators and suspended the general manager of the CEF on the basis of a preliminary auditor's report, cancelled the payment of commissions on a large Egyptian oil contract and accused the auditor general of having covered up missing millions in the SFF

Seemingly, his investigations have floundered on a lack of evidence pointing to either the culpability of Kobus van Zyl, the general manager of the CEF, who was suspended on the suspicion of having been party to alleged overpayments on an Egyptian oil contract, or where the allegedly missing millions have gone

But while Maduna's office claims to have a strong case against Van Zyl, it has so far failed to press any internal disciplinary charges against him

That there is something fishy in the state of the CEF is almost without question Yet when Maduna is presented with his first hard proof of irregularities in the award of a R3 million consultancy contract to Emmanuel Shaw, he does nothing

Shaw, a former Liberian finance minister, was appointed by Don Mkhwanazi, the chairman of the CEF, without a tender process He has reportedly been associated with fraudulent insurance claims in Liberia and said to have solicited bribes from Fakhry Abdelnour, a Geneva based oil trader under investigation by Maduna's ministry in connection with the Egyptian contracts

That Abdelnour, who oil industry insiders characterise as extremely well connected and successful, would tell the Mail & Guardian that he had paid $10 000 to Shaw, is unusual in an industry characterised by secrecy. But, say insiders, it indicates that Shaw has lost credibility with the industry to have warranted such censure from a fellow trader

As the revelations of Shaw's activities mount, the links between the mysteries of the past and the shenanigans of the present deepen

The time for a full, public and independent inquiry is nigh Anything less will leave the CEF paralysed by the ghosts of the past and Maduna immobilised and defensive in the face of increasing public and union outrage

# Fund to streamline Cape operations

(183 ~~56~~)

**Linda Ensor**

BD 11/12/97

CAPE TOWN — The Strategic Fuel Fund planned to commercialise its storage facilities at the Milnerton tank farm and was investigating storing and trading in white fuel products like petrol, diesel and niche market crude oils.

Fund GM Piet Coetzee said yesterday that for the project to be viable, a R350m dedicated ship loading and offloading facility would be required to accommodate tankers of up to 150 000 tons because the existing berthing facilities were too small.

The fund proposed to establish a single point mooring facility in Table Bay as part of the project, which was expected to generate a "normal commercial return on investment"

He said the R350m would be funded as part of the overall funding required for the restructuring of the Central Energy Fund group, of which the Strategic Fuel Fund is a part.

Imported crude oil and white fuel products would be off loaded from tankers anchored at the facility and transferred by an existing pipeline to the Milnerton tank farm from where it would be distributed to retailers.

The 39 tanks at the facility — with a total capacity of 7,8-million barrels — were used in the past to store strategic crude oil, but as government began to reduce its strategic oil reserves the tank farm has been systematically emptied. Already some tanks had been rented out to third parties.

"The under utilisation of the Milnerton facility presents an opportunity in terms of commercialisation options for the fund," a document on the proposal said "It will provide the opportunity for emerging companies to compete in the existing fuel market sector, and could have positive economic benefits for Cape Town and the Western Cape as a whole " The document on the proposed project was compiled by consultants Crowther, Campbell and Associates, commissioned, together with the CSIR, to undertake an environmental impact assessment Presently there was virtually no excess crude oil refining capacity available in SA

# Greens query oil terminal plan

## *Site off Robben Island wanted for tanker facility*

ARG 11/12/97 (183)

**JOSEPH ARANES**
Staff Reporter

**Plans for a mooring facility for oil tankers off Robben Island and an underwater pipeline in Table Bay linking the site to the Milnerton tank farm have been received cautiously by environmental organisations**

The Strategic Fuel Fund, a subsidiary of the Government's Central Energy Fund, proposes commercialising its fuel storage facilities at the tank farm and using its full capacity

As part of the project, a ship-loading and discharge facility in Table Bay is proposed where fuel products are discharged from tankers and transferred by pipeline to the tank farm

Lynn Jackson of the the Sea Fisheries Research Institute said although a single point mooring facility tended generally to create a safer environment for the transfer of fuels, the proposals needed to be looked at against broader developments taking place on the coast.

A similar project was mooted for Saldanha Bay harbour and it seemed as if the authorities were looking at these initiatives individually

"While it is agreed that single-point mooring facilities tend to be generally safe for the environment and there are less risks involved than with some other options, my concern is that we need to approach the situation in a holistic manner "

Peter Willis of the Environmental Monitoring Group said he did not wish to comment on the proposal as he was not aware of its full implications

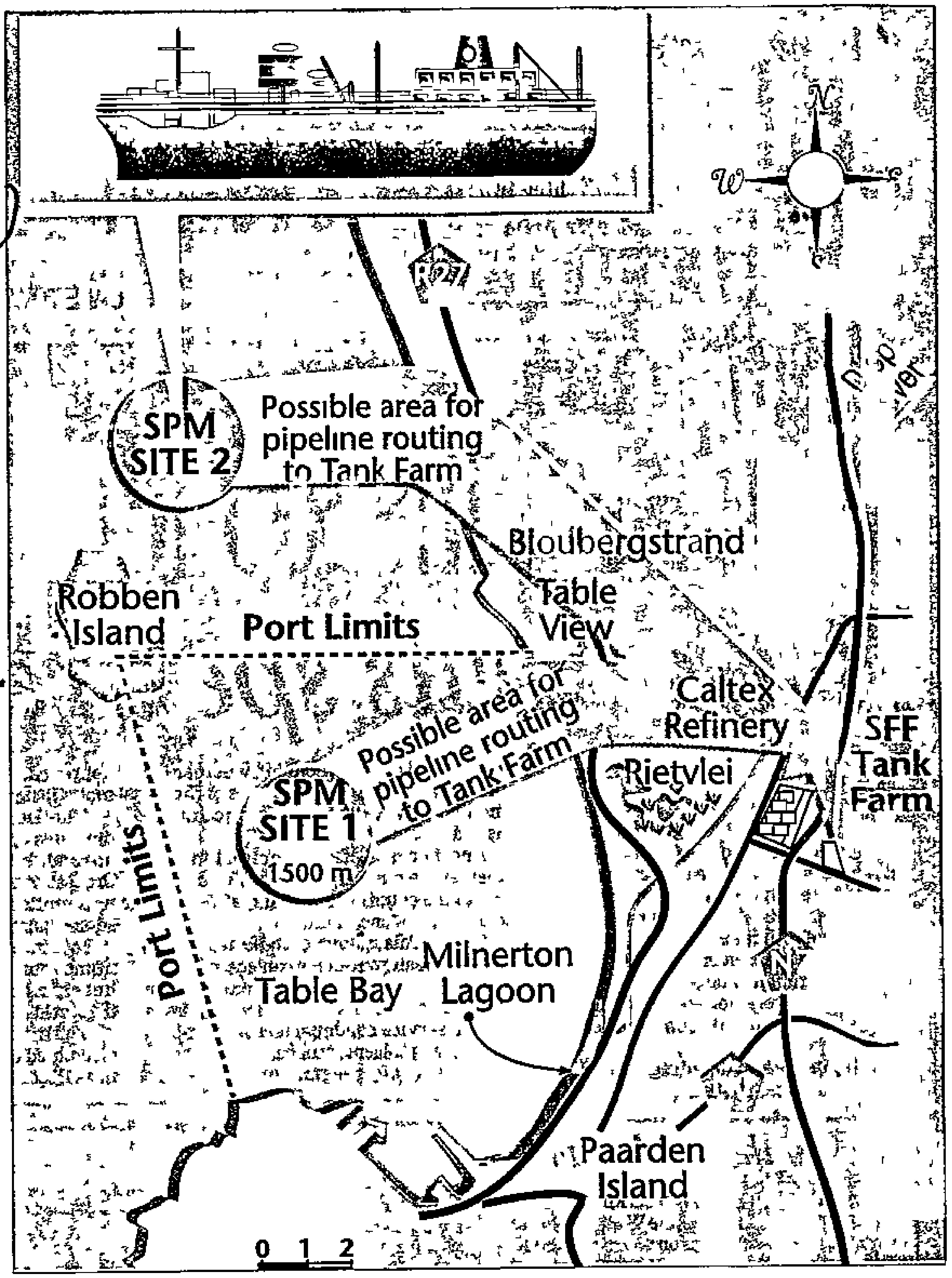
"But it is important that people are made aware of what is being planned.

"I don't know enough about oil handling and the accompanying technologies but what is being proposed will add to the risk factor for the management of Table Bay " Mr Willis said.

A consultant for the fuel fund, Jonathan Crowther, said an environmental impact study would be done by the Council for Scientific and Industrial Research to assess the project.

"The fuel fund is investigating various opportunities for the storage of white fuels – diesel, petrol and niche market crude oils – utilising the available storage capacity provided by the tank farm We believe the project, if approved, will have positive economic benefits for the Western Cape, which will be achieved through the wholesale supply of products to retail outlets."

In terms of the proposal a single point mooring facility, at least 3km in length, will be built a few nautical miles north or south of Robben Island.



# People with 'core competencies' sought for drug body

(183) BD 12/12/97

**Josey Ballenger**

CERTAIN members of the Medicines Control Council (MCC) would be replaced by next May with individuals who represented an updated list of "core competencies", Health Minister Nkosazana Zuma announced yesterday

Zuma said regulations to be promulgated next year would change the base of experts outlined in old legislation— for example, they may add a lawyer and toxicologist — and replace those members who had served on the drug regulatory body for more than 10 years

Such regulations would lead to the replacement of council chairman Prof Peter Folbs and several other members who have served for longer than a decade

Zuma said her department was discussing the regulations, to be promulgated with regard to parallel drug importation and which had been the subject of heated public debate, with leading pharmaceutical companies She said she was "quite confident" they would be satisfactory

The Medicines and Related Substances Control Amendment Bill was "not a patent-busting law, but it will allow us to meet our objectives (of providing cheap medicine) We are not fighting industry; we need them." She said the department was also working on regulations regarding the ownership of pharmacies under the Pharmacy Amendment Bill, which was also approved by Parliament last month

Regarding the unapproved anti-AIDS drug Virodene — which the MCC agreed last week to evaluate for a fourth time with new clinical trials — Zuma said she held the "same position as earlier this year", which was "to support every research effort that may give us a glimmer of hope in terms of AIDS At the moment, no one knows if (Virodene) works."

Zuma reiterated earlier reports that she supported "compassionate" use of unapproved drugs, but emphasised that neither she nor the MCC had exercised available legal options in allowing even controlled dispensing of the drug

"I did not support illegal use," she said in reference to recent allegations of illegal Virodene use

She said were compassionate use to be invoked, it would involve controlled, named-patient conditions "It does not mean the wholesale use" of a drug

On the subject of AIDS, Zuma believed the fatal immune deficiency disease should be a notifiable condition to sexual partners and families, as well as to government In the case of government, notification would be anonymous, as it was with abortions, maternity-related deaths and other notifiable conditions

Zuma said Deputy President Thabo Mbeki would head a "mass mobilisation" programme of action to fight AIDS, which would report to cabinet. The programme would aim to demystify and thus destigmatise the disease, and would target children, women, and people who engaged in risky sexual behaviour, such as migrant workers, politicians, pilots, the military, businesspeople and truck drivers.

At the same time, government had to deal with discrimination, or "secrecy and stigmatisation" would persist

Zuma said the department would introduce legislation in Parliament's next session on medical aid schemes, national health insurance, public health system and tobacco Regarding tobacco, Zuma said government would target education towards youths and women, as few smokers started after the age of 20, and the tobacco industry was now aiming to entice women, who have historically smoked less than men, as customers

In addition, she said that the legislation would likely bar tobacco companies from sponsoring sports events, and would recognise that "nonsmokers have rights", which might mean banning smoking in public areas

Health Minister Nkosazana Zuma addresses reporters on health policies and programmes at a news conference in Johannesburg yesterday Picture TYRONE ARTHUR

# Safripol's future still to be decided

(183) CT(BR) 12/12/97

**Jonathan Rosenthal**

Johannesburg — Hoechst South Africa, the JSE-listed chemicals group, said yesterday it had not yet met Dow Chemical to discuss the future of Safripol, a joint venture polypropylene manufacturing plant at Sasolburg

Safripol is owned jointly by Hoechst and Sentrachem, which was acquired by Dow earlier this month The 90 000-tons-a-year plant is one of the leading profit-drivers in Hoechst and posted record earnings, 46 percent up on the previous year's, to the end of Sentrachem's financial year on August 31

Market sources have raised questions over the willingness of both parties, generally competitors in most other markets, to remain in bed together Dow, a US-based company, is a fairly recent entrant to the polypropylene market while Hoechst's German holding company is established in the European market

Hoechst said this week that it would enter talks with Dow and would approach these with an open mind It said the plastics industry was going through a phase of consolidation and mergers as leading producers attempted to gain critical mass in an increasingly competitive market

Standing in favour of a continued partnership is the fact that Safripol and Dow's other polypropylene plants use common catalyst technologies

Polypropylene is a plastic feedstock which is used in the manufacture of a range of products, including carpets, dairy containers, automotive parts and pipes

Earlier this year Safripol opened a new R235 million addition to the plant Demand for the plastic raw materials produced by the plant is estimated to have grown at 11 percent a year for the past seven years Hoechst said it forecast growth of 6 percent to 7 percent a year until 2000

Safripol has said it will invest a further R20 million to expand its high density polyethylene plant The expansion will raise capacity by 20 000 tons a year to 180 000 tons a year

High-density polyethylene is used primarily for the manufacture of packaging, film, pipes, crates and bottles

# New order follows the bad old ways

*Don Mkhwanazi continues the Central Energy Fund's tradition of non-accountability,* *writes* **Mungo Soggot**

(183)

M+G 12-18/12/97

A celebration of non-accountability: Penuell Maduna, Emanuel Shaw II and Don Mkhwanazi

The Central Energy Fund's handling of Emanuel Shaw II's appointment to a lucrative state job signals disturbing levels of cronyism in this key state institution.

The chair of the fund, Don Mkhwanazi, vouched for Shaw in the Liberian politician's application for permanent residence, his Durban law firm set up Shaw's company, and then he gave Shaw the lucrative state post without advertising it.

Mkhwanazi has escaped unpunished, having been cleared by the state oil company's board. The board last week ignored calls for Mkhwanazi's head from the Chemical Workers' Industrial Union and the deputy director general of the Department of Minerals and Energy Affairs, Gordon Sibiya. Instead, it passed the buck to the oil company's acting general manager, Howard Roberts.

It was Roberts who signed the extraordinary contract giving Shaw and his son, Emanuel Shaw III, jobs worth at least R3-million a year The seven-month-old board seemed uninterested in the fact that it was Mkhwanazi who nominated the unknown company named in the contract, International Advisory Services.

As Mkhwanazi is only a non-executive chair, he could not sign the contract, which is the only reason Roberts had anything to do with it. Roberts said this week that as Shaw had been appointed to the chair's office, it was the chair's responsibility to check all procedures were correctly followed

"If it was my appointment, I would make sure the proper procedures are followed. But it is an appointment to the chair's office. It is his prerogative," Roberts said.

Mkhwanazi is, in any case, the company's chief accounting officer, so is entirely responsible for Shaw's appointment.

For now Roberts is in the clear But he is presumably being lined up as a potential scapegoat if the commission of inquiry into Shaw's appointment — set up by Minerals and Energy Minister Penuell Maduna — finds against the fund.

All the board has done is to ask Roberts to investigate whether Shaw's other advisory job with Engen creates a conflict of interest. Maduna himself has already told SABC television that the two jobs do create such a conflict.

That much is obvious Shaw will be advising on privatisation and Engen is a private company Furthermore, Engen's profits are determined by the regulated fuel price, which is of course managed by the fund.

Even if these two jobs did not pose a conflict, Shaw has shown bad faith to the fund by not alerting it to his other job at Engen when he signed up Mkhwanazi had to be informed of Shaw's Engen job by the press, just as Engen had to read about Shaw's state job

**Mkhwanazi's reckless use of public money means he has committed sins very similar to those for which Van Zyl was suspended**

The board is clearly unperturbed by Shaw's extraordinary past as a confidant of former Liberian dictator Samuel Doe Nor does it seem interested in the fact that Shaw is now also performing three separate jobs for Liberia's present leader, Charles Taylor

Shaw's appointment bodes badly for the fund's ability to break from its legacy of unaccountability

For the board's sloppy performance and its exoneration of Mkhwanazi suggest, once again, that Central Energy Fund is an unaccountable, irresponsible state operation. The new board and its chair have, therefore, succeeded in reinforcing the fund's reputation for unaccountability cultivated by "total onslaught" boffins during its sanctions-busting heyday

Maduna has to take some of the blame for this He has ignored — since October 19 — a memo from his special adviser Thulani Gcabashe, that suggested he suspend the fund's board and rescind Shaw's contract.

Maduna had to wait until Shaw's extraordinary appointment was exposed in the press before ordering his acting director general to initiate an internal inquiry The minister has also given no indication that Mkhwanazi's job is on the line

All of which could not have come at a less opportune time Maduna, and more recently Mkhwanazi himself, have publicly accused the fund's former management of spending vast sums of taxpayers' money without proper authorisation. And they have implicitly accused the fund's suspended general manager, Kobus van Zyl, of much worse

Mkhwanazi's reckless use of public money means he has committed sins similar to those for which Van Zyl was suspended.

Van Zyl was initially suspended for alleged irregularities in contracts to buy oil from Egypt, which included payments to a middleman company called Interstate, run by a prominent Egyptian, Fakhry Abdelnour (Abdelnour showed extraordinary candour by telling the *Mail & Guardian* how Shaw extorted $10 000 from him after promising to promote his interests to the minister )

Maduna has publicly questioned why Van Zyl thought it necessary to pay commissions for the Egyptian oil — standard practice in the industry Where Van Zyl may face a problem is that the payments to Abdelnour were not made in terms of a contract.

In any case, the minister's investigators clearly did not believe the Egyptian contracts were enough to hang van Zyl, and so trawled through the rest of the fund's books in search of more shenanigans.

Whether Van Zyl is cleared at his hearing is irrelevant as far as the fund is concerned. There is little chance he will return after his humiliating treatment. Mkhwanazi and his board are likely to escape the scandal unscathed. The fund's problem is that unlike Van Zyl, and the other experienced staff who are now quitting, Mkhwanazi has no experience of the South African oil industry

The taxpayer, meanwhile, is still paying Samuel Doe's former right-hand man a massive salary to steer the fund into the 21st century

# Don wants R1,2-million

MG 12-18/12/97 (183)

**Mungo Soggot**

The man at the centre of the state oil scandal, Don Mkhwanazi, has asked the government to more than triple his salary to R1,2-million a year

Mkhwanazi, who works part-time at the Central Energy Fund as its non-executive chairman, recently sent a written proposal for an increase to the Department of Minerals and Energy

If he is awarded the increase Mkhwanazi will be one of South Africa's highest paid civil servants, setting an extraordinary precedent for other government officials and parastatal heads

The deputy director general of the department, Dr Gordon Sibiya, declined to comment.

It is understood that some officials in the department and the minerals and energy ministry are unimpressed with Mkhwanazi's proposal, but have yet to decide whether to accept it.

Earlier this year Mkhwanazi asked the department to include a luxury 4x4 car in his package, but was persuaded to withdraw his request.

Mkhwanazi became the fund's executive chairman in March, when he took over from Roy Pithey Pithey, who has retired, was paid R337 000 and received neither a car nor pension fund. Pithey had no other jobs and worked full time at the fund.

Mkhwanazi has been less focused on his state job, spending much of his time at his Durban office, where he runs the National Empowerment Trust. He also sits on numerous boards, including that of the Industrial Development Corporation.

His main contribution to the CEF has been to appoint Emanuel Shaw II and Emanuel Shaw III to advise him on the restructuring and privatisation of the fund's assets — an appointment which is now the subject of an inquiry by the Minerals and Energy Department.

Shaw II and III are being paid R2,4-million a year in installments paid quarterly in advance — in addition to a $1 000 a day allowance for work done outside the country, and R2 500 a day for work done outside Johannesburg They also have access to a R50 000 expense account.

Since the scandal surrounding their appointment broke at the beginning of last month, Shaw has spent several weeks out of the country

He accompanied Liberian leader Charles Taylor on a trip to Taipei and then spent some time in Monrovia, from where he launched an unsuccessful bid to interdict the *Mail & Guardian* and helped Mkhwanazi compose an advertisement to hit back at the allegations against them.

Shaw is "ambassador extraordinaire" to Liberia, economic adviser to Taylor, and was recently appointed chairman of a presidential commission into Liberia's banking sector Taylor is understood to have announced recently that the Bank of Liberia had only $17 000 left in the kitty Mkhwanazi's representative said later Mkhwanazi denied all knowledge of the proposal.

Meanwhile, Allcot Daventer, the second most senior financial man at the fund, resigned this week — following his boss, Sarel Cilliers, who stepped down last week in the wake of the Shaw scandal.

**Another fund, another Liberian, PAGE 6**
**New order follows the bad old ways, PAGE 33**

**The Don: Mkhwanazi values his services very highly. PHOTO: SIDDIQUE DAVIDS**

FM 12/12/97

CENTRAL ENERGY FUND SCANDAL

# Pressure still on Mkhwanazi

(183)

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## Questions remain why CEF hired shady oil consultant

**Mineral &** Energy Affairs deputy director-general Gordon Sibiya is maintaining his terrier-like criticism of his former boss, Central Energy Fund (CEF) chairman Don Mkhwanazi, for the awarding of a R5m contract to shady Liberian businessman Emmanuel Shaw without board approval

Sibiya resigned in disgust from the CEF board over the issue last week The board subsequently decided that CEF GM Howard Roberts and his management team — not Mkhwanazi — were responsible for giving Shaw the contract The board maintained that the CEF had previously awarded such contracts without board approval

But Sibiya says Mkhwanazi is not off the hook "The board decision means absolutely nothing It is inconsequential What will matter is the decision of the panel appointed by Mineral & Energy Affairs Minister Penuell Maduna" The panel will make a decision after a meeting on December 17

"The previous contracts, awarded without board approval, happened before the current board took over in March," Sibiya insists "If mistakes were made during apartheid days, or under Pik Botha (the previous Minister), it does not mean that we should repeat them"

Sibiya appears to have high-level support in the department, even if it is less strident "Roberts merely carried out instructions from Mkhwanazi," says Maduna's adviser Thulani Gcabashe "Ask Roberts if he knew anything about Shaw and what made him choose him as a preferred supplier"

CEF board member Khaya Ngqula is said to also support Sibiya's stand and to have strongly berated the board for absolving Mkhwanazi The energy fund boss has been widely criticised for maintaining business and social relationships with Shaw, who has been involved for years in questionable oil deals and shady activities in West Africa

Over the past month, Sibiya has led what appeared at times to be a one-man crusade against Mkhwanazi, but Maduna has remained strangely silent on the matter His adviser, Gcabashe, prefers not to be quoted, though he blew the whistle on Mkhwanazi

The decision to award the contract was "unprocedural", Sibiya says "Mkhwanazi had no powers to award a contract (relating to the restructuring of State assets) without consulting the board or the Minister

"The restructuring of State assets is a serious matter that involves all stakeholders The information we have is that Mkhwanazi instructed Roberts to award the contract to Shaw Roberts wrote a letter saying that he had been instructed to award the contract"

However, CEF board member Seth Phalatse says Mkhwanazi merely recommended Shaw's company, International Advisory Services (IAS), to Roberts In a letter, Mkhwanazi asked Roberts to investigate IAS's capabilities

CEF management chose Shaw because he had worked for the company when Botha was Minister "They chose him because he understood the business," Phalatse says

Gordon Sibiya

Phalatse says CEF management was within its powers to appoint IAS "The board had previously approved a figure of R5m to be used for consultancy services relating to the restructuring of State assets From there, it was up to management to decide who to appoint"

Why has only Sibiya objected publicly to Mkhwanazi's action? Is he an honest civil servant or a naive scientist causing a storm in a teacup? His detractors say he is a "lone ranger" who does not understand the politics of public service

But Sibiya says he is driven by a desire to serve the country with his skills He returned to SA in 1986 with a masters degree in electrical engineering and a doctorate in nuclear reactor physics

Because he could not use his doctorate — the Atomic Energy Corporation (AEC) would not even have him on its premises — he spent the next 11 years working as an electrical consulting engineer

Earlier this year, he closed his consulting business and opted for the lesser paid security of public service

He insists his position in the department has not been undermined "I volunteered my services to Maduna This is a CEF matter It has nothing to do with the department or the Minister" **Duma Gqubule**

# Fertiliser firms deny not passing on price decreases

**Louise Cook** (183) BD 18/12/97

FERTILISER companies have denied claims by the National Maize Producers' Organisation (Nampo) that they did not pass on international price decreases to local farmers.

Nampo chairman Japie Grobler said fertiliser prices were still too high despite a dramatic drop in the international price of urea, a type of fertiliser He said the decline warranted at least a 25% discount on urea as well as a discount on fertiliser blends

Sasol Fertilisers marketing manager Adam Mostert said Sasol adjusted prices roughly once a year, taking into account any fluctuations

Omnia Fertiliser MD Rod Humphries said "We are forced to take a competitive position, otherwise cheap imported material will simply come into the country and put us out of business"

# 'His main occupation was stealing'

(183) M+G 19-23/12/97

*US court documents show how Emanuel Shaw II privatised Liberia's oil industry to benefit himself, report* **Mungo Soggot** *and* **James Butty**

The man charged with reshaping South Africa s oil industry was accused in a United States court of masterminding a fraudulent scheme to pocket the profits from Liberia's petrol sales while serving as the country s finance minister

Court papers in the possession of the *Mail & Guardian* offer an astonishing exposé of one of the most ambitious money making schemes pulled off by Emanuel Shaw II while in power under the Liberian dictator Samuel Doe

The papers also include several blanket indictments of Shaw such as "It was common knowledge in Liberia, and internationally as well that his [Shaw's] main occupation while holding the office of Minister of Finance was to steal as much money as possible from the government and people of Liberia "

Shaw is now earning at least R3 million a year advising South Africa s state oil company on its restructuring and privatisation His controversial appointment by state oil chief Don Mkhwanazi was the subject of a three-day commission of inquiry this week at the Department of Minerals and Energy The findings are expected to be released next week

Shaw has also worked for listed fuel company Engen whose chief, Rob Angel, was quoted last week saying Shaw was a "very very bright man"

Shaw, one of Doe's closest confidants, fled Liberia ahead of the dictator's downfall in 1990, but before he did so he allegedly masterminded an elaborate ploy to rob the impoverished country of about $27 million — in effect the remaining assets the country had abroad

The court papers establish that Shaw set up a new national oil company in which he was a major shareholder, resigned as finance minister, and then wrote a letter as if he were still finance minister obligating the government to pay his oil company millions of dollars

The plaintiff in the case — which was heard in New York in 1991 — was the Liberian National Petroleum Company (LNPC), which was set up by Shaw in January 1989 as the "sole and exclusive supplier of petroleum products to the Liberian market Shaw had a 60% stake in the company The US court was told that, after resigning before Doe s downfall, Shaw wrote a letter to the LNPC as if he were still finance minister, in which he confessed that the government owed the millions to the LNPC

"In effect Mr Shaw, acting as finance minister, negotiated and signed the two guarantee agreements relied on by plaintiff in order to assure his own company payment of $20 million," the US court was told by a representative of the interim government of Liberia, which took over after Doe was executed The interim government was the defendant in the case

**Man of many parts Emanuel Shaw II was both Liberian finance minister and a major shareholder in a company that controlled Liberia's oil — a role with many financial advantages** PHOTOGRAPH 'STEFAANS BRÜMMER

Shaw s letter persuaded the British High Court — presumably unaware that Shaw and his accomplices were actually the plaintiffs — to order the government of Liberia to pay up about $8,4-million in August 1990 With Liberia crumbling, no defence was mounted by the country's government The British court attached a Liberian Boeing 707 parked at Stansted airport as security and issued an injunction over other Liberian assets

Shaw obtained an injunction on more Liberian assets in a New York court in 1990 and then tried to pull off the same trick by suing for $19-million in a US district court in New York

But by then the interim Liberian government was ready to defend itself and Judge David Edelstein of the US District Court of Southern New York dismissed the case The lifting of the injunction allowed the Liberian interim government to tap about $16-million that had been frozen

One of the interim government's key weapons was a detailed affidavit by Liberian justice minister Philip Banks III, which guided the court through Shaw's ingenious scheme

Banks, who ran the government's case, said that in 1986 Shaw, Liberia s justice minister Jenkins Scott and several other private individuals started plotting to acquire control over the sale of all petroleum products in Liberia Their plan came to fruition in January 1989 with the creation of the LNPC, which immediately triggered a fuel price rise

' Although the monopoly power exercised by LNPC inured directly to the benefit of Minister Shaw who held a substantial ownership interest in LNPC, it came at the direct expense of the Liberian government and people As soon as LNPC obtained control over the supply of petroleum products to Liberia, the price of those products increased sharply '

Banks said that the exclusive contract between LNPC and Liberia's existing national petrol company — the Liberian Petroleum Refining Company — was condemned by the judiciary committee of Liberia's House of Representatives, which said the agreement brings in no new investment and will only raise the cost of products for LPRC ' The house declared the contract null and void, Banks said

Banks explained how Shaw secured himself a 60% stake in the new oil company through a company called Synergy Resources and also siphoned off all the lease payments LNPC was supposed to make to LRPC under the January 1989 agreement Those payments were made to a company called Global Enterprises, which was owned and managed by Shaw

Shaw was the LNPC's chief executive and later appointed as president his trusted associate Mark Wolman Wolman, a South African, ran a private oil company called Tiger Oil, which was a key sanctions buster Shaw acted as a 'consultant" for Tiger when he arranged for it an exclusive contract to supply petroleum products to the LPRC in 1987 in a similar scheme to the one he pulled off with the LNPC

Wolman was brutally murdered in Cape Town last year in what appeared to be an execution by a drug gang Shaw s passport was found in Wolman's briefcase

The papers which suggest Doe was in on the scam explain in detail how Shaw fraudulently wrote a letter in his capacity as finance minister to help LNPC obtain its money In short, with the country burning around them, Shaw and Scott decided to plunder the government treasury one more time

Banks said Shaw signed two guarantees obligating the government to pay at least $20-million while Scott wrote a letter waiving the government s immunity from legal attack abroad He said Shaw wrote his letter as if he were still finance minister on July 18 1990 even though he had resigned in June 1989

Scott was fired by Doe on June 27 1990 but wrote his letter waiving sovereign immunity on July 8 1990 Their letters are nothing more than a flagrant effort to commit fraud on the courts of the United Kingdom and on this court before the new government in Monrovia could move to block their continuing theft of government assets

The Liberian government s founding affidavit said the English court was obviously hoodwinked Of course, the English court had no idea that the authors of these letters were the principals of LNPC, and that they were acting in their own self interests, contrary to those of the government, because these facts were deliberately kept hidden

The US court was also presented with a now famous letter from Shaw to Gus Kouwenhoven, a man known as "the Godfather of Liberia in which Shaw documents the various corrupt schemes in which he and Kouwenhoven engaged

Shaw told the *M&G* he did not write the letter, saying the Liberian interim government had probably forged it in desperation for money he was holding in trust for a democratically elected government' But the bundle of papers includes a handwritten note by Kouwenhoven acknowledging receipt of the letter

- A leading Dutch newspaper *Parool* carried a prominent news story last Friday linking Shaw and Liberia s current leader, Charles Taylor, to a notorious drug syndicate The article claimed that in return for protecting the syndicate, the two politicians received a cut of its profits Shaw is Liberia's ambassador extraordinaire economic adviser to President Taylor and was recently appointed head of the country s banking commission

# Oil firms 'expect to make sacrifices for Mossgas deal'

(183) BD 22/12/97

**Linda Ensor**

CAPE TOWN — The oil industry expected to make some financial sacrifices to reach agreement with government on the price for Mossgas's products, an industry spokesman said yesterday.

Andrew Quail, chairman of the oil sector steering committee charged with representing the industry in sensitive negotiations with the mineral and energy affairs department on a new pricing arrangement, said the industry was flexible and willing to reach agreement — even if this meant having to pay more for Mossgas's petrol and diesel.

"We are prepared to make concessions," Quail said Government had apparently found the offer the industry made in July last year unacceptable In it the industry undertook to pay Mossgas the higher in-bond landed cost for Mossgas petrol from June last year and for diesel from some future date to be determined by a formula based on the domestic growth in demand and the oil company's refining capacity for diesel.

The industry previously paid — and still pays — Mossgas a lower export parity price This led to Mossgas claiming oil firms owed it more than R140m, the annual difference between the in-bond landed cost and the export price.

The underlying principle for this arrangement was that the industry was having to export excess fuel in order to accommodate Mossgas's production. Government's equalisation fund, financed by a synfuel levy paid by motorists, then recompensed Mossgas to the tune of R140m annually for being paid the lower price. Mossgas felt this principle was no longer valid as oil companies had become net importers of petrol.

Part of the package was that the in-bond landed cost would apply only to Mossgas's diesel from early next century as there was a surplus of diesel. Should the industry agree to pay in-bond landed cost on diesel immediately, it would suffer a loss of R60m a year as it would have to sell it on at a lower price, Quail explained.

Government appeared dissatisfied with this offer, holding out for the industry to pay Mossgas the in-bond landed cost on all products immediately, and as a result the industry paid only the export parity price

Should the industry pay Mossgas the in-bond landed cost for petrol and distillate, the net effect would swell the equalisation fund's coffers by as much as R12m a month.

Oil companies take about 800Mℓ of Mossgas petrol each year and about 500Mℓ of diesel.

One of the key issues to be tackled in talks next month will be the date on which in-bond landed cost for all Mossgas's products will be introduced.

Quail said should the oil industry pay in-bond landed cost for all products, it would do so only in the context of an acceptable, overall package deal This would "require flexibility from both sides", he said "For one thing, we would want the concessions we make to be recognised as such and for an end to be put to the unwarranted public attacks on the industry."

The latest round of talks was precipitated by auditor-general Henri Kluever's special report to Parliament in which he suggested that the relationship between Mossgas and the industry had to be restructured in the interest of the taxpayer.

# 8 000-ton sulphur stockpile to be given to Swartland farmers

BD 29/12/97 (~~56~~) (183)

**Business Day Reporter**

THE remains of a sulphur stockpile owned by the trade and industry department is to be cleared from AECI's Somerset West site and distributed to Swartland farmers early next year, Noel Williams (MP), chairman of the parliamentary portfolio committee on the environment, announced

The parliamentary committee was asked to examine options for the removal of the sulphur, which has become contaminated with soil, following the report of the Desai commission of inquiry into the sulphur fire at the site in December 1995.

Williams said the presence of about 8 000 tons of the remaining sulphur had been a matter of some concern to AECI, as well as to many Macassar residents who had been evacuated from their homes at the time of the fire.

He said a meeting of representatives of the trade and industry department, AECI Operations Services, Kynock Fertiliser and the Macassar disaster action committee had examined various options for the removal of the remaining sulphur

It was agreed that the remains of the stockpile should be distributed to farmers in the Swartland

"These farmers will be able to use the chemical, once it is standardised to about 20% strength, to control sulphur deficiencies in the soil on their farms," Williams said. "The farmers will receive the material free of charge "

The trade and industry department will carry the cost of screening and consolidating the stockpile and of transporting orders taken by Kynoch Fertiliser from Swartland customers

The department would call for tenders for the consolidation and transport of the sulphur and adjudicate these in January.

The conditions of the tender would specify precautions to be taken while transporting the sulphur to ensure the safety of communities through which the deliveries would pass

Williams said the Macassar disaster action committee had expressed interest in tendering for the consolidation and transport of the sulphur

He said the department aimed to consolidate the sulphur and start deliveries before the end of next month

# Zuma's health bills come under fire from industry

~~35~~ ~~(93)~~ (183) BD 31/12/97

**Ingrid Salgado**

THE pharmaceutical industry has again expressed concern over Health Minister Nkosazana Zuma's controversial package of "health bills" passed through Parliament recently, saying that the introduction of parallel imports could lead to an influx of counterfeit and substandard drugs.

This time the warning comes from Robbie Williams, chairman of locally listed pharmaceutical group Adcock Ingram. In the company's latest annual report Williams said the benefits flowing from parallel imports of cheaper medicines were "questionable".

Failure to subject parallel imports to the same rigorous controls as locally manufactured products could lead to a barrage of second-rate medicines, he said. A "major concern" was the vagueness of the legislation and wide powers vested in the health minister to regulate health care without following the parliamentary debate process.

The Medicines and Related Substances Amendment Bill and the Medical, Dental and Supplementary Health Service Professions Amendment Bill passed their last legislative hurdle last month when they were approved by the National Council of Provinces. The laws seek, among other things, to lower drug prices by introducing parallel imports and encouraging the use of generic drug substitutes.

Zuma has stated that parallel imports would take place only under defined conditions and regulations.

Williams said Adcock Ingram was better positioned than most competitors to deal with changing conditions and effects of the legislation owing to a strong position in the hospital products and over-the-counter markets.

Adcock Ingram, emerging from a major restructuring after last year's merger with Premier Pharmaceuticals, had several key strengths that reduced its risk profile, he said.

Among these were a wide portfolio of powerful brands in both branded and generic prescription products, flexible and cost-effective manufacturing facilities, a focused research and development programme, a R645m cash pile — "our strong cash position places us in a favourable situation to expand by acquisition", he said — and skilled management.

Williams said Adcock Ingram had had its fair share of uncertainty and disruption following the merger. The restructuring had included the merging and centralisation of service functions, closure of the wholesale division and rationalisation of manufacturing operations from nine to five factories.

However, good management had ensured the process had been relatively quick, and benefits had started to improve the bottom line in the second half of the year to September.

Cost savings resulted from operational synergies, increased critical mass and improved manufacturing efficiencies, leading to a 27% increase in headline earnings to 124,3c a share.

Williams expected further savings in the current financial year. These would be enhanced by the planned closure of the Industria pharmaceutical factory in the course of the year.

# CWIU starts central bargaining council

(183) ([illegible]) CT(BR)1/12/97

**FRANK NXUMALO**

Johannesburg — For the first time since it was set up 23 years ago, the Chemical Workers Industrial Union (CWIU) managed to establish a national bargaining council for the chemical industry, at its sixth National Bargaining Conference in Johannesburg at the weekend

Bheki Ntshalintshali, the union's national bargaining council co-ordinator, said until 1995, when they were replaced by "interim arrangements", annual wage and working conditions negotiations had taken place only at plant level because of opposition from employers

"It has been quite a struggle. Many of our members were dismissed for fighting for a centralised bargaining council," Ntshalintshali said

"The fact that the employers have finally agreed to the establishment of a bargaining council, and that other unions in the industry are part of the process, is a big achievement "

Ntshalintshali said the conference covered proposals for framework agreements, agency shops and issues involving non-signatories to bargaining chamber agreements, substantive negotiations for next year, social responsibility issues and the constitutional drafting process If approved by the National Executive Council in February, the drafting process will form the union's position at next year's annual negotiations with employers

He said framework agreements proposals included issues surrounding health and safety, industrial restructuring, skills and training, productivity and agency shops

Next year CWIU will demand a minimum wage of R2 000 a month, a 20 percent increase on actual wages, a 40-hour working week across all sectors with no averaging; and a shift allowance with a minimum premium of 20 percent, or that all forms of shift allowances be converted to that percentage and linked to wages

Other CWIU demands for next year are that companies provide transport for shift workers, and six months maternity leave, during which jobs will be protected, with at least four months fully paid by the companies At present the industry pays for four months maternity leave at 33 percent of individual monthly rates, using UIF funds

Ntshalintshali said the union would also demand shop steward leave whenever shop stewards were required to perform union duties

Concerning next year's social responsibilities demands, Ntshalintshali said CWIU would demand that employers agree to funding childcare facilities, 50 percent housing subsidies, an audit of all housing schemes available in the industry, the option for all employees to join the industry retirement fund, preferably the provident fund with a minimum contribution of 6 percent of individual wages, and affirmative action policies

He said if there was no settlement by June or July next year at the bargaining council, CWIU would mobilise or call for rolling mass action

The union has a paid-up membership of 46 000 workers

# Zuma plans to overrule MCC

(183)

Sowetan 2/12/97

**By Mokgadi Pela**

HEALTH Minister Nkosazana Zuma is planning to forge ahead with a law that will enable patients to use drugs of their choice if it means saving their lives

Speaking to journalists yesterday at a media briefing at Odi Stadium, north of Pretoria, where she had just addressed a World Aids Day rally, Zuma said· "One day I will have the power to overrule the Medicines Control Council (MCC) "

She was referring to the power the MCC has to refuse medication to patients such as the controversial Virodene PO58, even on compassionate grounds

"There should be no one on earth, not even the president of the country, with powers to refuse patients the right to use drugs of their choice if it will make a difference to their lives But in this country surprisingly, the MCC has such powers," Zuma said

She added that it "breaks my heart to see the number of letters I receive from patients who are dying wanting Virodene to be administered to them·I often cry in my office as I feel powerless I am, however, convinced that one day I will have an enabling law that will allow me to overrule the MCC

"Please get me correct I'm not making a case for Virodene," Zuma said

The MCC prohibited Virodene trials on Aids patients, saying the drug caused liver cancer because of toxic ingredients It (the MCC) said not enough subjects had been tested to prove the efficacy of the drug.

The rally had been called to launch, with the Department of Education, a life skills programme.

The project aims to specially train about 13 000 teachers nationally by April 1998

The training programme will feed into Curriculum 2005 and will not only inform, but will empower learners with skills, attitudes and values in order to make informed choices

● The African National Congress Youth League yesterday appealed to Zuma and the MCC to explore the testing of various drugs, including Virodene "We owe it to the infected people to test whether the drugs work or not Lives must be spared," the ANCYL said.

(183)

# Deputy director-general quits energy fund in wake of bribery scandal

Star 3/12/97

The deputy director-general of Mineral and Energy Affairs, Dr Gordon Sibiya, resigned from the Central Energy Fund yesterday in the wake of a bribery scandal that has embroiled the energy minister.

Sibiya, a top nuclear physicist, said he was quitting the fund as a result of tensions within the board relating to the appointment of Liberian-born consultant Emmanuel Shaw II.

The appointment of Shaw, who allegedly took $10 000 (R48 300) from a top European oil trader to promote the trader's interests with Energy Minister Penuell Maduna, was unprocedural

The Liberian was reportedly appointed by fund chairman Don Mkhwanazi, who allegedly was appointed chairman after Shaw recommended him to the minister

Maduna on Monday denied reports that he knew of the bribe Shaw had taken from Fakhry Abdelnour, a prominent Egyptian who heads a Geneva-based oil company

Sibiya said yesterday he could not be party to decisions surrounding the appointment of Shaw

He also said that, in the light of the scandal, Mkhwanazi should reconsider his position as chairman of the fund.

"The (point) of saying restructuring is a managerial issue is not acceptable to me because taxpayers' money is involved," Sibiya told SABC-TV news.

"We should all look at getting consensus so that we are accountable and transparent. I think these issues have been very much violated and this is why I feel I cannot be party to these decisions."

SABC news also reported yesterday that Maduna had not yet responded to a report by an adviser recommending that the entire CEF board be suspended and its members reapply for the positions.

Maduna said he had appointed an inquiry to investigate the matter. The report had allegedly been lying on his desk since October 19 – Sapa

# Polifin sets date for 2003 site

**Ingrid Salgado**

BD 3/12/97

CHEMICALS group Polifin would decide by February where to site Project 2003, its proposed R7bn ethylene cracker and downstream polymer plant, the group said yesterday

This follows the company's rejection of Mossgas at the weekend as a feedstock partner for the project, leaving Sasol's Natref refinery and the BP-Shell joint venture Sapref in the running for the contract, estimated at between R1,25bn and R1,5bn a year

Polifin's polythene GM Howard Parry said at a global petrochemicals conference hosted by HSBC Simpson McKie yesterday that the Polifin board would hold a special meeting in late January or early February to select a feedstock partner after the two proposals had been thoroughly evaluated.

Sasol Oil trading manager Desmond Gird told the conference that Natref's planned 30% expansion would not be sufficient to cater for Project 2003's input needs Should Polifin select Natref to supply feedstock, Sasol would investigate a number of packages to enlarge its base, including the importation of additional crude oil.

Parry said that Polifin, a joint venture between Sasol and AECI, had "fairly ambitious" decisions to make in preparation for Project 2003, including selecting the project's technology suppliers A feasibility study being prepared for mid-1998 would short-list potential suppliers, and a decision was likely within 12 to 18 months.

The group was keeping a close eye on a new method of producing polyethylene, known as single-site catalysis, which allowed polyethylene molecules to be designed with predetermined properties This promised to be the "next major breakthrough" in polyethylene technology. Although it was "a bit premature" to decide whether it would be Polifin's preferred option for 2003, the process was likely to have a strong global effect

# Engen says SA oil industry must rationalise to face competition

CT (DR) 3/12/97 (183)

**LYNDA LOXTON**

Cape Town — The introduction of new local and international entrants to the already overtraded local oil market made industry rationalisation even more urgent as margins came under pressure, claims Engen's latest annual report.

The increased competition in the oil industry from local black empowerment groups, as well as international groups returning to the South African market, is mentioned several times in the report but Engen sounds confident that its recent restructuring will help it cope

In addition, said Bernard Smith, the chairman, Engen was willing to play a role in realising the kind of meaningful black advancement that was envisaged in the industry by Penuell Maduna, the minerals and energy minister

The oil industry as a whole has been warning for some time that greater certainty in the regulatory environment of the oil industry is needed so that vital investment decisions could be taken Smith warned that South Africa would have to start importing petrol — in 1998 because of scheduled refinery shutdowns, and in 1999 because local demand would outstrip supply

"This signals the opportunity local refineries may have to embark on debottlenecking and expansion programmes over the next few years," he said

Discussing developments at Engen's long-troubled Durban refinery, Smith and Rob Angel, the chief executive officer of Engen, said the worst seemed to be over

"We are quietly confident that the recent operational difficulties experienced at the refinery are now behind us, and that the focus will be applied to achieving an operational performance in the first or second quartile in accordance with the international benchmarks set by Solomon Associates, the international refinery benchmark specialists," Angel said

"Challenging, but achievable, targets have been set for further improvement during the next 18 months," he added

Capital expenditure of about R15 million would be needed to achieve these targets, while attention would be paid to improving the productivity and skills of artisans

Smith said that Engen planned to continue its drive into Africa It could involve local companies from other countries through listings in their countries, local partnerships or alliances and joint ventures with their governments

# Lion stays on prowl to strike the perfect match

CT(BR) 3/12/97 (183)

**RAVIN MAHARAJ**

Durban — Lion Match, the match manufacturer and producer of other domestic items, would continue to look for suitable investment opportunities for the R227,8 million cash it had on hand, Terry Turner, the managing director, said yesterday "We have looked at a number of opportunities But there will not be any announcements in the near future," Turner said Turner said continued local demand for the company's products was expected, together with a further focus on exports

Progress in plant utilisation with improved efficiencies and containment of production costs would continue to be the focus in further developing the company's exports in the year ahead, Turner added The domestic market, he said, was stable but was growing He said Lion matches, the company's leading brand, was extremely strong "It is our definite strength We have spent a lot of money in the product, and we aim to keep it that way"

Lion Match operates lights (matches, lighters and forestry) and shaving, home and garden (knives, scissors, garden tools, razors and razor blades) divisions Turner said all divisions were performing well

Regarding its export markets, Turner said Zebra matches were doing "very well" in east, west and central Africa, and increasingly in South America

The company has also converted its plants at Durban and Rosslyn, Gauteng, to utilise domestic pine timber in its manufacturing processes as a supplement to its poplar timber usage.

Lion Match lifted attributable income by 9 percent to R20,4 million in the six months to September 30, but brand investment costs served to compress margins and restrict trading profit to R12,9 million Revenue from product sales grew 13 percent to R89,3 million

# 'Industry supports national oil company'

BD 4/12/97

(183)

**Linda Ensor**

CAPE TOWN — There had been overwhelming support within the oil industry for the creation of an integrated national oil company as proposed by Minerals and Energy Minister Penuell Maduna, Central Energy Fund chairman Don Mkhwanazi said yesterday.

However, the Chemical Workers' Industrial Union insisted that the fund companies should not be privatised

Mkhwanazi said there had been an overwhelming number of submissions from oil firms, the union, organised commerce, black consortiums, professional institutions and consultants.

The aim of creating a listed, integrated oil company, consisting of fund companies and state-owned energy assets, would be to cut the cost of energy to the fiscus and involve it in the retail of fuel products. Government would retain a controlling stake.

Mkhwanazi said a report with recommendations would be submitted to the minister, employees and all stakeholders before December 15

Picture: ROBERT BOTHA | calls for "barrier-free" access guidelines.

# People more concerned about jobs than global problems

(304A) (335)

BD 4/12/97

**Jacob Dlamini**

SOUTH Africans were more concerned about unemployment, housing shortages and crime than they were about global problems such as illegal immigrants, a Markinor survey has found.

The survey, commissioned by the Johannesburg-based foreign policy think-tank Foundation for Global Dialogue, found that South Africans generally showed scant concern for international issues.

The survey was based on a national sample of 3 500 people, distributed across sex, age, race, education, working status and income. It was spread proportionally across provinces and metropolitan and rural areas. In areas where respondents showed any regard for international issues, the focus tended to be on human security matters such as poverty, drug trafficking and global unemployment.

Respondents wanted SA's foreign policy to be guided by the promotion of democracy, human rights and the combating of drug trafficking. However, they believed participation in the global economy was more important than co-operation with regional and other developing countries.

The foundation said the response suggested that South Africans preferred the maximisation of trade relations with Africa, Europe and North America.

There were marked responses to questions about SA's relations with countries such as Cuba.

About 35% of respondents agreed that SA should be a reliable ally and partner of Cuba, while 29% expressed uncertainty and 19% disagreed completely.

Those who supported relations with Cuba tended to be supporters of the African National Congress and the Pan Africanist Congress, while those who disagreed came from the Democratic Party and the Freedom Front.

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# Sibiya resigns over Shaw's appointment

BD 4/12/97

(183) (55)

**Linda Ensor**

MINERAL and energy deputy director-general Gordon Sibiya said his resignation from the Central Energy Fund (CEF) board — tendered to Mineral and Energy Minister Penuell Maduna — was motivated by his objection to Don Mkhwanazi's appointment of Emanuel Shaw as his personal adviser.

Shaw was appointed without board approval and without following normal tender procedures.

Sibiya also disagreed with Mkhwanazi that restructuring state assets was a day-to-day issue for management — Shaw's brief was to advise on this issue — as this was the responsibility of the state, and the sectoral task team of which Sibiya was chairman.

"Somewhere along the line there will be a collision between the CEF and the department on the restructuring of state assets and I don't want to be part of this."

Sibiya's stand was supported yesterday by the Chemical Workers' Industrial Union which said any corruption and lack of transparency must be attacked. The union demanded that Shaw and Mkhwanazi be removed and that appropriate action be taken after an investigation

Acting mineral and energy director-general Dick Bakker noted the team appointed to probe Shaw's appointment would sit for three days from December 17. Mkhwanazi and the CEF staff and board would be called to give evidence, but Bakker said the inquiry would not involve Maduna himself.

The team would have to determine whether tendering procedures were followed in appointing Shaw; whether the powers of the chairman included the power to conclude contracts; and why Shaw was selected

Bakker said the CEF board's term of office expired at the end of the month. As there would be no time to make new appointments before then, he had advised Maduna to extend their term of office until the end of March. A departmental replacement for Sibiya would also have to be found.

Comment: Page 15

# Union wants Mkhwanazi sacked

CT (BR) 4/12/97 (183) ([illegible])

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

***AT ODDS*** *Don Mkhwanazi, left, and Gordon Sibiya*

PHOTO JOHN WOODROOF

Johannesburg — The 45 000-member Chemical Workers Industrial Union (CWIU) demanded yesterday that the government sack Don Mkhwanazi, the first black chairman of the state-owned Central Energy Fund (CEF), over his award of a R3 million consultancy contract to Emanuel Shaw II

The union's call comes one day after Gordon Sibiya, a deputy director-general in the department of mineral and energy affairs, confirmed he had resigned from the CEF board over Shaw's appointment, citing a lack of transparency and accountability in the CEF

"CWIU supports the view that a lack of transparency and corruption must be attacked," the union said

Shaw, a former Liberian finance minister, was appointed by Mkhwanazi without going through a tender process He has reportedly been associated with fraudulent insurance claims and reportedly solicited bribes on the assurance that he could influence Penuell Maduna, the minister of minerals and energy

CWIU demanded the removal of Shaw and Mkhwanazi "and following investigation, that appropriate action be taken"

Dick Barker, the acting director-general of the mineral and energy affairs department, said yesterday that an investigation, ordered by Maduna, was under way

Sources close to the CEF board said it was expected to back Mkhwanazi and defend his appointment of Shaw at its quarterly meeting in the Western Cape tomorrow

Both Mkhwanazi and Maduna failed yesterday to return telephone calls although staff in their offices confirmed they were present

☐ Business Watch, Page 17

# CEF board absolves Mkhwanazi of responsibility for hiring Shaw

5/12/97
BD
(183)

**Linda Ensor**

CAPE TOWN — Central Energy Fund (CEF) chairman, Don Mkhwanazi — who has faced calls for his dismissal for his role in the appointment of consultant Emanuel Shaw II on a R3m-a-year contract — was cleared yesterday by the board of directors.

The board, at a meeting in Mossel Bay, placed the responsibility for Shaw's appointment on the shoulders of acting general manager Howard Roberts. The board endorsed Roberts' decision to appoint Shaw to advise Mkhwanazi on the restructuring of state assets in the liquid-fuels sector.

The decision pre-empts a probe into the appointment announced by Minerals and Energy Minister Penuell Maduna and due to begin soon under the chairmanship of acting director-general of the department, Dick Bakker. It follows the resignation of minerals and energy deputy director-general Gordon Sibiya from the CEF board, saying Shaw's appointment was irregular.

CEF board member Seth Phalatse said last night the board had decided the correct procedure had been adopted in appointing Shaw. The issue had nothing to do with Mkhwanazi.

However, Phalatse said, it did appear there might be a conflict of interest in that Shaw had also been appointed to assist oil firm Engen establish a liaison network in Africa. Roberts was instructed to investigate the possible conflict and submit a report on it to a special meeting of the board.

Engen corporate affairs manager Nthobi Moahloli has indicated it would seek a meeting with Shaw to discuss a potential conflict of interest. Engen would want to avoid misconception that it was privy to inside information.

Phalatse was emphatic it was Roberts who had appointed Shaw, and a number of other consultants such as Arthur Andersen. None of these appointments had been put out to tender and so there was no requirement for him to do this for the Shaw contract.

He conceded that Roberts made the appointment on Mkhwanazi's recommendation but said it was Roberts' responsibility to investigate whether the recommendation should be accepted.

Mkhwanazi has claimed that Shaw possesses impeccable credentials and any allegations to the contrary are racially inspired.

Phalatse said the board had not dealt with the character, history or suitability of Shaw for the job, saying this was not the matter before it. It had had to determine whether the correct procedures had been followed. Roberts had not been obliged to seek board approval for the appointment.

# Zuma sees role for trial drugs

BD 5/12/97

(183)

**Josey Ballenger**

HEALTH Minister Nkosazana Zuma was thinking of introducing legislation to allow critically ill patients "compassionate" access to unregistered medicines, spokesman Vincent Hlongwane said yesterday.

The issue — which first came to public attention on Monday when Zuma said that dying AIDS patients should not be prevented from using the unapproved drug Virodene — has arisen due to the lack of a cure for the human immune deficiency virus (HIV).

Hlongwane said Zuma was "not making a case specifically for Virodene", a potentially toxic drug which has been rejected three times by the Medicines Control Council, and that her comments should be seen "in context .. There are patients who are dying and who strongly believe Virodene can help them. She wants to help people prolong their lives Her main concern is that we do not have an alternative for these people "

An interim court interdict has been granted against the trade, dispensing or further development of Virodene until a hearing in the Pretoria Supreme Court next Tuesday, and the SA Police Service is investigating alleged illegal use

Hlongwane said Zuma was looking at introducing legislation "with very clear parameters" to allow doctors to prescribe unapproved drugs to accommodate "the last wish of a dying person" much as the US and the UK had done

UK and US authorities confirmed they had laws to this effect A UK Medicines Control Agency official said a doctor could prescribe an unregistered drug in cases where a patient had a "special need" — interpreted to mean there is no equivalent licensed product — and where the doctor "takes responsibility" for the drug's performance

Since 1987, the US Food and Drug Administration has permitted the use of unapproved, "investigational" products to treat patients with "serious or immediately life-threatening diseases" under certain conditions including a patient's "informed consent".

However, in both countries, in cases where authorities considered a drug dangerous, they would rule that the product not be used.

Medicines Control Council chairman Prof Peter Folb said he did "not believe there is a single person, no matter how kind or compassionate, who can make this kind of decision (prescribing unapproved drugs) alone".

Folb also said he would "welcome" legal action by Virodene researcher Olga Visser and her husband Zigi, who have reportedly threatened to take action against the council.

# Maduna: 'I'll resign if linked to bribe'

MG 5-11/12/97 (183)

**Mail & Guardian reporters**

The Minister of Minerals and Energy, Penuell Maduna, this week vowed to resign if the *Mail & Guardian* could provide details of how he came to know about a $10 000 bribe.

Maduna has denied any knowledge of how a leading oil trader gave $10 000 to Liberian Emanuel Shaw II last November after Shaw promised to promote the trader's interests with the minister 'I will deny and dispute that I ever knew anything about it."

Maduna is also disputing that Shaw set up the bribe. "I don't think that Emanuel Shaw would be so foolish " Shaw, a confidant of former Liberian dictator Samuel Doe has been given a R3 million advisory contract with the state oil company, the Central Energy Fund.

But the *M&G*'s primary source on the bribe story has agreed to go on the record about the minister's knowledge

Last week top oil trader Fakhry Abdelnour took the unprecedented step in the secretive oil industry of telling the *M&G* how Shaw set up the bribe. Abdelnour, a prominent Egyptian who heads up a Geneva-based company called African Middle East Petroleum, spoke to the *M&G* to expose Shaw but asked not to be quoted on Maduna's knowledge of the transaction None of the sources have ever suggested Maduna condoned the transaction — they only said he found about it subsequently

After Maduna challenged the *M&G* this week — and accused Abdelnour of acting out of bitterness because he was last year cut out of an oil contract with South Africa s state oil company — Abdelnour was willing to go on the record about the minister s knowledge of the transaction.

Abdelnour said that a couple of days after the transaction took place he told another businessman, Mr X, with whom he is good friends, how he had given Shaw $10 000 He said that shortly afterwards, Mr X told him that the minister had found out about the transaction and wanted him (Mr X) to repay Abdelnour Mr X told Abdelnour he would not.

Abdelnour is adamant Mr X told him that Maduna wanted him to reimburse Abdelnour "He told me that Maduna asked him to refund the money to me " He recalled "I told Mr X that Shaw took the money after my lunch with Shaw Shortly afterwards Mr X told me he saw the minister and the minister knew about it and wanted the money repaid."

The *M&G* secured first hand corroboration of this account last week. Abdelnour was happy to reveal the identity of Mr X this week, but the *M&G* is protecting his identity because Mr X initially spoke on condition of anonymity Mr X discussed the matter with Maduna this week.

Shaw has already contradicted himself explaining the transaction. Abdelnour says Shaw contacted him again in Moscow to solicit another $10 000

Maduna said it was inaccurate to describe Shaw as his adviser The minister has already admitted to seeking unpaid advice from Shaw Three other oil industry players have confirmed Shaw was at one stage last year working closely with the minister

The *M&G* reported last week how Shaw was charged with discussing an Egyptian oil contract on behalf of the minister And Maduna has admitted to seeing Shaw outside the office — Shaw, for example, helped him with computer problems in June

Maduna dismissed suggestions Shaw had advised him to appoint Don Mkhwanazi state oil chief "I have known Don from 1973 since university I don't need a foreigner to tell me to appoint him."

Maduna said he had relied on Shaw just as his predecessor, Pik Botha, had. Shaw was part of a team which compiled an audit of the state oil company when Botha was minister In defence of Shaw, Mkhwanazi has publicly said that Botha picked Shaw for the job and that Shaw's work was widely acclaimed. Botha has denied this

The audit, which was recommended by deputy president Thabo Mbeki, was designed to verify South Africa's stockpile of oil. Shaw had nothing to do with this, but did work on an accompanying management audit and researched the possible restructuring of the company He did not interview former state oil company chair Roy Pithey during his investigations The version of his report given to the press was superficial and was not widely reported.

**Still in the game. Emanuel Shaw II arrives at the state oil company's Drakensberg bosberaad at the weekend.** PHOTO: STEFAANS BRÜMMER

Emanuel Shaw II: The Liberian who caused all the trouble

# Two quit over oil scandal

M+G 5-11/12/97 [illegible]) (183)

**Mungo Soggot**

The state oil company was hit with two key resignations this week as the saga surrounding Emanuel Shaw II's R3-million appointment raged on

Finance chief Sarel Cilliers tendered his resignation and was asked to leave the Central Energy Fund's Sandton headquarters — a day after Gordon Sibiya, director general of the Department of Minerals and Energy and a member of the fund's board, announced he was stepping down Cilliers managed about half the staff at the fund's head office, and other resignations could follow if no action is taken against Shaw's appointment Cilliers declined to discuss his resignation

Shaw, and the other main protagonist in the scandal — state oil chief Don Mkhwanazi — remained unscathed at the time of going to press Both Sibiya and the Chemical Workers' Industrial Union called for Mkhwanazi's resignation this week over his appointment of Shaw

The fund's board met on Thursday afternoon to discuss Shaw's appointment and Mkhwanazi's fate It is understood some board members were particularly anxious about the conflict of interest caused by Shaw's other job at private fuel company Engen Mkhwanazi and the rest of the board were unaware of Shaw's Engen job until it was reported in the press

It is now a month since the *Mail & Guardian* reported how Shaw and his son, Emanuel Shaw III, pulled off their lucrative advisory jobs at the fund The *M&G* exposed the strong links between Mkhwanazi and Shaw — who got the job without going through any selection process

Mkhwanazi has stressed that the job was not given to the Shaws — who occupy offices at the fund — but to their company, International Advisory Services The company was in fact set up by Mkhwanazi's own Durban law firm last year

The law firm, Mooney, Ford & Partners, said Shaw was never a director of the company while it was managing it International Advisory Services's new law firm said Shaw was not a director Its auditors said the company had applied for a change of directorships

Minerals and Energy Minister Penuell Maduna was advised by an aide on October 19 to suspend the fund's board and dump Shaw After the *M&G* broke the story, he appointed a departmental inquiry which is expected to release its findings at the end of the month

Maduna threatens to resign, PAGE 13

Public Sector

MANUFACTURING : Chemical Products

1998

JANUARY — APRIL

FEELING CAUTIOUS ... Jean-Rene Fourtou sounds a warning on the possibility of counterfeit drugs being imported into South Africa

# Rhône-Poulenc sickened by medicines Bill

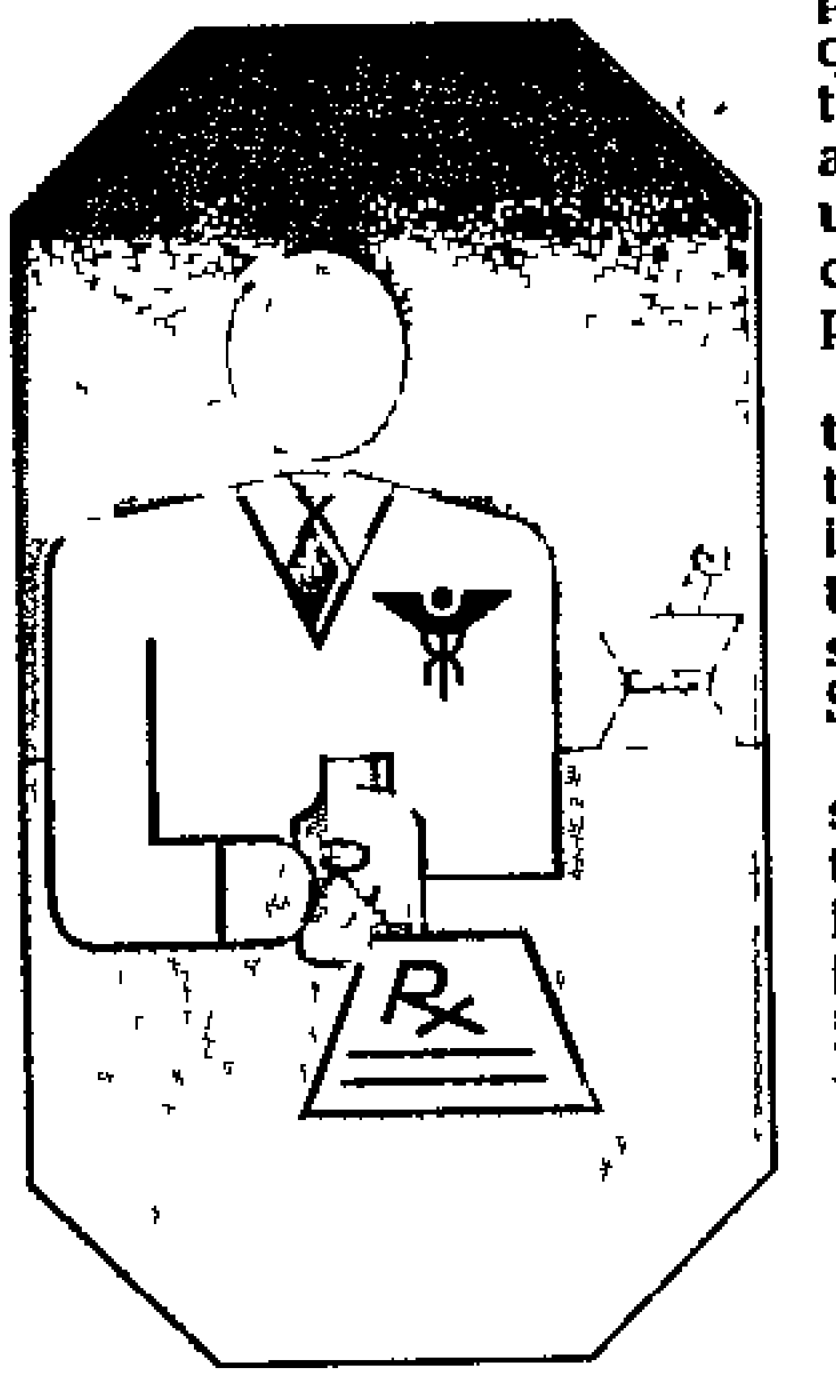
(183)

The pharmaceutical company says it will not invest in new products in SA if its patent rights are infringed, writes DON ROBERTSON

ST(BT)11/1/98

FRENCH-based Rhône-Poulenc, the largest pharmaceutical company operating in Africa, has added its weight to the growing number of international groups which have condemned the passing of the Medicines and Related Substances Control Bill last October

The Bill will allow the Department of Health to import cheaper, generic drugs for public hospitals and will effectively infringe on the patent rights of international pharmaceutical groups



Jean-Rene Fourtou, chairman and chief executive of Rhône-Poulenc, currently on a visit to South Africa, says that if the company's intellectual property rights are infringed, "we will not be prepared to invest in new products here, especially in the agricultural sector"

Fourtou is accompanied by vice-chairman Jean-Marc Bruel

Rhône-Poulenc Agrichem holds third spot in the crop protection industry in South Africa with an 11% share of that specific market

The group, the world's seventh-largest pharmaceutical company, has been in South Africa since 1931 when it operated as Maybaker In the past few years, the SA market has been used as the launch-pad for a number of products, including treatments for breast and non-small cell lung cancer, a therapeutic innovation for colorectal cancer and an accompaniment to chemotherapy

"In the past, if a product was suitable for local conditions, it would be made here South Africa is a country that has its own problems as a large number of people do not benefit from proper health care

"It is a country, therefore, that should participate in global technology from developed countries and respect the Trade Related Intellectual Property agreement of the World Trade Organisation," says Fourtou

He says that other countries such as China, Brazil and India have introduced similar legislation, but have not yet implemented it and he queried the savings that could be effected as only 7% of drugs used in general health care were patented products

He also warned of the possibility of counterfeit products being imported and pointed to the number of unscrupulous dealers in South Africa

Rhône-Poulenc describes itself as one of the leading companies in the life sciences field in this country, including pharmaceuticals as well as plant and animal health, with annual turnover of more than R500-million, employing 330 people

In the financial year to December the group had total sales of Ff85 82-billion, of which 2 5% was generated in Africa and 70% of this in South Africa.

With a 32% share of the world vaccine market, Fourtou believes growth in Africa is vital

New automation of pharmaceutical testing has allowed research groups to achieve more in one year than in the previous 100 and Fourtou is optimistic that with the speed-up in the process cures for cancer and AIDS will be discovered within the next 10 years

# Sasol shares plummet to 18-month low

(183) ET(BR) 12/1/98

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

Johannesburg — Sasol, the petrochemical-from-coal group, plummeted 7 percent to an 18-month low of R44,70 on the JSE on Friday after UBS brokerage in London reduced its forecast for Sasol's first-half earnings and downgraded it to a hold rating

This is the second time in almost two months that shares in Sasol have taken a beating amid analysts' fears that the weakness in the Asian market would drive Sasol's earnings down

But local analysts said the fall in Sasol shares was excessive, as the group would benefit from a falling rand and its exposure to Asian markets was limited

Tim Whittaker, an analyst at UBS in London, said "We see a very difficult year for oil and gas companies in general The Asian economy is pooped "

But Whittaker said Sasol's weakness could open good buying opportunities He said Sasol historically traded at a discount to the market rating when it should be trading at a premium or at least in line with the market

Jenny Ramsden, an analyst at First National Equities, said "The whole market has known for a while that this would be a tough year for Sasol " But she said the outlook was not as negative as many were painting it

"Oil prices are not going to have a dramatic impact on Sasol Synthetic Fuels, as they have already hit the level at which Sasol gets tariff protection "

Ramsden said Asia accounted for less than 5 percent of Sasol's sales and its exposure to the commodities markets was falling as it moved into higher value-added chemicals

"I think there is too great an emphasis on the short-term earnings and that value is more accurately determined by the longer-term cash flows," she said "Sasol's globalisation programme offers future benefits which are not being considered in the current share price."

Themis Themistocleous, an analyst at SBC Warburg Dillon Read who shook the market in December when he cut his forecast for Sasol's earnings, said the next adjustment to his earnings forecast was likely to be up

# Dismissal of Afrox drivers is upheld by Labour Court

**Taryn Lamberti**

(183) ([illegible]) BD 12/1/98

THE labour Court has found that the dismissal of 52 Afrox employees while they were engaged in a protected strike was substantively and procedurally fair

Judge AA Landman dismissed recently an application by the SA Chemical Workers' Union, which claimed its members were retrenched unfairly because they had embarked on a strike

Landman found that Afrox, a manufacturer of industrial and medicinal gases, had made the decision to retrench 52 of its drivers and hire outside contractors in good faith and in the company's best interests "The evidence shows there was good reason to declare redundancy, in order to service the customers of Afrox through outside contractors and to combat the potential loss of custom to competitors"

The judge said "exhaustive efforts were made (by Afrox) over a long period of time to accommodate the union and to avoid dismissal . and the union was unable to suggest a more acceptable solution".

The dispute arose in April 1996 when Afrox approached the union for a solution to drivers working overtime in excess of that permitted by law Afrox delivers gases to about 700 customers, in chemical bulk tankers, seven days a week, 24 hours a day The result is that some of the 52 drivers were working 22 hours of overtime a week

Management's solution was to introduce a staggered shift system, which the workers rejected because they had to work over weekends and would receive less overtime pay

After a failed trial period — of drivers working reduced overtime hours without staggered shifts — Afrox introduced the staggered shift system on September 30 1996 Workers embarked on a first strike on September 30 and a second strike on January 11 1997 in support of the union's demand that Afrox abandon its staggered shift system. Several attempts by Afrox to interdict the strikes failed On January 11, a lockout was implemented and on January 24, Afrox told the union it would dismiss employees for "operational requirements"

The judge said he believed the decision to dismiss the drivers was made in good faith. "Although we speak of the right to a job, this right is itself dependent .. on the existence in economic terms of the enterprise," he said.

**SYNTHETIC FUELS**

# Cheaper oil triggers huge petrol levies (183)

Oil price weakness entitles SA's synfuel producers to large-scale renewed assistance How to finance this? FM 16/1/98

The fall in the oil price (to around US$15/barrel for Brent crude) has brought back, at least temporarily, the need to provide protection for Sasol and Mossgas on a substantial scale If oil were to remain at present levels for a year, Sasol alone would require about R600m in terms of the policy guidelines set out by government two years ago For the first half of its current financial year, however, Sasol needed only R50m in synfuel protection

Mossgas would require about R120m

Government decided in 1995 to scale down financial assistance for synthetic fuels in fairly rapid stages, with a final phase-out at mid-1999 This is being done through periodic reduction in the trigger price of oil (in dollars) at which protection kicks in The price used for calculation of protection is not the actual oil price, but a "derived" price determined by a complex formula designed for reasons of equity In practice, however, it now comes close to the actual price

The question remains how are renewed large-scale payments to the synthetic fuel producers to be financed, taking account of the reduction in the Equalisation Fund levy on refined fuels to a fairly nominal 0,4c/litre for petrol and 0,5c/*l* on diesel from previous, much higher levels?

When the levy was reduced to its present level, Finance Minister Trevor Manuel raised the fuel tax correspondingly, so the fiscus took most of the benefit of reduced protection rather than the motorist

The answer to the question of how to finance protection, according to the director of transport fuels in the Department of Minerals & Energy, Theunis Burger, is twofold Firstly, the Equalisation Fund is nursing a credit balance of at least R800m, on which interest is being earned at the rate of around R10m/month This would be enough to last a year if oil holds at around current levels

If not, the Department would consider itself bound by the latest set of policy guidelines setting out the levels of protection for synthetic fuels If the Equalisation Fund approached exhaustion, the most plausible departmental approach would be to advise the Minerals & Energy Minister Penuell Maduna of the situation, accompanied by calculations indicating the sort of increase needed in the levy to maintain financial balance

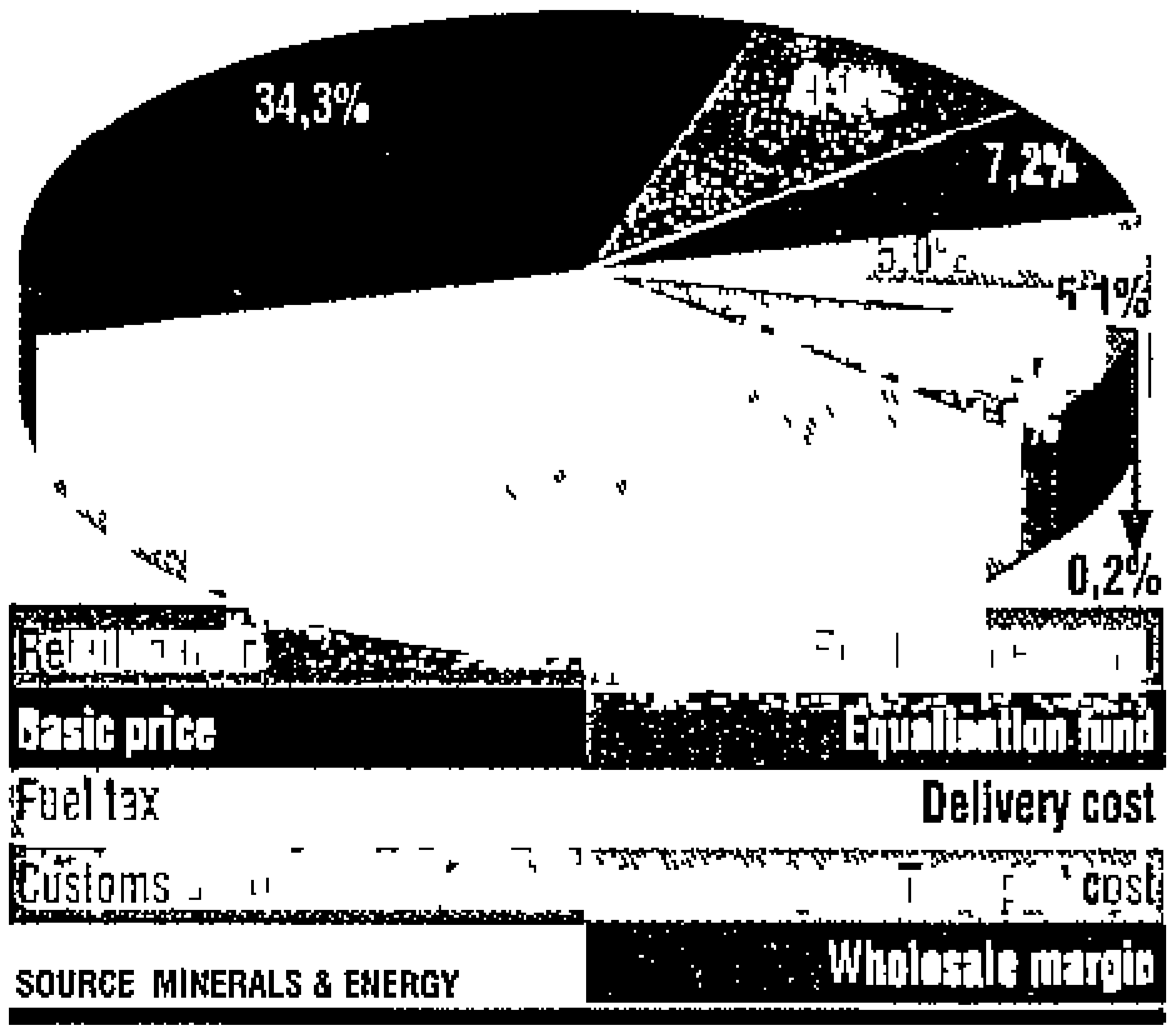
The Minister would put his Department's proposals to the Cabinet subcommittee on economic affairs (comprising all Ministers dealing with economic issues), which would then put the proposals to the full Cabinet It is only at Cabinet level that an (essentially political) decision could be taken to deviate from the earlier arrangements for phasing out protection How likely is it that settled policy would be reversed even on so sensitive a matter? On this Burger declines to be drawn

What is certainly relevant is that any given decline in the oil price within the zone where synthetic fuel levies are paid would still give a substantial benefit to motorists As synthetic fuels comprise around 40% of total consumption, only 40% of the saving from lower oil prices would need to be clawed back as extra levy under existing arrangements

Further, for government to go back on recently settled policy on so important a matter would be negatively regarded by the private sector and therefore would not be undertaken lightly Minister of Transport Mac Maharaj recently clawed back 2c/*l* to provide additional finance for the Road Accident Fund and the heavens didn't fall This important precedent alone suggests that the most recent policy guidelines on phasing out synfuels protection would be honoured

**TAX TAKES THE BIGGEST BITE**

Petrol price: (93-octane) Gauteng: 222c/l

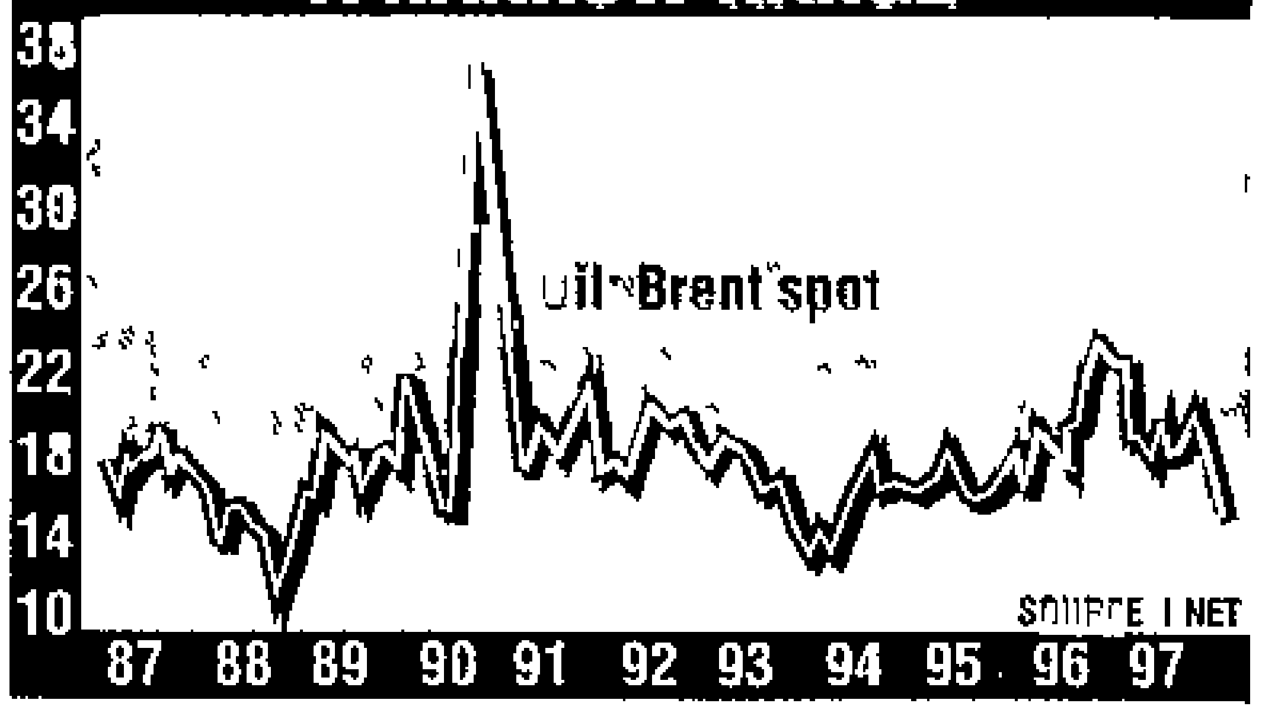


SOURCE MINERALS & ENERGY

The chart shows that the oil price, in the long term, seems to revert to a fairly stable pattern — between $17 and $22 a barrel — after temporary excursions, as market participants make appropriate adjustments Why should the current (downward) excursion be any different?

Various forces have jointly operated to push the oil price down in recent weeks The most obvious is the grant to Iraq of a third UN export quota as an exemption from sanctions to enable it to sell oil to buy food and medical supplies A recent press report says Iraq might soon be allowed to export 700 000 barrels per day (BPD) on a regular basis This amount would intensify stresses within Opec

**OIL PRICE: CLINGING TO A NARROW RANGE**



SOURCE I NET

A second is the enormous pressure within Opec to expand production quotas In September 1997, Opec produced at a rate of 28 653m BPD — its highest levels in 15 years This is up to 40,4% of world output

Demand — now at a record 70,9m BPD — has not been enough to counter the pressures from producers to sell more oil Now demand itself is threatened by the Asian economic crisis No wonder Dubai near-term futures have fallen below $14

When we turn to the SA market for refined fuels (see pie chart), what is most striking is the influence exercised by the fuel tax This balancing item in government's revenues comprises over one-third of the total pump price of petrol now at 222c/*l* for 93-octane in Gauteng The basic price also stands at over one-third That is determined by the oil price in dollars, the exchange rate for the rand and Indian Ocean refining margins, which make up the in-bond landed cost (IBLC) of fuel

Therefore the scope for achieving cheaper petrol by attacking the various levies is small in percentage terms As their purposes are individually most important, they should be left intact **Robin Friedland**

# Oil industry shakeup 'unlikely'

(183) CT(BR)16/1/98

**Lynda Loxton**

Cape Town — South Africa's oil industry was unlikely to undergo the much-talked-about reregulation this year, oil industry analysts warned this week

"I don't expect anything to happen until after the 1999 elections because of the possible job losses involved and the realisation by government that it will be too messy and too involved," one analyst said yesterday

Another said he expected real changes only to take place in three to four years

They also believed that Penuell Maduna, the minerals and energy minister, had not yet fully come to grips with his new portfolio and the conflicting demands placed on him by the government, the oil industry and black entrepreneurs wanting to get into the sector

The analysts were particularly sceptical about Maduna's stated aim to develop a national integrated oil company, saying there was "no sound economic case for the government to get involved in buying crude oil again"

**UNDER FIRE** *Energy minister Penuell Maduna*

However, sources said that special committees set up by the Central Energy Fund after its "bosberaad" in December last year were hoping to be able to report back to the board by the end of March on a possible way forward in restructuring its oil and gas assets to form a national oil company

If accepted, these would be put to the parliamentary minerals and energy committee for consideration and public comment later in the year

This is a separate process to what is being debated in Maduna's ministry, which is more concerned with the overall regulation of the oil industry in order to ensure a wider participation by South Africans, and more especially black entrepreneurs

Maduna has still not appointed the advisory body he said would help him refine a new white paper on the industry, including whether, and if so, how more participants, including supermarkets and Sasol, could become involved in retailing petrol

The industry itself is still in negotiations with Mossgas over the price of the synthetic fuel it has to buy from it

The minerals and energy department failed to meet the November 30 deadline set last year by the parliamentary public accounts committee to come up with a resolution to the quarrel, and the auditor-general is expected to follow this up in the near future

# Fuel industry set for progress in restructuring

BD 20/1/98

**Samantha Sharpe**

183

CAPE TOWN — The SA liquid fuels industry was expected to make significant progress in its bid to restructure this year in line with the needs of a democratic SA, Fred Phaswana, new chairman of the SA Petroleum Association (Sapia), said yesterday.

Phaswana, also chairman of BP Southern Africa, succeeds Total SA MD Dennis Poole as the organisation's first black chairman since its establishment in July 1994. Poole's term as chairman expired at the end of last year.

He said Sapia was committed to working with all role players for a new dispensation in the liquid fuels industry, one suited to the needs of a democratic SA. To this end the organisation had changed its constitution to make it easier and more affordable for emerging black oil companies and other new market participants to become Sapia members.

"Sapia now calls upon the emerging black oil companies and the other new companies who qualify for membership, as well as Sasol, to join the association.

"This will make Sapia a body more representative of SA and be a step towards a more representative economy."

Sapia director Colin McClelland said the major issue confronting the industry this year remained its restructuring and transformation in the new SA, a major component of which included economic empowerment.

However, also high on the agenda was the creation of a new energy policy white paper suited to growth, redevelopment and transformation and away from an operating environment of sanctions and self-sufficiency, McClelland said.

# Fuel industry body makes it easier for black firms to join

(183) ET(BR) 20/1/98

**Ncaba Hlophe**

Johannesburg — The South African Petroleum Industry Association (Sapia) had amended its constitution to ease the entry of black oil companies into the liquid fuels industry, Colin McClelland, a Sapia spokesman, said yesterday

The change would also allow Sasol, the petrochemical group, to break its long spell of isolation and join the association

McClelland said the amendment would make it "easier and affordable" for emerging black oil companies and other newcomers in the South African market to become members of the association

Although he would not divulge the membership fees, McClelland said that in terms of the amendment black companies would pay at least one tenth of the total fees "Sapia calls upon the emerging black oil companies and other new companies who qualify for membership, as well as Sasol, to join the association "

He said Sapia was committed to the transformation process in order to be more representative However, the black oil companies would be expected to pay full membership fees once they had increased their market share

He said the association had decided to welcome Sasol as a member after a Cabinet decision in 1995 to phase out government subsidies

In terms of a previous arrangement, the government had pledged to subsidise Sasol when the oil price dropped below $17 a barrel In 1995 indications pointed to a steadying in world oil prices, which influenced the cabinet to phase out the subsidy scheme

Alfonso Niemand, a Sasol spokesman, said that Sasol was not able to comment about the amendment because it had not received correspondence about it

Morris Hadebe, a spokesman for black oil companies, said they would only comment after examining the documentation

The oil industry was also expected to take a step towards the implementation of its multipronged transformation programme this year

McClelland said high on the agenda would the crafting of the new energy policy and the government-driven restructuring process, which was expected to involve state assets

He also said Fred Phaswana, the chairman of BP Southern Africa, had been elected chairman of Sapia, replacing Dennis Poole, the managing director of Total South Africa

# Maduna to set up advisory committee on liquid fuels

(183)

**Samantha Sharpe**

BD 22/1/98

CAPE TOWN — Mineral and Energy Minister Penuell Maduna is to announce details early next week of a special ad hoc committee set up to advise on all aspects of the liquid fuels industry

The minister's spokesman, Thulani Gcabashe, said yesterday that a list of possible members had been put together for the minister's approval, but it would be pre-emptive to indicate who they were likely to be.

The committee would play a purely advisory role, he said, with the minister ultimately responsible for leading the industry forward "Where the advice is patently in conflict with this, it will not be followed."

Industry sources said representatives of government, labour, business and "other interested parties" were likely to play a role on the committee, which was expected to comment on industry issues, including the contentious question of margin adjustments

SA Petroleum Association director Colin McClelland said he was aware that there were plans for the establishment of such a committee, which was to be warmly welcomed

"We are aware of the new body and look forward to hearing who's going to be sitting on it," he said

# ‘Fuel industry better without state company’

BD 27/1/98

**Samantha Sharpe** (183)

CAPE TOWN — The SA Petroleum Association (Sapia) would prefer government to find a restructuring vehicle for the liquid fuels industry that excluded a possible state oil company, while acknowledging a serious boost is needed to ensure black economic empowerment in the industry.

Sapia and BP Southern Africa chairman Fred Phaswana said the industry’s inclination was to a restructuring solution that left state intervention to policy rather than commercial decisions.

The dangers of state-controlled businesses were usually the tendency towards inefficiency and a move from commercial viability, with any plans for a state-owned enterprise difficult to justify given government’s clear move towards privatisation.

The restructuring of SA’s liquid fuels industry required a creative solution

“If government wants to create a state oil company for reasons of black economic empowerment, it is not unfeasible to think an alternative vehicle might be found, which could prove preferable

“However, if the private sector is to become a part of this solution, government must clearly set out its intended policy framework for the liquid fuels industry,” he said.

On the promised energy white paper, he was confident an end was in sight to the long-awaited policy document.

“This year will be crucial to the industry’s restructuring because relations between government and industry have improved tremendously in the past few months ”

# Central Energy Fund in the hot seat

CT (BR) 28/1/98 (183)

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

Cape Town — The board of the Central Energy Fund (CEF) was in line for a shake-up when a report into the controversial award of a R3 million consultancy contract to Liberian Emanuel Shaw II was released in the coming days, sources said yesterday

The committee investigating the contract has delayed the release of its report by yet another week, although the mineral and energy department yesterday maintained "there was no delay"

The committee was appointed last year by Penuell Maduna, the minister of mineral and energy affairs, after it emerged that Don Mkhwanazi, the CEF chairman, had appointed Shaw without going through formal tender processes

Shaw, a business associate of Mkhwanazi, has reportedly been linked to fraudulent insurance claims in Liberia and has reportedly been fingered by a Swiss oil trader for soliciting bribes on the promise that he could promote the trader's interests with Maduna

**CONFIDENT** *Don Mkhwanazi*

Sources close to the investigation said the committee had found inconsistencies between the evidence provided to it by Mkhwanazi and evidence provided by other parties

Gordon Sibiya, the deputy director-general in the department of minerals and energy who resigned from the CEF board last year in protest against the appointment, yesterday said he would be "surprised" if the report did not result in the cancellation of Shaw's contract and the appointment of a new board

"I do not want to pre-empt the work of the panel, but I would be very surprised if it came out in support of Mkhwanazi and the board because there is overwhelming evidence that the board and Mkhwanazi were in the wrong," Sibiya said

He also accused the board of having compromised itself and lied in its attempts to shift responsibility for the appointment to Howard Roberts, the acting general manager of the CEF

A department spokesman said yesterday that the report would be finalised this week, a promise made repeatedly over the past few weeks

Meanwhile the CEF's oil trading subsidiary, the Strategic Fuel Fund (SFF), is believed to have been immobilised by the controversy

☐ **Business Watch, Page 16**

# Contracts of energy fund chairman, directors 'must not be renewed'

**Linda Ensor** (183) BD 29/1/98

CAPE TOWN — The contracts of Central Energy Fund (CEF) chairman Don Mkhwanazi and his fellow directors should not be renewed at the end of March, a departmental inquiry recommended to Minerals and Energy Minister Penuell Maduna yesterday

The department's acting director-general, Dirk Bakker, who headed the inquiry, said Maduna reacted favourably to the report. Maduna is on record as saying he will abide by the findings of the three-man inquiry.

The report also recommended the immediate termination of the CEF's widely-criticised R3m-a-year contract with International Advisory Services, headed by Liberian consultant Emanuel Shaw, who was appointed to advise Mkhwanazi on the restructuring of the state's oil assets.

Mkhwanazi was criticised for failing to act according to the prescripts of good corporate governance in not declaring his "very close and personal relationship" with Shaw to the board before the Liberian's appointment.

Mkhwanazi insisted yesterday he was innocent of all wrongdoing He said he would lodge a high court application to clear his name.

Mkhwanazi is a director of a string of organisations, including JSE-listed Metropolitan Life, cement firm Alpha, Illovo Sugar, the Independent Development Trust and the Small Business Development Corporation

Bakker said Mkhwanazi should have withdrawn from the whole tendering process for an adviser because of his relationship with Shaw.

Mkhwanazi denied vehemently that he had had a personal relationship with Shaw and International Advisory Services, saying the company was one of the preferred suppliers that had worked for CEF previously.

The CEF board was criticised for failing to exercise its fiduciary duties in exonerating Mkhwanazi of all responsibility for the appointment without admonishing him for failing to declare his relationship with Shaw.

The board blamed acting GM Howard Roberts for Shaw's appointment But the inquiry found that Roberts had acted under the direct instruction of Mkhwanazi

The inquiry's findings, Bakker said, vindicated the actions of minerals and energy deputy director-general Gordon Sibiya, who resigned from the CEF board in protest

Shaw, under the spotlight for a series of controversial deals allegedly committed while he was a Liberian government minister, refused to comment without having seen the report

# Energy fund act to be amended

BD 29/11/98 (183)

**Linda Ensor**

CAPE TOWN — Minerals and Energy Minister Penuell Maduna has given the go-ahead for legislative amendments to the Central Energy Fund (CEF) Act to improve the structures of its corporate governance.

Deputy director-general Gordon Sibiya said the present act made no provision for a position of chief executive officer.

CEF nonexecutive chairman Don Mkhwanazi — sharply criticised in a report of a departmental inquiry handed to the minister yesterday — had acted beyond his powers by assuming the functions of an accounting officer. This was in contravention of the Companies Act, which required that the accounting officer should be an executive position.

Sibiya said he had repeatedly recommended to Mkhwanazi that a CEO be appointed, but Mkhwanazi had "actively resisted" the idea, saying he would do this after the industry had been restructured.

"We need to establish a clear distinction between the CEO and the nonexecutive chairman," Sibiya said.

In addition, the act should spell out exactly the role and function of the board of directors.

Currently all control and management functions were devolved to the board, which was unrealistic.

At the same time the legislation was silent on the role of the board in policy- and decision-making.

Finally, Sibiya said, the act should detail the criteria for appointing members to the board of directors, as was required by legislation governing the Atomic Energy Corporation and other parastatals.

The act contained no guidelines, but should stipulate that the board members either have a knowledge of the highly complex oil industry or be prepared to undergo training to acquire it.

Sibiya also disclosed that Maduna had given the department full power to consult all stakeholders in the industry regarding its restructuring.

Last week a meeting was held with the SA Petroleum Industry Association and another was held this week with the black oil industry entrepreneurs' group.

Meetings will be held with Sasol next week and with the trade unions the following week.

# Engen and strikers 'close to settlement'

**JONATHAN ROSENTHAL**

183

INDUSTRIAL EDITOR

Cape Town — Management and 300 striking maintenance workers, who are members of the Engineering and Maintenance Workers' Union, at Engen's Durban refinery are close to settling the nearly two-week dispute in the wake of increasing violence and one death, sources close to last night's negotiations said

Maintenance contract workers went out on strike last week to defend 77 jobs, accusing Brown & Root Group 5 Industrial Services, which is contracted to maintain the refinery, of replacing South African workers with American contractors

Tempers flared last week when picketing workers were dispersed by police Strikers responded by blockading the entrances to the refinery on Monday and disrupted deliveries of products from the refinery Union officials claimed 27 strikers were beaten by soldiers of the South African National Defence Force, who were called in under the National Key Points Act

Peter Dent, Engen's refinery manager, said yesterday that a striking worker was fatally stabbed on Monday — allegedly by other strikers as he attempted to return to work He said the death had left both parties shaken, and union officials were keen to settle the dispute

A union official said he believed that more than half of the 77 affected jobs could be saved and there was a possibility of placing the remaining workers elsewhere He said the settlement could also include an offer to place all contract maintenance workers on three-year contracts

Dent said negotiations between Brown & Root and the union were progressing well

CT (BR) 29/1/98

MAIL & GUARDIAN
January 30 to February 5 1998

# M&G vindicated as Shaw goes down

(183) M+G 30/1 – 5/2/98

**Mungo Soggot**

The government's decision to axe the state oil company board and scrap Emanuel Shaw II's R3-million contract with the company vindicates three months of reporting on the extraordinary saga by the *Mail & Guardian*, which first broke the story in November last year

Minister of Minerals and Energy Penuell Maduna said this week that the probe he ordered into Shaw's consultancy contract recommended the Central Energy Fund (CEF) board be replaced in April. Ironically, Shaw received his latest payment of R375 000 from the state the day Maduna made his announcement.

The deputy director general of the Department of Minerals and Energy, Gordon Sibiya, confirmed that the company's chair, Don Mkhwanazi, and the rest of the board had effectively been dismissed "It is the only way it could be," he said

Sibiya led the charge against Mkhwanazi, at times appearing to fight a lone battle against the appointment of the Liberian When the scandal first erupted, Sibiya tendered his resignation from the CEF

Maduna's panel has also recommended that Shaw's lucrative contract be terminated and that the minister seek legal advice on reclaiming some of the money paid out to Shaw's company, International Advisory Services (IAS).

Mkhwanazi maintains he did nothing wrong and was reported as saying he would lodge a court application to clear his name His representative said "there were many options open" but that Mkhwanazi would wait to see whether the Cabinet accepted the report before quitting Shaw has not handed Sibiya any written reports since his appointment last July.

On November 7 1997, the *M&G* exposed how Shaw and his son, Emanuel Shaw III, got the advisory contract without applying through a public tender

Mkhwanazi, a prominent Durban businessman with close ties to the African National Congress, confirmed he had introduced Shaw in 1992 to leading members of the ANC, including Thabo Mbeki He resolutely defended his choice of Shaw for the job of advising on the state oil company's restructuring — a process that is supposed to be steered by Maduna — and said the *M&G* was motivated by racism.

In the weeks that followed, the newspaper explored Shaw's sleazy past in Liberia, where he served as finance minister under the corrupt dictator Samuel Doe During the 1980s Shaw spent his time masterminding elaborate money-making schemes with a man known as the Godfather of Liberia, Gus Kouwenhoven.

The *M&G* also reported on a multi-million case between Shaw and the interim government of Liberia, which replaced Doe, in which the then minister of justice said Shaw's "main occupation was stealing"

Shaw fled Liberia ahead of Doe's gruesome public execution and returned to the West African country last year, when he was appointed economic adviser to Liberia's new President Charles Taylor

In spite of Shaw's notoriety in Liberia, Taylor has increased his powers, recently appointing him chair of a commission into the country's banking system

Shaw was in Taipei with Taylor when the story first broke, and, according to Mkhwanazi, was "livid" and would "become a rich man" through suing this newspaper. Shaw has served summons on the *M&G* demanding R7-million in damages The editor of the *M&G*, Phillip van Niekerk, says he "relishes the prospect of facing Shaw in court"

# Alpha to review Mkhwanazi's position

(183) BD 30/11/98

**Linda Ensor**

CAPE TOWN — The board of directors of Johannesburg Stock Exchange (JSE)-listed cement company Alpha — an Anglovaal subsidiary — would review the position of board member Don Mkhwanazi, Anglovaal and Alpha acting chairman Basil Hersov said yesterday.

This was in the light of allegations that Mkhwanazi had failed to comply with standards of good corporate governance while non-executive chairman of the Central Energy Fund (CEF).

Mkhwanazi is also a member of Metropolitan Life, whose chairman Nthato Motlana was unavailable for comment yesterday.

Hersov said it was likely the issue would be raised when the Alpha board met in about two weeks' time. He did not wish to pre-empt the board's decision by expressing a view on the findings of a mineral and energy department inquiry into Mkhwanazi's actions.

The panel found Mkhwanazi had fallen short of good corporate governance and had contravened the Companies Act by failing to inform the CEF board of his close personal and business relationship with Liberian consultant Emanuel Shaw. Shaw and his company, International Advisory Services, were employed by CEF at Mkhwanazi's insistence on a R3m-a-year contract to advise him on restructuring state oil assets.

The panel recommended the contract be terminated immediately and the terms of office of CEF board members not be renewed when they expired.

Mkhwanazi is a director of Illovo Sugar, the Industrial Development Corp and the Small Business Development Corp.

Institute of Directors of Southern Africa executive director Richard Wilkinson said important qualities for directors were integrity, independence from management to ensure no conflict of interest, and the courage to express views and walk away from compromising situations.

Wilkinson highlighted the increasing importance corporate governance issues had assumed for institutional investors abroad.

Associations of institutional investors in the UK, for example, were now setting stringent codes of corporate conduct and demanding that companies comply with these standards. If they did not, investments were withdrawn.

CEF board members Khaya Ngqula and Seth Phalatse refused to comment on the panel's findings before they had examined them. However, Phalatse said he stood by the original view of the CEF board that Mkhwanazi was not responsible for Shaw's appointment and that the blame lay with acting GM Howard Roberts.

Government sources revealed Finance Minister Trevor Manuel had circulated a protocol on corporate governance for public enterprises drawn up by HSBC. It proposed that the King code of corporate governance be adopted, except when this was in conflict with SA legislation.

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# The quintessential public servant

## How Gordon Sibiya exposed a dodgy foreign consultancy deal

(183)

ARG 2/2/98

**INSIDE STORY**

**Nothing matches vigilance and moral courage on the part of senior civil servants in securing the public interest, as confidential documents held by the Cape Argus on the latest Central Energy Fund controversy amply illustrate. MICHAEL MORRIS reports**

Gordon Sibiya is not a name widely known in public But it ought to be, because he is a man whose attention to detail, persistence and moral courage are, as a sum, an exemplar of public service

Virtually single handedly, the deputy director-general of the Department of Minerals and Energy doggedly pursued and ultimately exposed what he regarded as an irregular appointment of foreign consultants on a contract of no less than R3-million

Confidential documents and interdepartmental correspondence held by the Cape Argus show that, before his resignation in protest from the Central Energy Fund (CEF) board at the end of last year, Dr Sibiya's probing led directly to the appointment of the inquiry into the deal

The story about the controversial appointment of former Liberian Finance Minister Emanuel Shaw 2 and his son, Emanuel Shaw 3, to advise CEF chairman Don Mkhwanazi last year, broke in the Mail and Guardian early in November

The Liberians were awarded the contract without tendering, and without Minister Penuell Maduna's knowledge

Last week, the report on the inquiry – Minister Maduna appointed his acting director-general, Dick Bakker, to head the investigation – recommended that the contract with Mr Shaw's company, International Advisory Services (IAS), be terminated immediately and that a new CEF board be appointed from April

The documentation reflects Dr Sibiya's tenacity, and willingness to confront other senior officials, in seeking to maintain legitimate procedure It also shows just how easily taxpayers' money can be misused in the absence of diligent monitoring

The saga has its origins in contacts between Mr Shaw and Mr Mkhwanazi, then an economic advisor to the ANC, as far back as the early 1990s

In July last year, three months after his appointment as chairman of the CEF, Mr Mkhwanazi instructed the Fund's acting general manager, Howard Roberts, to contact Emanuel Shaw and "negotiate a consultancy contract which contract is to be funded from the CEF budgetary appropriations which cater for consultancy services to facilitate change issues"

The "change issues" refer to a range of euphemistically benign, though ill-defined, objectives under the popular catch-all labels of "transformation" and "restructuring"

Mr Mkhwanazi assured Mr Roberts that "these advisors enjoy my confidence and have proven to be equipped in my view with the requisite skills and expertise to provide assistance which is required to strengthen (my) office"

Part of the deal was to have IAS – apparently set up by Mr Mkhwanazi's law firm in Durban in 1996 – designate a full-time representative to the chairman's (Mr Mkhwanazi's) office

The deal was duly struck However, less than two months later, in mid-September, Gordon Sibiya stumbled on details of a payment of almost R563 000 in consultancy fees to IAS

As a member of the CEF board, this puzzled him He put it to Mr Mkhwanazi in a letter on September 19 "that I do not recall the board ever having approved any consultants to be appointed for this obviously difficult and onerous task, nor do I recall the board ever approving the above expenditure on the matter"

On the contrary, his recollection was that the board had insisted on being consulted about appointments, and that "consultants competing for the appointment" should make formal presentations and be available for questioning

Dr Sibiya charged that the "unilateral appointment" of IAS "constitutes a serious breach of board protocol", and placed on record his "strong objection to what has happened '

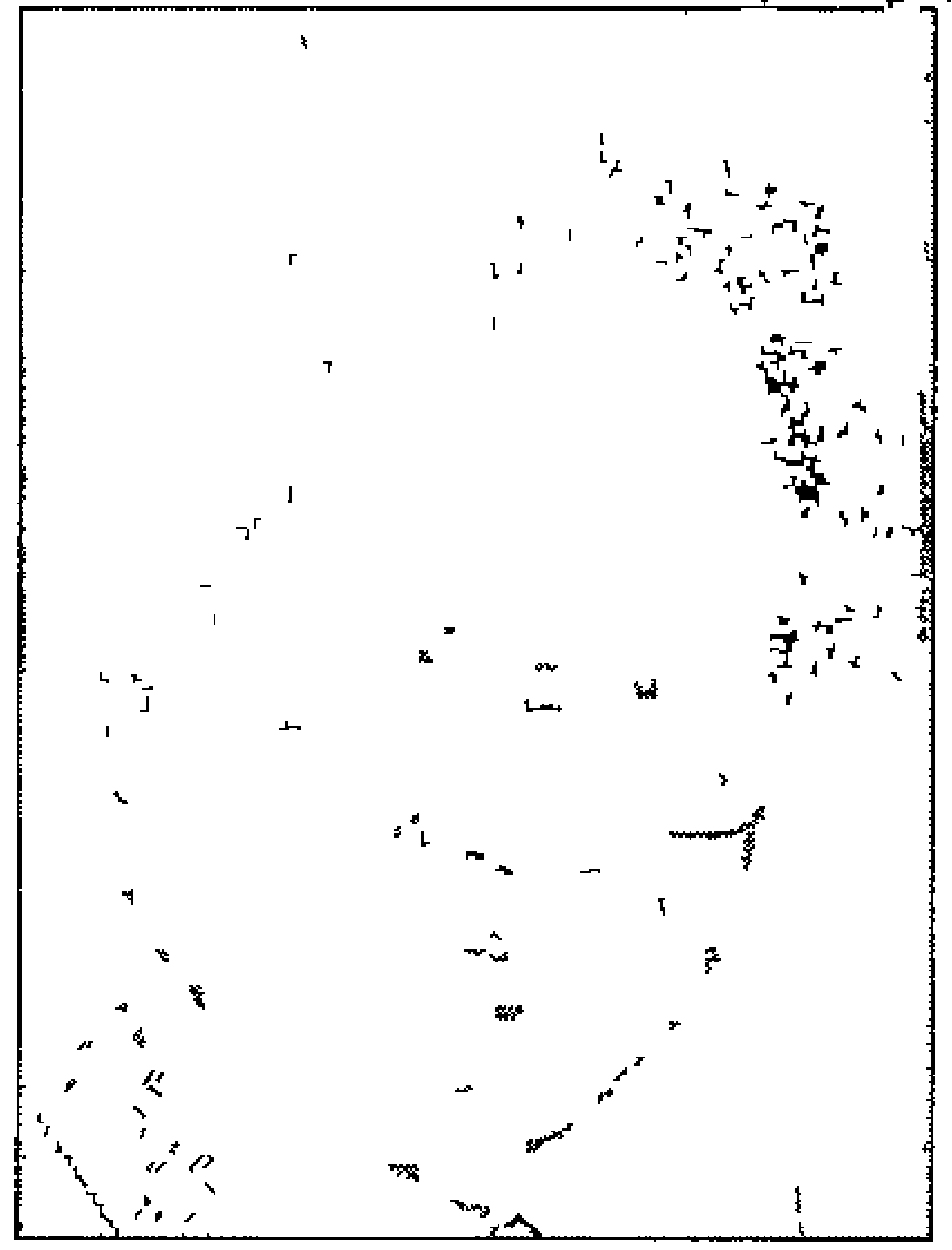
Mr Mkhwanazi dismissed these concerns "Management's view is that the appointment of IAS was made within an approved budget and within the limits of the general manager's authority I fully concur and subscribe to this '

He also objected to Dr Sibiya's "behaving in your current mode" – asking difficult questions

In a move to further buttress his position in September, Mr Mkhwanazi sought approval from the CEF board to increase the budget for his office by more than R260 000, from R955 896 to R1 220 328

In this time he sent no fewer than four letters to Dr Sibiya in an apparent attempt to shake off his pursuer But Dr Sibiya was undeterred, noting his disappointment that "none of your letters attempts to answer any of the worrying questions that I had posed"

He warned that the IAS payments had been classified as "unauthorised expenditure" and that the CEF management "are not happy about this either" He made the point that he was not trying to be "personal or difficult", but to emphasise the fact that "good corporate governance (depends on) transparency of the board, accountability, due diligence, independence and competency"



**Tenacity:** Dr Gordon Sibiya

These, in fact, are the qualities Dr Sibiya displayed throughout the saga In October, the CEF chairman's difficulties mounted when the Minister, Mr Maduna, declined to approve the payment of consultancy fees to IAS, and asked for an explanation of the circumstances surrounding the appointment

Mr Roberts also received a copy of this letter and, while declining to respond to questions about the actions of the board, of which he was not a member, he told ministerial advisor Thulani Gcabashe in a letter that the appointment of IAS was made without any tender "because it was a negotiated tender with a preferred supplier identified by (Mr Mkhwanazi) for reasons he has made clear"

In a submission to Parliament's portfolio committee on minerals and energy on November 3, Mr Mkhwanazi elaborated on his conception of what restructuring would entail "We will use the restructuring and transformation of the CEF Group to accelerate the participation of blacks in the petroleum sector at all levels

"Black economic empowerment and affirmative action will be non-negotiable pillars of our overall restructuring process and strategy "

On the face of it, there was nothing questionable about this, but IAS was to help plan and implement it Days later, however, the story broke in the printed media

Just as Mr Maduna moved to appoint the inquiry which recommended the termination of the controversial deal, so Mr Mkhwanazi went on the defensive, accusing his detractors of racism, and insisting there was "no infringement of rules, procedures and regulations" in IAS' appointment

He admitted that he had "initiated" the appointment, the contract for which had been negotiated and signed by Mr Roberts, within whose "limits of authority" it fell

It was for this reason, Mr Mkhwanazi said in a press statement, that "the board was not requested to approve or ratify the appointment"

Concerns were not allayed, and the CEF was hit by a series of key resignations Finance chief Sarel Cilliers and his deputy, Allcott Daventer, stepped down in December, shortly after Dr Sibiya's resignation from the board He, and the Chemical Workers' Industrial Union, called for Mr Mkhwanazi's resignation

The matter is far from over – Mr Mkhwanazi has said he is "shocked and dumbfounded" by the findings of the inquiry, and has indicated that if he is implicated by the report, he will approach the High Court for redress

The State labyrinth in which decisions – and multimillion budgetary allocations – are made, every working day, is all but impenetrable to the public in whose name it exists and whose welfare it is intended to serve

But, often well before parliamentary oversight is brought to bear, honest and perceptive public servants play a critical role in securing the public interest This will no doubt be uppermost in the minds of new CEF board members when they are appointed in April

# Govt expects drug law to be tested at WTO soon

BD 2/2/98 (83)

**Josey Ballenger**

PARALLEL drug importation provided for in recent legislation would be "put to the test" as soon as the pharmaceutical industry found a sponsor nation willing to take government to the World Trade Organisation (WTO), a senior health department official said last week.

"If the industry loses, it will set a precedent and be a very good thing for developing countries," said Bada Pharasi, the department's chief director of registration, regulation and procurement

He said the parallel importation clause was "an enabling one" which would be used only when an essential product was "unjustifiably" more expensive in SA than elsewhere.

"If, as the multinationals insist, our SA prices match the best in the world, it will not be necessary to resort to clause 15C at all," Pharasi told delegates at a health care symposium in Midrand organised by the Institute for International Research

## Threatened

Whether the clause in the Medicines and Related Substances Control Amendment Act constituted a violation of the WTO's treaty on intellectual property was a matter of debate, he said.

The US government, multinational pharmaceutical companies and the local Pharmaceutical Manufacturing Association have threatened in recent months to take legal action against SA, pending regulations to be published in terms of the legislation

Pharasi said the department's efforts to lower drug costs came nearly 20 years after government had identified the need to do this

He said a 1978 commission of inquiry into the pharmaceutical industry had focused on "problems arising from public perceptions about the high cost of medicines in SA's private health care sector, complaints in the market about the effects of discriminatory pricing, bonusing, dispensing by medical practitioners (and) irrational prescribing"

These had eventually received the attention of various government departments or bodies.

The policies underlying the legislation were therefore "not entirely new. The difference between then and now can be explained by the presence of political will in the present administration," he said.

# R3-m adviser faces the sack

(183)

**MICHAEL MORRIS**
SPECIAL WRITER

ARG 2/2/98

**A shake-up in the administration of the Central Energy Fund prompted by an inquiry into the appointment of a foreign consultant last year is expected to be finished by April**

An inquiry ordered by Mineral and Energy Minister Penuell Maduna has recommended that the R3-million contract awarded by fund chairman Don Mkhwanazi to Liberia's former Finance Minister, Emanuel Shaw, be terminated immediately

It has also recommended that a new board be appointed from April, and nominations have been called for

It was recommended that Mr Maduna take legal advice on terminating the contract, and on recovering costs The appointment was made without tendering and without the minister's knowledge

A report will be published after President Nelson Mandela and Deputy President Thabo Mbeki have seen it and commented

Confidential documents held by the Cape Argus chronicle the controversy, and illustrate the role played by public servants and the media

How the dodgy deal was exposed, page 8

# Job cuts as low margins squeeze Caltex profit

ARG 3/2/98

(183)

## *Cape Town head office the prime target*

**BUSINESS STAFF**

**Oil giant Caltex is in the process of shedding about 250 jobs, says Mike Rademeyer, managing director of Caltex South Africa.**

A few of these jobs are in Durban

Mr Rademeyer said "We are going to be looking at about 250 jobs The number is not cast in granite"

This figure represents one in eight Caltex employees

"The reason is essentially economic The oil industry is in a bad way – not just this country but in the world This is because we have not been given the margin increases we should have been, in terms of the existing Government formula

"We are not making the kind of returns that are going to be attractive for investors We had severe cuts in our capital expenditure budget for this year "

Mr Rademeyer said the bulk of the job losses would be among head office staff in Cape Town

***'We are looking at people who are not directly adding value and we're focusing on overheads'***

Very few refinery operators, truck drivers and sales representatives would lose their jobs

"We are looking for people who are not directly adding value We are looking largely at the overheads area of the company – from finance, accounts and information services "

Mr Rademeyer said the job loss process started in November last year Already 60 jobs had been done away with, largely painlessly

When a vacancy happened, the departing staff member was simply not replaced and the workload was re-arranged

In instances where people lost their jobs, the severance packages paid were, by South African standards, extremely generous, Mr Rademeyer said

Caltex would try to be sensitive in its treatment of outgoing staff, he added

But Chemical Workers Union secretary-general Muzi Buthelezi said it was incorrect for oil companies to blame job losses on profit margins, as the Government had granted a margin increase last November

Mr Buthelezi said all the oil refining groups were in the process of restructuring and forming alliances with each other at retail level

This was in anticipation of Government policy changes which would have the effect of deregulating aspects of the fuel industry

As a result, a great number of jobs were being lost in the industry, Mr Buthelezi said

"They're using the wrong excuses to cover their tracks They're just positioning themselves ahead of possible policy changes," Mr Buthelezi said

# Congressmen call for action against SA's medicine act

(183)

**Simon Barber**

WASHINGTON — Forty-five congressmen and two senators have signed a strongly worded letter to US Trade Representative Charlene Barshevsky calling for action against SA's new medicines control act

The letter, delivered on Wednesday, urges a so-called "special 301" investigation into whether the act violates SA's copyright protection obligations under World Trade Organisation agreements, and if that does not produce results, the filing of a complaint directly with the organisation.

Pharmaceutical Research and Manufacturers of America, the US industry lobby, has already asked the representative to highlight the SA legislation in its annual report on foreign barriers to US trade as a preliminary step to seeking formal action, and ultimately retaliation, under section 301 of the US trade act.

SA's only previous brush with "special 301" was over the SA trademark rights of fast-food company McDonald's.

The bipartisan congressional initiative was spearheaded by New Jersey Congressman Robert Menendez, the senior Democrat on the House Africa subcommittee, and strongly supported by the rest of his state's delegation. Pharmaceuticals are New Jersey's largest industry.

BD 6/2/98

The letter is seen as stepping up the pressure on both the SA government and the US administration to resolve the matter when the US-SA Binational Commission, chaired by US Vice-President Al Gore and SA Deputy President Thabo Mbeki, holds its next meeting in Cape Town later this month.

US drug companies are up in arms over a clause in the SA act that they say gives the health minister carte blanche to abrogate their patent rights. The firms are also angered that the legislation permits their patented products to be imported outside their own marketing channels and pricing structures.

There is debate within the administration over whether to declare an official dispute before President Bill Clinton's planned state visit to SA at the end of March.

It remains unclear, however, as to whether the companies' complaints can be resolved without rewriting the legislation. Some argue that a compromise could be reached through the wording of the regulations implementing the law.

# Oil parasite wants more

M+G 6-12/2/98 (183)

*Mossgas is demanding another R1,8-billion, reports* **Mungo Soggot**

Mossgas, the state-owned synthetic fuel producer which is one of South Africa's most expensive white elephants, has asked the government for another R1,8-billion

The latest call for cash by the plant — which is controlled by the embattled Central Energy Fund (CEF) — has been presented in writing to the Minister of Minerals and Energy, Penuell Maduna, after being approved by the CEF board in December

If Maduna agrees to pump the money into the fuel-from-gas operation, he will bring the Mossgas bill to almost R14-billion since the project was set up by former president PW Botha in 1988

Mossgas chief Dave Day said this week the money is needed for a three-year expansion project to link the synthetic fuel operation to new gas fields Day said without this Mossgas will close in 2001

A Ministry of Minerals and Energy representative confirmed Maduna had received the proposal, but declined to indicate when he will make a decision

The money Mossgas wants would come from its own cash flow which currently goes back to the CEF, and in turn to the state's coffers The state-of-the-art plant has recently started turning a profit — last year it made R730-million — but only after guzzling billions of rands of state funds over the past decades

Two years ago, Maduna's predecessor, Pik Botha, approved a R910-million project to extend the plant's life to 2001 during a confused and unsuccessful privatisation drive described as an attempt to "test the market" The decision on whether to authorise that expansion project was delayed for several months, which increased the final cost

Maduna now faces the same dilemma as Botha sell the plant's equipment, or continue pumping state funds into it in the hope that it will eventually become viable

Asked whether he had had any indications of the minister's thinking on the matter, Day said that Maduna had been "fully briefed All the information has been put at his disposal "

But Day warned that Mossgas would have to start work on its new post-2001 expansion project immediately to ensure the plant's survival Day said the R1,8-billion project could lay the basis for a lifespan of up to 31 years

Maduna's office has been presented with proposals by companies keen to exploit the gas near Mossel Bay One of these is United States exploration company Sante Fé, which wants to pipe the gas to the Western Cape

Such a plan would mean winding down Mossgas — and it is understood to have been opposed by senior officials in the CEF, including chair Don Mkhwanazi

Mkhwanazi and Maduna have at times expressed enthusiasm for a state oil company — which could include Mossgas — to compete with the foreign oil companies operating in South Africa

Since giving the green light to the R1,8-billion plan, Mkhwanazi and his board have been accused of violating key principles of corporate governance by a panel appointed by Maduna The panel was charged with investigating Mkhwanazi's appointment of Liberian politician Emanuel Shaw II as an adviser to the fund at a cost of at least R3-million a year

The panel recommended that Shaw's contract be rescinded and that the board be replaced in April It is believed Shaw was also interested in exploring the idea of a state oil company

# Oil panel completes its probe

(183)

M+G 9-15/1/98

**Mungo Soggot**

The panel appointed to investigate Emanuel Shaw II's top state oil job finished its probe this week after hearing testimony from Gordon Sibiya, the senior government official leading the charge against Shaw's R3-million appointment

The acting director general of the Department of Minerals and Energy, Dick Bakker, said this week that after hearing Sibiya's testimony the panel felt it had sufficient material to make its recommendations

Bakker, who heads the panel, said there was no need to hear evidence from Thulani Gcabashe, special adviser to Minister of Minerals and Energy Penuell Maduna Gcabashe, who was to have testified this week, raised the alarm about Shaw's appointment last October

Sibiya, the deputy director general of the Department of Minerals and Energy, tendered his resignation from the board of the state oil company last December after learning about Shaw's appointment

He also called for the head of the state oil chief, Don Mkhwanazi, who appointed the company named in Shaw's contract, International Advisory Services, a year after his Durban lawyers set up the company

The Cabinet rejected Sibiya's request to step down from the board of the state oil company, which has recently lost a string of senior employees

The *Mail & Guardian* has established that Shaw, a representative of some notoriously corrupt Liberian governments, and Mkhwanazi were close associates before Shaw was handed the job

Bakker said the panel — which includes three civil servants and a corporate lawyer — will compile its draft report on Sunday The panel is expected not only to examine the contract, but also to pass judgment on the conduct of the state oil officials who appointed Shaw

Bakker said the panel would hand its final report to Maduna in the next two weeks, after which Maduna is expected to release its findings to the public

# Government expected to reject jet fuel import bid

CT (BR) 10/2/98 (183)

**Ncaba Hlophe**

Johannesburg — The government's expected rejection of the South African airline industry's application to import its own jet fuel would cost the industry about R400 million a year in artificially high fuel prices, the industry said

"The department has advised against the importation of jet fuel," Theunis Burger, the director of transport energy in the minerals and energy affairs department, said yesterday

The industry, led by the Airlines Association of Southern Africa (AASA) and South African Airways (SAA), applied for the import licence last year to fend off the high fuel prices at Johannesburg International Airport (JIA) and other local airports

Two previous attempts had been rejected by the government department

JIA charged about R1 a litre, between 15 and 30 percent higher than the world average, costing SAA more than R200 million in unnecessary expenditure About 60 percent of the airline's fuel is from local airports

The industry said the high prices were caused by the outdated in-bond landed cost (IBLC) pricing structure, set up to address sanctions against the previous government. The IBLC formula charges a blanket 12,8c a litre railage fee plus other costs

Burger said his department was concerned that importing jet fuel would affect downstream and empowerment opportunities in the oil industry

John Morrison, the executive director of AASA, said the impending failure of their bid would be a blow to the industry, which could not sustain the financial drainage He said airlines would have to increase airfares, which would adversely affect tourism in the region

☐ Business Watch, Page 16

*Company bids to extend life by 30 years*

# Mossgas now seeks R1,9bn offshore loan

(183) CT (AR) 10/2/98

**LYNDA LOXTON**

PARLIAMENTARY CORRESPONDENT

Cape Town — Mossgas, the state-owned fuel-from-gas company, has asked the Cabinet to approve a R1,9 billion offshore loan to extend its life by up to 30 years

Dave Day, the chief executive of Mossgas, told a workshop organised by the parliamentary minerals and energy committee yesterday that the investment would boost the value of Mossgas to $2,5 billion and would provide the state with a valuable asset to float on the JSE

Although this did not mean the government would recoup all of the more than R12 billion already invested in the plant near Mossel Bay, it would make Mossgas a "very valuable" asset, Day said

Mossgas, which has been called a white elephant by many critics, has come under fire in the past for demanding more money from the government to keep it afloat despite the fact that it turns a profit

Thulani Gcabashe, a special advisor to Penuell Maduna, the minerals and energy minister, told the parliamentary workshop that the restructuring of Mossgas needed serious attention if it was not to continue being a drain on the fiscus

Gcabashe said options included the commercialisation or privatisation of the fuel producer. He also said Mossgas should stop making synthetic fuels and concentrate on becoming a major supplier of gas to areas such as the Western Cape

Day said that when the government had tried to sell Mossgas two years ago the only cash offer it received was for R300 million, which was rejected Mossgas then invested about R900 million in extending its FA satellite field and in a compression project, boosting its value to R1,2 billion

"That was because Mossgas was given the opportunity to pull out more gas and have a longer life," he said

Mossgas has now suggested that it should be allowed to take a long-term offshore loan, instead of depriving the state of much-needed revenue by retaining its earnings of R700 million a year to pay for the R1,9 billion development of its EM field The suggestion is now before Maduna, who has said he would like to see a partial listing of Mossgas on the JSE

The investment in the EM field would immediately lengthen the life of Mossgas by six years and make it possible for it to access gas reserves that could last another 25 to 30 years

At present Mossgas only has enough gas reserves to last until 2001.

"The European Investment Bank is particularly interested (in providing the loan) and there are also some private banks and state organisations that are interested," Day said

"We can get that full loan tomorrow It would require a government guarantee, as people are very keen on investing in Mossgas The loan would have very favourable interest rates and would be paid back over 15 to 20 years "

# Oil industry to demand bigger slice of fuel sales

BD 10/2/98 (183)

**Linda Ensor**

CAPE TOWN — The oil industry would apply for its marketing margin to be increased by about 2,5c/*l* — in addition to the 2c/*l* granted in November — to cover higher distribution costs, SA Petroleum Industry Association executive director Colin McClelland said yesterday

If granted by Minerals and Energy Affairs Minister Penuell Maduna and if the in-bond landed cost of petrol did not fall to offset the effect, then the retail petrol price would have to rise as a consequence A 1c/*l* margin increase adds R180m a year to oil companies' revenues

McClelland said the oil companies felt justified in applying for further interim relief considering that dealers had been granted a 2c margin increase in November and another 2,5c in February

Between 1996, when the oil industry applied for a 3c/*l* margin increase and November, when a 2c/*l* rise was approved, costs had risen to 4,5c The marketing margin was regulated at 16c/*l*.

Meanwhile, the National Black Fuel Retailers' Association attacked the oil companies at a workshop organised by the mineral and energy affairs parliamentary portfolio committee

A representative of the association, Moses Moloele, said the industry had resisted transformation Retailers, he said, wanted to own the land on which their petrol stations stood as the lease agreements they had with oil companies undermined profitability

Excel executive Maurice Radebe said black oil companies wanted a 20% share of the fuel market, or 1 000 of the 5 000 service stations in the country But McClelland noted that the big oil companies would be reluctant to lose their market position by selling their stations and insisted that they would have to be sold on commercial terms

Radebe argued that black oil companies should have unlimited quotas for new petrol station sites, while the development of new ones by the major oil companies should be restricted The workshop learnt that the large oil companies owned or controlled about 40% of all service stations and that these stations were the most strategically positioned resulting in a market penetration of between 70% to 80% of all fuel sold

Maduna's special adviser, Thulani Gcabashe, questioned the rationalisation plan which governed the sale and distribution of fuel He said the plan had given the large oil companies a clear advantage

"The powers which currently control the industry .. are insisting that the plan be further entrenched on their own terms and conditions These things have to be re-examined, but they can't just be done away with as that would cause instability," Gcabashe said

Mossgas MD David Day said government had been approached for R1,9bn to fund exploration of reserves which might extend the lifespan of the oil-from-gas plant for about 30 years

ARG 10/2/98

# Sulphur at AECI to be moved

(183

**NORMAN JOSEPH**
STAFF REPORTER

The last 8 000 tons of the killer sulphur stockpile at the AECI plant in Somerset West is to be moved.

The sulphur caught fire in 1995, Macassar had to be evacuated and two asthmatics died.

Last year Rossing Uranium of Namibia, which bought the chemical from the Department of Trade and Industry, removed 8 500 tons of pure sulphur and the department agreed to share the balance free of charge among Swartland farmers.

A brief hiccup this week was the blending of the sulphur with sand according to the farmers' specifications.

AECI spokesman Cyril Mathyse said that farmers would be able to use the chemical, once it was blended down to about 20% of its strength, to control sulphur deficiencies in the soil on their farms

*Industry has already made 'major concession', says letter to public accounts committee*

# Oil groups won't pay Mossgas

CT (POR) 12\2\98 (183)

**Lynda Loxton**
PARLIAMENTARY CORRESPONDENT

Cape Town — The oil industry is refusing to pay any money relating to the multimillion-rand pricing impasse with Mossgas, the state-owned oil-from-gas producer, reveals a letter to Ken Andrew, the parliamentary public accounts committee chairman

Written by Dick Bakker, the department of minerals and energy affairs' former acting director-general, the letter says the impasse should be resolved in the first quarter of this year

It says the industry has made a "major concession" by being willing to negotiate a total package for the product which it uplifts from Mossgas on a voluntary basis

"This total package would, among other things, address aspects such as the locality advantage, product quality, the upliftment of produce from imported feedstock, and the position of new entrants in the liquid fuels sector," Bakker says

The impasse arose after the lapse of the informal agreement between the oil industry and Mossgas that the oil companies would buy Mossgas fuel at a discount to the import parity price, or in-bond landed cost (IBLC)

In return for being paid the lower price, Mossgas received a synthetic fuel levy from the equalisation fund run by the Central Energy Fund

No new deal was negotiated, and the informal arrangements stayed in place until the oil companies started having to import fuel because of technical problems at their refineries

Mossgas argued that because the oil companies were no longer having to export surplus fuel, they should pay the higher IBLC, and now claims the oil industry still owes it millions of rands

The oil companies disagreed, saying they were not net importers of fuel

Nobody could broker a deal between the two even though, faced with growing capacity constraints, the oil industry did become a net importer last year and offered to pay Mossgas the IBLC

The "total-package" approach is a departure from the industry's previous position of using its installed refinery capacity in 1986 as a basis to determine when it should pay Mossgas the IBLC

"The oil industry submits that this approach is a major concession and is therefore of the opinion that should it be accepted, there should be no retroactive implementation and that potential outstanding claims not be pursued," Bakker said

Committee members expressed their frustration in November about the failure of the department and Mossgas to resolve the pricing dispute even though it was costing the taxpayer about R150 million a year

Henri Kluever, the auditor-general, had recommended the department should consider new ways of resolving the deadlock

# Oil industry agrees to pay more for fuel

(183) BD 13/2/98

**Linda Ensor**

CAPE TOWN — The oil industry had agreed to pay Mossgas a higher price for the petrol and diesel it acquired from the state-owned oil-from-gas company, Mossgas MD David Day disclosed this week

The parties had agreed the oil companies would pay the in-bond landed cost or import parity price of fuel rather than the significantly lower export parity price, but only if this formed part of a total package

The industry was adamant it would not recognise Mossgas's claims for this new price to be backdated and sources said Mossgas had not put a quantified claim on the table.

The agreement had been reached during prolonged negotiations initiated by the minerals and energy affairs department to resolve a dispute over a pricing formula.

The negotiations were prompted late last year by dissatisfaction by Parliament's public accounts committee that the state had to pay Mossgas about R140m annually to make up the difference between the two prices

Day said negotiations had extended beyond the question of price and included the expansion of Mossgas's activities and to whom it could sell its product. One of the issues was how to incorporate new black entrants into the retail sector.

"We have contracts with black empowerment companies and we want to be able to honour those contracts," Day said. "This is not insurmountable as the oil companies have said they would allow us to keep our existing contracts, though they don't like it because it means they lose business."

One area of disagreement was Mossgas's wish to refine more fuel by importing condensate so it could utilise the 10% refining capacity presently out of production. "The new gasfields we are exploiting are drier and contain less condensate which we rely on for about 25% of our output As it dries up yields drop We want to import that condensate and treat it as part of our production," Day explained.

"The oil companies say no They are only prepared to do business with us on the basis of the indigenous product, arguing that if we import materials we will be competing with them as refiners. Mossgas says this won't hurt the oil companies because they are importing fuel"

The parties meet again next week and hoped to conclude an agreement in the next few months, sources said.

# What was in it for Don?

(95)

(183) M+G 13-19/2/97

*Don Mkhwanazi has been enjoying Emanuel Shaw II's largesse since the controversial contract was arranged, reports*

**Mungo Soggot**

Grease my palms: The unctuous Don Mkhwanazi. PHOTOGRAPH: SIDDIQUE DAVIDS

Emanuel Shaw II, the Liberian politician handed a R3-million state oil job, has been bankrolling the man who gave him the contract, Central Energy Fund chair Don Mkhwanazi

Bank records show that one of Shaw's South African companies has been channelling money into the account of a company owned by Mkhwanazi

The account pays the R36 000 monthly instalment on a R2,4-million house Mkhwanazi bought last year in Linksfield Ridge, one of Johannesburg's most exclusive suburbs He also owns two houses in KwaZulu-Natal The account also pays monthly instalments on a car

The records show that Shaw, a highly creative financier, has direct access to the account, which means he can deposit and withdraw cash whenever he wants

A government commission of inquiry into Shaw's appointment has already recommended that his contract be shredded, and that Mkhwanazi be sacked as chair of the Central Energy Fund Minister of Minerals and Energy Penuell Maduna has yet to act on the commission's findings

The commission did not find any evidence of financial ties between Shaw and Mkhwanazi.

The bank documents provide that proof, and could expose Mkhwanazi, a public official, to a criminal charge of corruption The chief of the Office for Serious Economic Offences, Jan Swanepoel, this week declared his willingness to investigate

It is not clear how long the two have jointly run the bank account, though the account is in the name of Juno Investments, a company Mkhwanazi formed in Durban in 1991 He is Juno's sole director

It is understood the tax authorities believe Juno is dormant But the bank records show that large sums of money — up to R50 000 a shot — wash through the account each month

The account from which Shaw is transferring money into Juno's account was opened last April — three months before Mkhwanazi quietly recruited Shaw and his son as the Central Energy Fund's key advisers

Shaw is suing the *Mail & Guardian* for R7-million, following articles that prompted Maduna's commission of inquiry

The commission found Mkhwanazi's relationship with Shaw was too close for the Durban entrepreneur to have recruited Shaw without putting the post out to tender

The relationship between Mkhwanazi and Shaw runs deep The two live less than 300m apart in Linksfield Ridge Mkhwanazi introduced Shaw to senior African National Congress leaders in the early 1990s, and later hired Shaw as a consultant for his black empowerment initiative, the National Empowerment Trust, which includes on its board a string of prominent figures from the black business community.

The bank documents show that the National Empowerment Trust Investment Fund also pumps money into Mkwanazi's Juno account One of the instalments was for R50 000

Shaw invests in the Juno account through a little-known Johannesburg-based company, Finance Tech Consulting Corporation, of which Shaw is chair Recent bank statements show Finance Tech paid more than R18 440 into the Juno account in one shot on January 2 Juno also transfers money into Finance Tech's account, paying R20 000 on January 7

The deposits into Juno from the National Empowerment Trust raise further questions about the status of the black empowerment venture

Mkhwanazi hired Shaw's Liberian colleague and long-time associate Ethelbert Cooper to help set up the trust in 1996

But two of the trust's top executives — Durban businessman Oscar Dhlomo and Diamond Board chief Gibson Thula — quit soon after They left after Mkhwanazi used a large chunk of the trust's R5-million start-up money to pay himself and Cooper

Mkhwanazi has shrugged off Maduna's commission of inquiry's findings and has threatened to go to the high court to clear his name

It is understood he and Shaw spent several hours last weekend at Maduna's Johannesburg home trying to persuade the minister to keep them on

When Maduna appointed the commission, he said he would stand by its findings and release its report to the public But when the commission finished, he passed its findings to the deputy president and the president after releasing a statement that listed the commission report's salient points

Maduna has also since expressed concern that he might not be able legally to rescind Shaw's contract And the minister has been approached by at least one senior Central Energy Fund management official to retain some of the company's board members

Despite Maduna's foot-dragging, his department advertised for new board members of the fund last weekend

Mkhwanazi and his board held what should be their last board meeting at the fund's headquarters in Sandton this week The written agenda for the meeting included a discussion of the role of the minerals and energy deputy director general, Gordon Sibiya, in the commission of inquiry Sibiya gave the commission a devastating two-hour testimony in which he documented precisely how Mkhwanazi had ridden roughshod over basic rules

Sibiya, who was also on the fund's board, has led the charge against Mkhwanazi It is understood he was barred from this week's board meeting until the rest of the board had caucused about trying to keep their jobs

Mkhwanazi was faxed a list of questions on Wednesday He was unavailable for comment up until the *M&G* went to press Shaw switched off his cellphone when first contacted by the *M&G* on Thursday Two messages were subsequently left on his voicemail service Shaw flew to Liberia later in the day

(183)

**MINERAL & ENERGY AFFAIRS**

FM 13/2/98

# Maduna's man takes hot seat

## Liquid fuels industry revamp may finally get under way

**After being** vacant for a year, the post of director-general in Mineral & Energy Affairs has been filled by 40-year-old lawyer Sandile Nogxina

This will bring respite to embattled Minister Penuell Maduna who, since taking office in August 1996, has spent most of his time fighting fires

Nogxina says he is still familiarising himself with policy issues, but is adamant that his department's programme for the year will not be affected by his having to learn the ropes

"I will provide strategic direction and leadership in the department My skills are inclined towards issues of development I will ensure that we improve the lot of the poorest of the poor in whatever direction we lead the industry," he says

"We didn't make enough progress last year, but we are now in a position to make better decisions," says deputy DG Gordon Sibiya

Much of Maduna's time was also spent attending to the controversial "missing funds" saga in the Strategic Fuel Fund, a public spat with the Auditor-General and a furore over the appointment of a Liberian businessman to advise the chairman of the Central Energy Fund

Already this year, Maduna has released a White Paper on Minerals and is hoping to pass seven pieces of legislation through parliament during the current session

But the most important document will be a revised draft White Paper on Energy which will be released next month

Sibiya reckons government will at least be able to decide on a new refinery before the end of the year It should also be able to work out how to deliver a realistic petrol price for the consumer

Nogxina has a Master's degree in law in development from Warwick University in the UK He has worked for the ANC in exile and the World Bank in Washington Before he joined Maduna, he was an adviser and then deputy DG in the Ministry of Public Service & Administration

**Duma Gqubule**

Saturday Star
February 14 1998

# Black Davids tilt at oil Goliaths

Star 14/2/98

(183)

**By ESTELLE RANDALL**

New black-controlled oil companies are challenging the international oil giants in South Africa and have turned to the Government for help

This week the small black-run oil firms urged the Government to place a five-year moratorium on major oil companies developing further service stations so that black companies can gain control of 1 000 of the 5 000 existing service stations

Maurice Radebe, executive of Exel, one of the new black-owned oil companies, led the fray at a workshop in Parliament this week involving all leading players in the sector

Nine years ago Radebe (37) began work at Shell as a retail manager In June last year he left to take up an executive position with Exel Now, less than a year later, Exel owns three petrol stations in Gauteng and has contracts to supply the Public Works Department nationwide with diesel and the South African Air Force with jet fuel.

"We plan to expand our service stations to 20 this year and to enter into contracts with parastatals such as Eskom and private sector companies in vehicle fleet management and mining," said Radebe

Exel is one of a growing number of black oil companies trying to stake a claim in the monopolised turf of the oil industry Kings of the turf are Shell, BP, Total, Caltex and Engen, which own or control about 40% of the 5 000 service stations and have between 70 and 80% of the petrol market

**MAURICE RADEBE:** Aims at 20 stations

These big firms are also involved in petroleum exploration, production, transportation, refining, distribution and retail Most new entrants, such as Exel, Afric Oil and Tepco, are involved only in retail – selling petrol through service stations or other kinds of commercial contracts Altogether, these new entrants control less than 1% of the market

They want more, but restrictive apartheid legislation of the past and tight regulation of the petrol industry mean they now have to play David to the established companies' Goliath.

About three weeks ago these new companies opted to pool their resources and to speak with one voice on policy initiatives for significantly restructuring the oil sector

Exel, Afric Oil, Tepco, the National Black Fuel Retailers Association and seven other black mineral and energy companies formed the African Mineral and Energy Forum to advance the interests of previously disadvantaged stakeholders in the mineral and energy sector

They got their chance this week when Parliament's mineral and energy affairs portfolio committee held a workshop on regulating the liquid fuels sector.

"There should be a five-year moratorium on development of new service stations by the major oil companies," argued Radebe.

He said the current quota system in developing new petrol stations should be retained but there should be a cap on the number of new quotas, and black oil companies should get unlimited quotas and should have first preference in taking control of already zoned petrol station sites.

Past apartheid legislation had restricted black control and ownership of petrol stations to black areas, leading to an unprofitable proliferation of service station sites in these areas. Radebe said the black companies don't want to eliminate price control on petrol because they believe price wars would perpetuate the dominance of the major companies

"Getting rid of current regulations on price control would lead to major price wars, where the big companies would sell at cost so that the small players are unable to survive. So there has to be empowerment before there is deregulation

"In the past, these same big oil companies went in for economic empowerment of the Afrikaners Shell and BP hived off some of their service stations so that Trek could emerge They had the capacity to do so then and they should do so now Not as a gift – we'll negotiate rental or purchase prices," he stressed.

Minister of Mineral and Energy Affairs Penuell Maduna has established an advisory forum comprising all groups operating in the sector to participate in compiling a white paper on liquid fuels

**FIRST OF MANY:** Garage owner Shep Ngcelwane with a petrol jo
a minuscule 1% market share – a situation, with the Government's

# Small firms want a share of black gold

# Oil giants challenged

(183) ARG 14/2/98

THE STAR

**Black gold:** Maurice Radebe wants a five-year moratorium on new service stations

ESTELLE RANDALL

**New black-controlled oil companies are challenging the international oil giants in South Africa and have turned to the Government for help.**

This week the small black-run oil firms urged Government to place a five-year moratorium on big oil companies developing further service stations so black companies can gain control of 1 000 of the 5 000 existing stations

Maurice Radebe, executive of Exel, one of the new black-owned oil companies, led the fray at a workshop in Parliament this week involving all leading players in the sector.

Less than a year after he left Shell to for an executive position with Exel, it now owns three petrol stations in Gauteng and has contracts to supply the Public Works Department nationwide with diesel and the South African Airforce with jet fuel

"We plan to expand our service stations to 20 this year and to enter into contracts with parastatals such as Eskom and private sector companies in vehicle fleet management and mining," said Mr Radebe, 37

Exel is one of a growing number of black oil companies trying to stake a claim in the monopolised oil industry

Kings of the turf are Shell, BP, Total, Caltex and Engen which own or control about 40% of the estimated 5 000 service stations and have between 70% and 80% of the petrol market

They are also involved in petroleum exploration, production, transportation, refining, distribution and retail

Most new entrants such as Exel, Afric Oil and Tepco are only involved in retail – selling petrol through service stations or other kinds of commercial contracts Altogether, these new entrants control less than 1% of the market share

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"There should be a five-year moratorium on development of new service stations by the major oil companies," argued Mr Radebe

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Apartheid legislation had restricted black control and ownership of petrol stations to black areas, leading to an unprofitable proliferation of service station sites in these areas

The black companies don't want to eliminate price control on petrol as they believe price wars would perpetuate the dominance of the major oil companies

"In the past these same big oil companies went in for economic empowerment of the Afrikaners," Mr Radebe said

"Shell and BP hived off some of their service stations so that Trek could emerge They had the capacity to do so then and they should do so now Not as a gift – we'll negotiate rental or purchase prices "

Minister of Minerals and Energy Penuell Maduna has established an advisory forum to participate in compiling a White Paper on liquid fuels

# AEC hits back at scientists' claims

CT(BR)16/2/98 (183)

**SHERILEE BRIDGE**

Johannesburg — The Atomic Energy Corporation (AEC), South Africa's nuclear technology company, has launched an attack on the nuclear scientists who have spoken out over the corporation's alleged misuse of funds

Former AEC scientists, some of whom are being investigated for breaching silence agreements signed with AEC at their departure, said earlier this month that the commercialisation of the AEC had led to the possible misuse of government funding to the tune of R300 million a year through the privatisation of successful commercial projects funded by taxpayers' money

Waldo Stumpf, the chief executive officer at the AEC, said the corporation strongly rejected the unsubstantiated statement as it felt it was one-sided and unfair

He said the AEC's state allocation was R220 million for this financial year, showing a real reduction of 80 percent a year since 1990 Of this figure only 2 percent went towards AEC's commercial businesses and this was for extraordinaries and once-off restructuring, said Stumpf

The rest of the corporation's budget involved a 53 percent expenditure on the responsibilities performed by the corporation on behalf of the state, and 45 percent allocated to research and development of new nuclear and related products that could eventually be commercialised and the repayment of inherited loans, the last of which would be settled by 2002

*Only 2 percent of the state's allocation went towards AEC's commercial businesses*

Stumpf said the autonomous business units within Pelindaba Technology Products, the AEC's commercial arm, would carry their own losses if they occurred

"As the commercialisation programme of the AEC evolves further, established business units would move closer to the market through the formation of alliances, joint ventures, part or full privatisation "

He said it was the AEC's aim to reduce its dependence on the state by increasing product sales on local and foreign markets, closing non-commercial operating plants, discontinuing scientific and research programmes, outsourcing non-mission related internal services and downsizing support functions

A decline of state support of more than 45 percent for operational activities is on the cards

The former AEC employees have questioned why the plan to "transform swords to ploughs" is still seen as the blueprint for the corporation's future when it has been so slow to make a real difference and has left the country with a "white elephant" that costs South African citizens billions of rands, thanks to decades of massive government investment But Stumpf insists that the plan will meet AEC's commercialisation efforts

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# Sasol in sulphur venture

**SHERILEE BRIDGE**

Johannesburg — Sasol, the petrochemical processor, and Sunwood Sulphur, the agricultural chemical supplier, would set up a sulphur milling plant in Sasolburg, the petrochemical company said on Friday

The new plant will serve the local and international agricultural and rubber markets

Sasol said the plant would be erected at ChemCity, Sasol Chemical Industries' small business park in Sasolburg, with a design capacity of 20 000 tons a year Production of the plant will begin this month, and the sulphur feedstock will be sourced from the nearby Natref oil refinery

The establishment of this plant forms part of Sasol Chemical Industries' New Dawn initiative, aimed at stimulating and facilitating downstream chemical businesses in South Africa

# Mossgas loan in troubled waters

1/83

**Lynda Loxton**

Cape Town — Henri Kluever, the auditor-general, has objected to Penuell Maduna, the mineral and energy affairs minister, about plans by Mossgas, the state owned oil-from-gas producer, to take out a R1,9 billion offshore loan to extend its lifespan

Gordon Sibiya, the deputy director-general of the department of mineral and energy affairs, told the parliamentary portfolio committee on minerals and energy yesterday that Kluever had pointed out that the Cabinet had decided some years ago that no more money should be spent on trying to keep Mossgas afloat

"It seems to be the consensus that the lifeline of Mossgas could be extended by 20 to 25 years (if it gets the R1,9 million loan) and, if this is so, it is actually good news," Sibiya said

"But then you have a caveat because Cabinet resolved some years back that no more money should be spent on Mossgas

"And I do believe that this matter is now in the office of the auditor-general because he has written to us saying that he is worried about the expenditure on Mossgas because there was a standing Cabinet decision that no more money ought to be spent "

Mossgas's letter to Maduna asking for permission to take out the loan only landed on his desk this week Sibiya said it would be difficult for him to make a decision because of the Cabinet ban

He also told the committee he firmly expected a green paper on the long-awaited review of policies on the liquid fuels industry to be ready for public comment by March He had come under some criticism from the committee for the delays by the department in finalising energy policies

But he called for patience, saying it had taken some time for the department to restructure itself after Maduna replaced Pik Botha in mid-1996

"These are burning questions (about the restructuring of the liquid fuels industry) because we are asked these questions by stakeholders on almost a daily basis," Sibiya remarked

Considerable progress had been made in the restructuring of the electricity sector, while the white paper prepared by Botha had been revisited and deficiencies addressed

The main aim would be "to increase social equity by promoting access to energy services for disadvantaged households, small business, farms and community service"

CT (BR) 18/2/98

and energy affairs, told the
parliamentary

no more money ought to be spent."

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*Analysts expect Hoechst to sell out to Dow Chemicals*

# Safripol sale is in offing

(183) CT(BR) 18/2/98

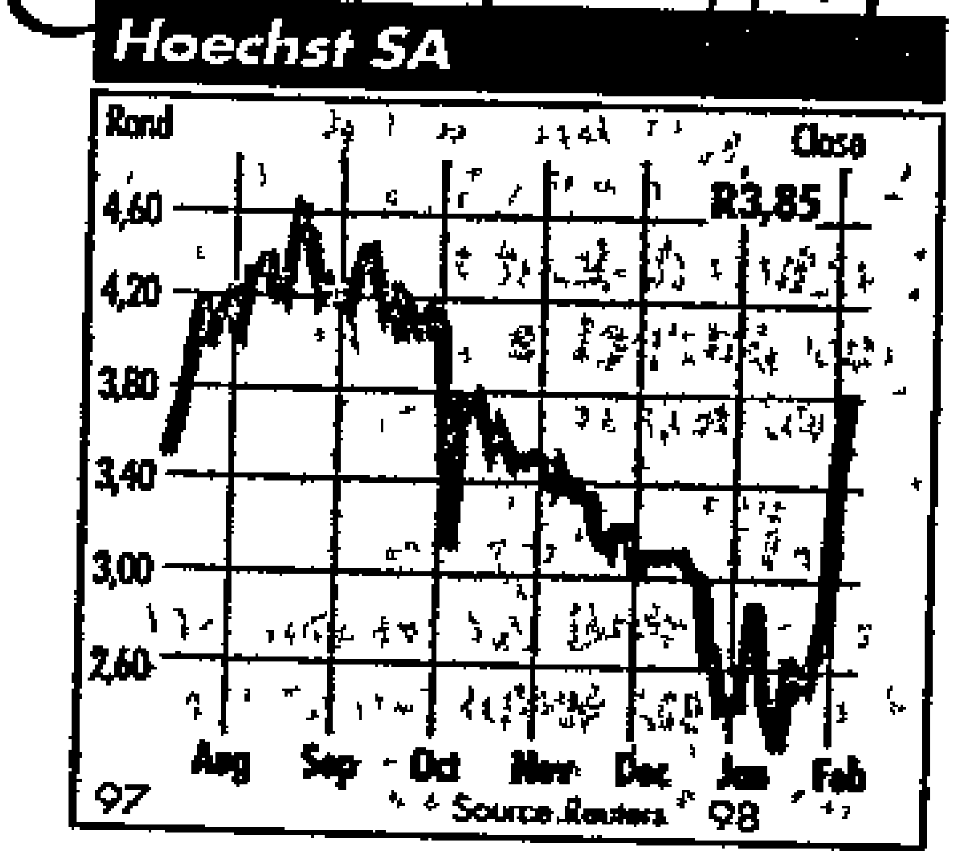
**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Hoechst, the chemicals and life sciences group, was likely to sell its 50 percent share of the Safripol polypropylene manufacturing plant at Sasolburg to Dow Chemical for more than R200 million, analysts said yesterday

This speculation was sparked by a Hoechst cautionary announcement saying it had entered into discussions regarding its interest in Safripol

Safripol is owned jointly by Hoechst and Sentrachem, which was acquired by Dow and delisted late last year The 90 000 tons-a-year a plant is one of the major profit-drivers in Hoechst, but since last year's takeover of Sentrachem analysts have been expecting either Hoechst or Dow to sell out to the other party

Hoechst SA



Source: Reuters

"My gut feel immediately says a Hoechst sell because of the parent's moves internationally," said Paul Carter, a chemical sector analyst at ING Barings.

Hoechst's European parent company, which owns 73,7 percent of the JSE-listed group, has been selling its polymer businesses and concentrating on pharmaceuticals and life sciences

Carter said the sale, should it occur at a fair price, would be positive for Hoechst.

"I do not believe that the selling price of its 50 percent shareholding (in Safripol) is factored into the Hoechst share price"

Carter said Safripol was a good business with a dominant position in the domestic high density polyethylene market High density polyethylene is used primarily for making packaging film, pipes, crates and bottles

Polypropylene is a plastic feedstock used in the manufacture of a range of products including carpets, dairy containers, automotive parts and pipes

Last year Safripol opened a R235 million upgrade to the plant. Demand for the plastic raw materials produced by the plant is estimated to have grown at 11 percent a year for the past seven years Hoechst said at the time it forecast growth of 6 percent to 7 percent a year to 2000

# Sentrachem downplays job cuts

(183) BD 18/2/98

**Shareen Singh**

EMPLOYEES at Sentrachem will demand that US firm Dow Chemicals disclose information about Sentrachem's restructuring which has caused dissatisfaction among management and workers

Dow bought Sentrachem last December following a failed attempt at a hostile takeover.

Restructuring would result in about 300 to 400 job losses, a Sentrachem management source has estimated, but this has been denied by MD John Job

He said downsizing would affect only senior management and some administrative staff, totalling no more than 100

The SA Chemical Workers' Union (Sacwu) said yesterday the restructuring was going ahead without “workers knowing exactly what is happening”

Sacwu general secretary Manene Samela said Dow Chemicals owed workers an explanation on its restructuring plans which would affect their jobs

“We were left in the dark when Dow took over Sentrachem and now we are still in the dark about the restructuring We want transparency and consultation before any retrenchments take place

“It is distressing when foreign companies invest in SA and cut jobs instead of creating jobs What good is such investment to us?”

Samela said workers wanted to know which assets would be sold, which divisions merged or closed, changes to products and how many would be retrenched

Sacwu was “struggling to get information from the company”

Three unions had met Dow officials in December and requested information which had not been received, said Samela

Job said the unions were not involved in any discussions on restructuring because “there are no new plans to close or sell any divisions All that is happening is a management restructuring, and to our knowledge none of the managers affected belong to a union ”

He said Sentrachem would use its internal communication channels to “shed clarity on the whole matter”

# Probe into claims of kickbacks for energy fund chief

(183) Star 19/2/98

Public Protector Selby Baqwa is to probe allegations that Central Energy Fund (CEF) board chairman Don Mkhwanazi received kickbacks from Liberian politician Emanuel Shaw in exchange for a R3-million-a-year job.

This was announced by Mineral and Energy Affairs Minister Penuell Maduna yesterday.

Accompanied by Home Affairs Minister Mangosuthu Buthelezi, Maduna met Mkhwanazi in in his Cape Town office. During the meeting, the CEF chairman denied Shaw was paying for his luxury R2,4-million home in Linksfield Ridge, Johannesburg.

"Mkhwanazi denied most vehemently receiving any kickbacks from Shaw or from any person," Maduna said. However, he had told the meeting about the special relationship he had with Shaw, a chartered accountant, who has continued to handle many of his projects.

A government commission of inquiry into Shaw's controversial appointment has recommended that his contract be shredded and that Mkhwanazi be sacked as CEF chairman.

# State probe blasts Shaw appointment

*Don Mkhwanazi is judged to have had a 'personal interest' in the appointment of Emanuel Shaw II as consultant to the Central Energy Fund, writes* **Mungo Soggot**

M+G 20-26/2/98 (183)

Minister of Minerals and Energy Penuell Maduna this week effectively backed Emanuel Shaw II and Don Mkhwanazi — two men implicated in corruption at the state oil company — when he rubbished his own commission of inquiry into Shaw's appointment

Answering questions in Parliament, Maduna said the commission's report showed "basic flaws" and would not help resolve the crisis at the Central Energy Fund Maduna said he had told this to President Nelson Mandela

Mkhwanazi, both of whom bank at the same Johannesburg branch of a leading bank.

Mkhwanazi has frequently sought to saddle the Central Energy Fund's acting general manager, Howard Roberts, with the responsibility of Shaw's appointment The report dismisses this attempt to pass the buck, saying Mkhwanazi "did approve the appointment of Mr Shaw and therefore had the obligation to disclose his interest to the remaining board members"

**Sure-fire Shaw: The panel has recommended his contract be rescinded**

tified that the fund does not consult with labour on its restructuring and privatisation plans, and that it has no guidelines on empowering black South Africans when it procures services

The report also says the commission failed to discover who leaked the contract to the *M&G*

**Now the cover-up, PAGE 32**

Maduna promised to release the report — which recommends he sack Shaw, Mkhwanazi and the rest of the fund's board — next week

A leaked copy shows the probe found Mkhwanazi had cleared Shaw's appointment with the fund's board five months after his Liberian associate signed the contract, and one month after it was reported in the *Mail & Guardian*

The probe, which also concluded Mkhwanazi had a "personal interest" in appointing Shaw, says the fund's board ratified Shaw's appointment only on December 4, "after the appointment became a matter of public knowledge"

Maduna appointed the probe into Shaw's appointment last November, a week after the *M&G* reported how Mkhwanazi gave the Liberian politician the R3-million-a-year job in July He has not commented on it since releasing a summary of its recommendations three weeks ago, but has held lengthy discussions with Mkhwanazi and Shaw

The report documents a string of corporate governance breaches by Mkhwanazi and his board. It accuses Mkhwanazi of failing to disclose to the board his personal and business links with Shaw before making the appointment — a breach of the companies Act — and criticises the board for its general lack of concern over the recruitment of Shaw

It says by the time the board cleared the appointment on December 4, it was aware of Shaw's relationship with Mkhwanazi He informed the board of Shaw's appointment as a matter of record on September 29

The report says Mkhwanazi indicated to the panel "that he has long-standing personal and business relationships with Mr Shaw which were developed outside the context of Central Energy Fund The nature of the relationship, as explained by the chairman, is such that the panel could objectively presume that in the absence of evidence to the contrary, the chairman had a personal interest in the appointment of Mr Shaw "

The *M&G* reported last week how one of Shaw's companies channelled money into an account of Mkhwanazi's, which pays the bond on a R2,4-million house in Johannesburg Maduna released a statement this week carrying Mkhwanazi's denial that he received money from Shaw

Maduna said he will refer these kickback allegations to the public protector The Office for Serious Economic Offences is already investigating the transfers which appear in recent bank statements from Shaw and

**Mkhwanazi was technically entitled to appoint Shaw as what the fund's internal rules term a 'preferred supplier'**

sibly allocated R5-million of the fund's budget — which was supposed to be spent on advisers for restructuring Mossgas, the fuel-from-gas operation in the Cape — to pay Shaw

With this budget allocation, Mkhwanazi was technically entitled to appoint Shaw as what the fund's internal rules term a "preferred supplier" — a route which excused him from putting the post out to tender

The report says the board's minutes did not show any discussion on switching the Mossgas money to Shaw Although the board cleared this expenditure for a restructuring consultant — not specifically Shaw's International Advisory Services — it should have only done so in consultation with Maduna, who was only alerted to the appointment when his special adviser had to sign for Shaw's paycheque in October

The report notes "with dismay" that Shaw's contract was not cleared with anyone with a legal background, adding that the contract lacked several basic clauses which "would ordinarily be insisted upon by a party in the Central Energy Fund's position and which would be expected in an agreement of its kind for the protection of [the fund's] interests

"In general, the board's lack of interest in relation to the appointment of Shaw for such an important task shows the board's lack of appreciation for the process of restructuring," it reads

It says board members did not exercise their fiduciary duties by using the money meant for Mossgas, not participating on the appointment of a consultant, and not challenging Mkhwanazi when they found out about his close links with Shaw

Mkhwanazi's board includes attorney Keith Kunene, who is also on the board of Mkhwanazi's National Empowerment Trust Investment Fund Kunene is also a director of Southern Bank, a joint-venture Malaysian bank of which Mkhwanazi is chair

Other board members include Kaya Ngqula, who, like Mkhwanazi, sits on the board of Industrial Development Corporation, and Johan Basson from the Department of Minerals and Energy, who recently resigned

The deputy director general of minerals and energy, Gordon Sibiya, was the only member of the board who stood up to Mkhwanazi and tendered his resignation from the board

The panel recommends several changes to the Central Energy Fund Act to increase the company's accountability to the government It also says the Chemical Workers' Union tes-

SENTRACHEM/DOW CHEMICAL

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# Dow makes its presence felt

FM 20/2/98

**Half of** Sentrachem's senior management has been served redundancy notices, just two months after US-based industry giant Dow Chemical Co took over the troubled SA group

The 50 redundancies, which will take effect at the end of next month, are part of a major restructuring, which includes the transformation of Sentrachem's five core subsidiaries — Hampshire (speciality products), Karbochem (rubber products), NCP (industrial solvents), Safripol (polymers) and Sanachem (agricultural chemicals) — into business units

Some have already been absorbed into Dow, the second-largest chemical corporation in the US after DuPont, and more will follow

Top executives served with notices include Vince Lovell (chairman of subsidiaries, 20 years service), Anthonie Ras (GM corporate development, 30 years service), and Chris van Niekerk (MD NCP, 18 years service)

All members of the former board, chaired by Attie du Plessis and which included corporate heavyweights Peter Joubert and lawyer Michael Katz, resigned in December

Sentrachem's Johannesburg Stock Exchange listing was terminated on January 14 after Dow paid R11,75 each for Sentrachem's 197,5m outstanding shares, representing a purchase price of about US$480m

Sentrachem's last figures, released belatedly last December for the year to August 31, recorded an attributable loss of R235m, down from a profit of R249m the previous year

Sentrachem MD and CEO John Job, who is to retain his position, says "The restructuring of Sentrachem and its integration into Dow is proceeding The programme will mean a significant reduction in management jobs "

Sentrachem's new chairman, Henry Vermaak, says the restructuring programme will "get Sentrachem even more viable than it was before" Vermaak, who works for Dow at its European base in Switzerland, explains "The Sentrachem management put forward some proposals to us We put in our ha'penny-worth on structures that would fit the Dow format of functions and business

"As a consequence there is clearly redundancy and a significant amount of folk will be leaving Whether the number is 50 I cannot exactly verify, because I haven't seen the final list "

Vermaak stresses that Job will retain his titles "He's the person who knows most about the company, its operations and its possibilities for the future John is definitely on board "

On the restructuring, he says "What we're trying to do is consolidate Sentrachem, as it now exists, into a company with business units The units which easily fitted into Dow have been moved into Dow "

Sanachem has already been integrated into Dow Agroscience "There's been a very clear and easy fit there," says Vermaak

The US speciality chemical company Hampshire Chemical Corp, bought by Sentrachem in 1995 for US$156,5m, has been integrated into Dow's speciality chemicals group Vermaak adds that NCP and Karbochem "have been organised by the Sentrachem folk themselves into a single unit called Karnat "

Dow might find it more difficult, however, to absorb Safripol, the profitable Sentrachem joint venture that has Germany's Hoechst as a 50% partner

Says an executive of Hoechst South Africa "There certainly isn't going to be any integration of Safripol into the Dow network or organisation, that's for sure "

Vermaak has different plans "Safripol would fit very neatly into Dow's polyolefins business, so we will have to find a way of making sure that it fits snugly into the Dow organisation "

The restructuring has not been without pain It appears that a legal row is looming over large "penalty" deductions from the redundant executives' severance packages

The deductions — in some cases in excess of R500 000 — have been made from their pension fund payouts Departing executives say that the company has levied a penalty on all those under the retirement age of 63 The penalty being deducted is 3% (of the redundancy package) for every year short of retirement age

"The guys are all mad," says one departing executive "A 36-year-old guy who joined at 18 and has 18 years' service will get nothing, not one cent "

A redundant senior executive who will lose more than 40% of his package through penalty deductions says "This is serious stuff They want as much money left in the fund as possible As soon as we get our money next month we're going to sue them "

John Job

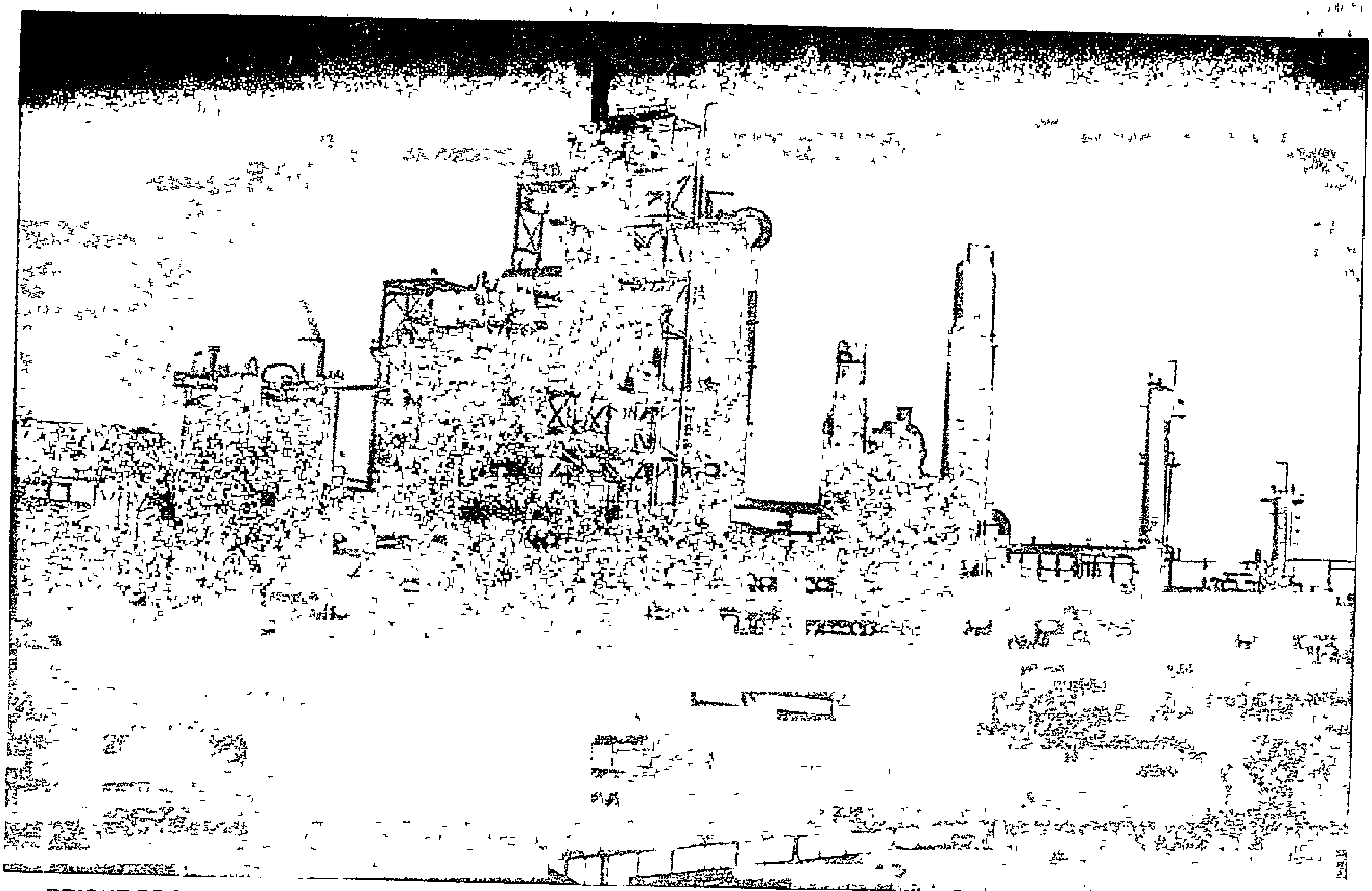
From Dow's headquarters in Midland, Michigan, financial communications official Denise Osterhues says "At this time a team of Dow people is working with Sentrachem management to help the transition of ownership and to integrate the companies' business systems

"There has been some restructuring in Sentrachem management as a result of Sentrachem's previous restructuring plan and the integration process

"It would be inappropriate for Dow to comment on the situation of specific individuals However, [illegible] managers who leave will [illegible] treated fairly and accord[illegible] to the rules of the pensi[illegible]nd "

Job says "The p[illegible]ss of severance is being conducted in accordance with the company's normal practices and strictly in terms of the rules of the pension and provident funds " He adds that Sentrachem "has a record of the fair treatment of employees at all levels when restructuring has led to the loss of jobs "

**Jack Lundin**



**BRIGHT PROSPECTS . . .** the Natref refinery in Sasolburg could get supply contracts worth more than R1-billion a year

# Petrochemicals stepping on the gas

(183) ST (BT) 22/2/98

INVESTMENTS

By SVEN LUNSCHE

TWO of the largest investments in the SA chemicals industry — a R7-billion ethylene cracker, accompanied by a R1-billion refinery upgrade — are expected to be finalised next month

Chemicals group Polifin said on Friday it was assessing two possible locations for the long-awaited cracker, due to be launched in 2003 — a site adjacent to the joint Shell-BP refinery, Sapref, in Durban, and an inland location near Sasol's Natref refinery in Sasolburg

The refinery which emerges as the main petrol-based feedstock provider to Project 2003 will secure supply contracts worth over R1-billion a year

Both Sapref and Natref recently announced capital investments of about R1-billion to meet increasing domestic petrol demand If they are to win the bidding for the Project 2003 contract, additional investments will be required

Polifin managing director Trevor Munday says the main aim of Project 2003 is to counter a looming domestic shortage of ethylene, the starting point for everything from motor-car trim to soft drinks cartons

While global ethylene prices are falling in the wake of the Asian crisis, "our considerations are of a long-term nature"

He says the company has received detailed proposals from both bidders and will evaluate them over the next few weeks "This is a R7-billion investment and a project of national interest It needs careful scrutiny "

Project 2003 at full stream will produce up to 600 000 tons of ethylene and 250 000 tons of propylene — two key building blocks in government's vision of a vast petrochemical industry

Paddy Milner, general manager, manufacturing, supplies and trading at Shell, says Sapref is finalising plans for a R1 3-billion investment to expand the refinery's 165 000 barrel-a-day capacity by up to 90% "If we win the Project 2003 contract we will do some adjustments to our expenditure," he says He says a Durban location will aid Polifin in its drive to export products

Sasol's recent decision to invest R900-million at Natref will boost capacity by 30%, but Ralph Havenstein, managing director of Sasol Chemical Industries, says the group "will investigate several packages to enlarge its base were it to win the supply contract " Although Sasol is a major shareholder in Polifin, together with AECI, Shell's Milner says "Polifin has been completely above board "

# MINISTRY AGAIN REJECTS BID TO IMPORT JET FUEL

(183)

Johannesburg — The government has rejected the application by the southern African airline industry to import its own jet fuel to avoid high fuel prices, which cost more than R400 million a year

"In view of the current regulatory dispensation and the need to keep it in place in the interim, as well as the adequate supply of jet fuel, I am not in a position to recommend the importation of jet fuel at this time," Penuell Maduna (pictured), the minerals and energy minister, said in a letter to the Airlines Association of Southern Africa.

This was the third application to be rejected by the ministry

Maduna said the issue would be addressed as part of the deregulation of the liquid fuels industry — Ncaba Hlophe

CT (BR) 23/2/98

# Cosmetics project creates 16 000 jobs

AVROY Shlain Cosmetics' R1 million investment in selling its products directly to black townships has created more than 16 000 job opportunities, the company has said

(183) ([illegible])

Skills and training opportunities have also been transferred to emerging black women entrepreneurs, says the company's sales manager, Zuko Tofile

Avroy, which Tofile says is South Africa's largest direct marketing company for cosmetics and skin care products, also wants to franchise its boutiques to local entrepreneurs

Tofile says the primary aim of the project is to recruit and train consultants who will then promote the products on their behalf

So far more than 16 000 people are involved in selling Avroy's products throughout the country

Tofile says because of the difficulty in finding premises to operate a business in the townships, his company converts containers to use for boutique franchises

"The first container of that nature was set up in Soweto and the business notion has spread like wildfire to Tembisa, Alexandra, Katlehong, Vosloorus and Benoni," says Tofile

"Many women in townships have suffered some sort of abuse On occasion this abuse results from financial dependence

"That is why our company is giving women the opportunity to make money and be independent," he says

Sowetan 24/2/98

# US drug industry wants SA put on priority watchlist

(183)

**Simon Barber**

BD 25/12/98

WASHINGTON — The US drug industry asked the Clinton administration yesterday to declare SA formally a major violator of intellectual property rights unless the SA government agreed to amend the Medicines Control Act, which the industry saw as giving the minister of health carte blanche to void its patent rights in SA.

US trade representative Charlene Barshefsky was urged to place SA on the "priority watchlist" of countries where US patents and trademarks are considered to be under the most serious threat.

SA was one of only three countries — the others were India and Argentina — which Pharmaceutical Research and Manufacturers of America, the US industry lobby, recommended be singled out in this manner in the US's annual review of US intellectual property concerns, due out in April.

"We consider SA one of the three most egregious cases out of the 70 countries where we have concerns," the lobby's Tom Bombelles said.

While placement on the trade department's "priority watchlist" entails no direct sanctions, it raises a red flag for companies considering technology-based investments.

"There is a chilling effect," said a Washington trade lawyer who has been following the pharmaceutical dispute with SA.

SA was previously placed on the department's "watchlist", but not the "priority" list, when fast-food giant McDonald's faced the loss of its registered SA trademarks for failure to use them during the sanctions era.

The "priority watchlist" is the heaviest cudgel short of the outright trade retaliation of filing a complaint with the World Trade Organisation (WTO) in the trade department's arsenal provided by section 301 of the US Trade Act.

Earlier this month, 47 members of Congress wrote to Barshefsky urging her to "pursue all necessary actions, including if necessary with the WTO" unless the Medicines Control Act was repealed The law is also being challenged in the Constitutional Court.

Officials from the US and SA trade departments have been working to resolve the dispute.

It had been hoped that a compromise would be reached when the US-SA binational commission, chaired by US Vice-President Al Gore and SA Deputy President Thabo Mbeki, met in Cape Town this week. The meeting was postponed as part of President Bill Clinton's effort to convince Iraq's Saddam Hussein he was serious about going to war unless Saddam allowed access to suspected weapons sites.

The US trade department does not have to make a decision until after Clinton's planned visit to SA at the end of next month.

# Kluever is 'furious' about Baqwa inquiry

(183) CT(BR) 26/2/98

**Roy Cokayne**

Pretoria — Henri Kluever, the auditor-general, said he was "the *donder in*" (furious) about the formal inquiry into allegations made against him by Penuell Maduna, the mineral and energy minister, regarding the Strategic Fuel Fund, which controls South Africa's strategic oil stockpile

However, Kluever said last week he would co-operate with the inquiry, led by Selby Baqwa, the public protector

"But there's no case against me When the allegations were first made, I answered them in the correct fashion by putting a report on the table in parliament, which refuted all the allegations

"I'm the *donder in* But I will co-operate with Baqwa's investigation, which will bring out the true facts," he said

The inquiry follows Maduna's allegations last year that Kluever had kept parliament in the dark on alleged irregularities in the fund

Maduna made the allegations in response to a special report to parliament in which Kluever denied that R170 million had been stolen and defended the actions of his office in auditing the fund

Kluever said on Friday the R170 million allegedly stolen was a book entry and resulted from the revaluation of stock He said this was done because of a revised accounting policy, and had led to a lower value

Kluever said that despite his explanation, Maduna had repeated the allegations and said Kluever was not fit to be the attorney-general "My qualifications fit the job of the auditor-general like a glove," Kluever said

Kluever would not comment on whether he would take the matter further after the inquiry

# AECI faces restructuring, say analysts

CT (BR) 26/2/98 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — A collapse of ammonia and urea prices on international markets would probably force a restructuring of the fertiliser and nitrogen operations of AECI, the chemicals group controlled by Anglo American Industrial Corporation (Amic), analysts said yesterday

International prices for ammonia, an important feedstock for nitrogen fertilisers and explosives, fell from about $212 a ton in December 1996 to about $102 a ton last December as cheap nitrogen products made from Russian natural gas flooded the market

The fall in nitrogen prices has left Kynoch, AECI's fertiliser subsidiary, in a precarious position Kynoch's Modderfontein plant is South Africa's sole supplier of urea, a basic fertiliser produced from ammonia and carbon dioxide But while urea prices have collapsed in line with those of ammonia, Kynoch's production costs have not fallen

Kynoch produces its own ammonia through a dated coal-to-gas plant at Modderfontein

Jennifer Ramsden, a chemical sector analyst at First National Equities, said Kynoch's problems were exacerbated by last year's maintenance shutdown and a 7 percent fall in fertiliser sales on fears of an El Niño drought

Paul Carter, a chemical sector analyst at ING Barings, said "Kynoch has just been a complete mindblow for them in terms of falling profitability

"The bottom line is that it's a very old plant with uncompetitive technology," he said Although the market is adamant that AECI will have to do something about its nitrogen operations, analysts were split over what AECI would do about these — if it would indeed do anything at all

Carter believed a significant restructuring would come sooner rather than later

AECI itself scotched the possibility of an early restructuring, saying it "has no intention of making any announcement surrounding nitrogen when it announces its results next week"

The analysts said AECI had few options for restructuring, other than closing the plant and importing urea or ammonia, or building a new plant They thought AECI was unlikely to build a new plant They said there could also be a broader restructuring of AECI's assets, which could include consolidating agricultural businesses with Minorco's agricultural business

A remote possibility was the unbundling of AECI's interests in Polifin and Chemserve, two highly profitable subsidiaries All said AECI was trading at a significant discount to net asset value

# Zuma vows drug fight

(183) ARLT 26/2/98

**The Government will fight legal action by the Pharmaceutical Manufacturing Association (PMA) to have the Medicines and Related Substances Control Amendment Act declared unconstitutional, Health Minister Nkosazana Zuma says.**

"The Government is concerned that the legal action by PMA will delay the implementation of the legislation, which is aimed at improving the lives of all South Africans," she said in a statement yesterday

The PMA and 41 co-applicants in the court action say the act violates the constitution by giving Dr Zuma wide powers to override the Patents Act

However, she maintains she needs this power to allow parallel imports of cheaper medicines

The United States drug industry on Tuesday asked the Clinton administration to formally declare South Africa a major violator of intellectual property rights unless the Government agreed to amend the Medicines Control Act, Business Day reported yesterday – Sapa

# Maduna called to account by committee

BD 27/2/98 (183)

**Linda Ensor**

CAPE TOWN — Minerals and Energy Minister Penuell Maduna was yesterday found to have acted in an unparliamentary way by making derogatory comments about auditor-general Henri Kluever in Parliament last year

Maduna told the House last year that he had appointed a private auditing firm to investigate the state's loss of R170m in a post-sanctions oil deal because he distrusted the auditor-general's office The firm's report would "embarrass" certain people and reveal who got the stolen money In a special report later, Kluever explained the apparent loss as a book entry

All political parties, including the African National Congress (ANC), agreed at yesterday's meeting of a parliamentary ad hoc committee established to investigate the matter that the minister's statements contravened parliamentary rule 99, which prohibited the undermining of the status of institutions created by Parliament, such as the auditor-general's office

They agreed Maduna should be given two weeks to respond before deciding on what "sentence" to impose

ANC MP Andrew Feinstein said three of the minister's statements showed he acted "inappropriately" Maduna had accused Kluever of "nimble footwork" in his report on the Strategic Fuel Fund's accounts He also asked "Is Parliament expected to have full confidence in an office which may be tempted to think that it has a discretion to selectively disclose matters and yet present such matters to Parliament as though they are completely accurate and flawless?"

Lastly, he stated "Without seeking to impugn the authority and integrity of the office of the auditor-general I felt constrained to go outside the ranks of the state and look for people who were independent and who would be able to give me the answers I was looking for "

Democratic Party chief whip Douglas Gibson added a fourth statement, in which Maduna said he would have to seek the advice of people who would look in the accounts for what the auditor-general and his staff had "refused to see" Gibson said this was a "particularly shocking" attack

The DP rejected ANC suggestions that there might be mitigating factors in that Maduna's statements were made in response to a question by former DP MP Kobus Jordaan requesting that Maduna be transparent about his views on the auditor-general's report.

**PETROLEUM** *Headline earnings plunge a worse-than-expected 13,6%*

# Low fuel prices bruise Sasol

CT (BR) 3/3/98 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — Sasol, the synthetic fuel-from-coal producer, yesterday posted a worse-than expected 13,6 percent fall in half-year headline earnings to 178,4c, blaming low fuel prices and cuts in its tariff protection

Jennifer Ramsden, an investment analyst at First National Equities, said the drop was "a big disappointment The picture looks even worse if you strip out the R50 million tax equalisation transfer (from a tax reserve fund on to the income statement)" Analysts polled by Reuters had expected earnings of 206,75c a share

Earnings in the second half of the year would improve but would not match last year's record 420c a share, said Pieter Cox, Sasol's managing director

In the first half to December 25, earnings across Sasol's synthetic fuels, mining and chemical operations all fell, with only its oil division reporting increased earnings

Hardest-hit in comparison with the first half of the past financial year was Sasol Synthetic Fuels, which reported a R186 million fall in earnings

Cox said production volumes had remained stable in spite of a maintenance shutdown, but lower product prices and a fall in the oil price floor-level at which Sasol gains subsidies had affected earnings

In July the oil price trigger for the resumption of subsidies, termed tariff protection by Sasol, was reduced to $17 a barrel Cox said Sasol had received R54,2 million in tariff protection for the half-year, compared with R76,8 million for the whole of the previous year

**DOWN BUT NOT OUT** *Pieter Cox, Sasol's managing director, is optimistic that the group, hit by sharply lower interim earnings, will move ahead soon to the design and construction of a gas-to-diesel plant in Qatar*

PHOTO JOHN WOODROOF

Ramsden and three other analysts said they were surprised by the extent of the fall in earnings at Synthetic Fuels

"There must be some other costs in there, perhaps higher maintenance costs, that they hadn t provided for," said one analyst who asked not to be named

Cox said Sasol would decide on the construction of a R2,4 billion gas to-diesel production plant in Qatar within the next three months

He said a bankable feasibility study would be ready within months. He was optimistic that the group would move ahead into the design and construction of the project

The plant, a joint venture with the Qatar General Petroleum Corporation and Philips Petroleum of the US, would use Sasol technology to produce about 20 000 barrels of diesel fuel from natural gas a day

"Our interest is 35 percent and we are looking at various combinations of investing," Cox said "Only a small portion will be direct equity and the rest would be project finance "

Themis Themistocleous, an analyst at SBC Warburg, said the Qatar project would not have a significant effect on earnings but it was important as a test-bed for the technology

Sasol shares shed 210c to R40,10 yesterday

☐ Business Watch, Page 16

# Cheaper fuel set to accelerate the economy

## Drop in inflation could put the brakes on overdraft and home-loan rates while recovery heads for top gear

Star 3/3/98 (183)

By Shirley Woodgate

The petrol and other fuel prices drop by five cents a litre at midnight tonight, heralding the advent of good news for consumers countrywide.

In Johannesburg yesterday, Econometrix chief Dr Azar Jammine viewed the downward petrol-price trend with cautious optimism.

He said it would help to keep the current 5,6% inflation rate down to almost its lowest level in 27 years (falling briefly to 5,5% in April 1996).

### It all adds up to good news for consumers

The likely upshot of a sustained low inflation rate (based largely on food prices and interest rates) was a continuing drop in banks' prime overdraft rate and interest rates on home loans.

He predicted they would come down by as much as one percentage point or more next week.

Jammine said this would mark the start of an even more substantial decline in interest rates over the rest of the year.

"Some of the benefits will be immediate, and the full impact this will have on increasing consumers' desire to spend more will probably start filtering through into the economy next year," he said.

Jammine's optimism was backed by analyst Tony Twine, who predicted that the long-awaited economic recovery would start slowly in the second half of this year, when lower interest rates started kicking in and helped consumers out of the doldrums.

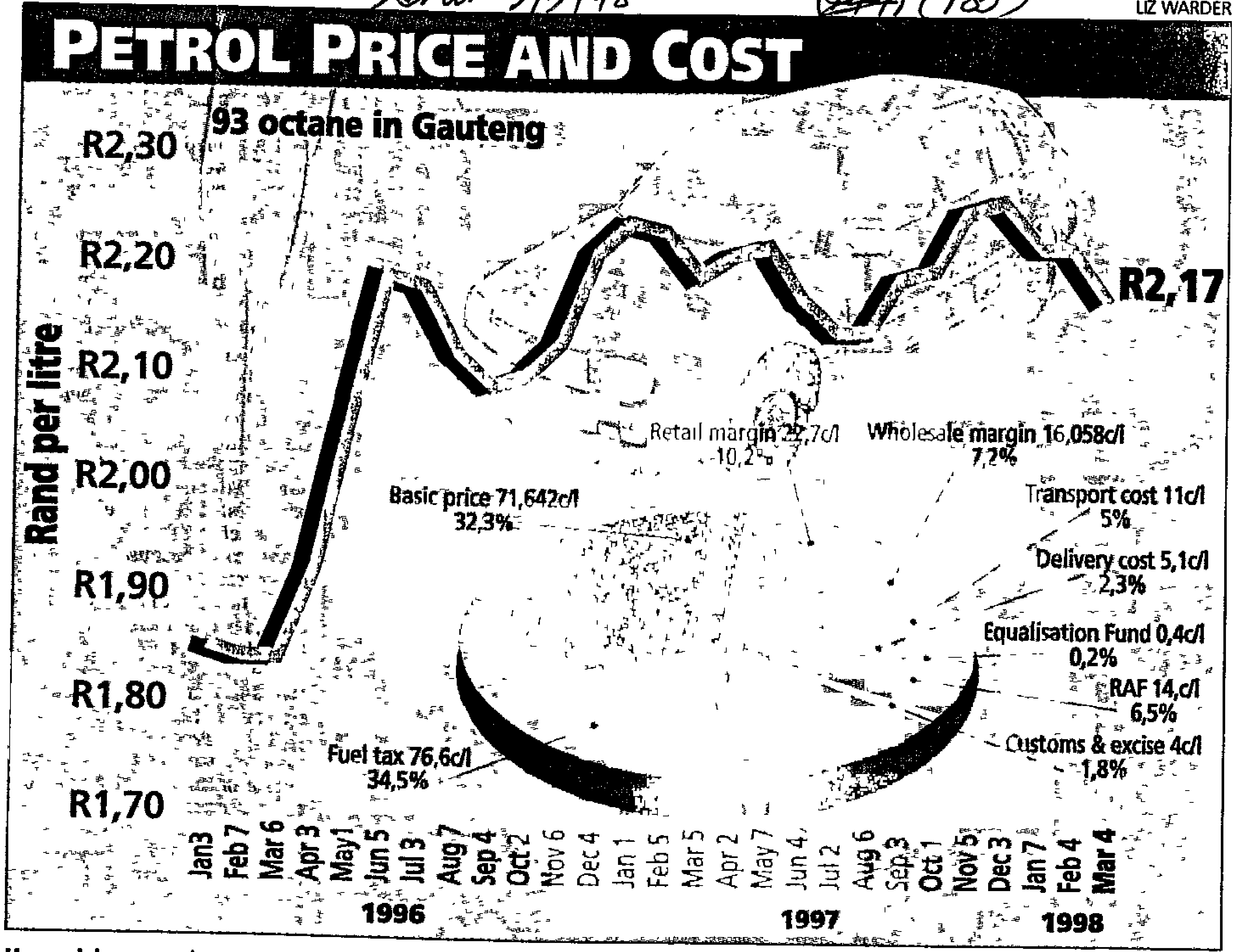
"By 1999 we should see very firm growth returning to the economy," he added.

Notching up the third decrease in price in a row since reaching a 27-month high of R2,26c/litre in December, unleaded petrol will cost R2,13c/litre and leaded R2,17c/litre in Gauteng, thanks mainly to a drop in international prices of oil to below $15 a barrel compared with $24 at its peak at the end of 1996.

Coinciding with the decrease in the price of all grades of petrol will be a 5c drop in the wholesale price of diesel to 176,8c/litre in Gauteng, and a 7c drop in paraffin to 105,73c/litre on the Highveld, the Mineral and Energy Department announced yesterday.

Only a third of the petrol price is related to the oil price.

LIZ WARDER



**Ups and downs ... the graph shows what happened at the pumps over the years, while the pie chart gives a breakdown of the cost of petrol and how the money is split between costs, profits, levies and taxes.**

This month's retail price of R2,13c/litre for unleaded fuel is calculated on a wholesale margin of 16,058c/litre, service differential 5,1; dealer's margin 22,7; zone differential in Gauteng 11c; equalisation fund levy 0,4; fuel tax 70,4, customs and excise duty 4; and the Road Accident Fund levy 14. There is a 68,842c/litre contribution to the basic fuel price.

The weakening of the average rand/dollar exchange rate from 4,9303 to 4,9272 was offset by the drop in the fuel price, the department said. Over- or under-recoveries of funds are corrected the following month.

External factors which contributed to an average over-recovery of 5,177c/litre during the 23 weekdays from January 26 to February 25 were a combination of a drop in the fuel price and the stability of the exchange rate over the past month, the department added.

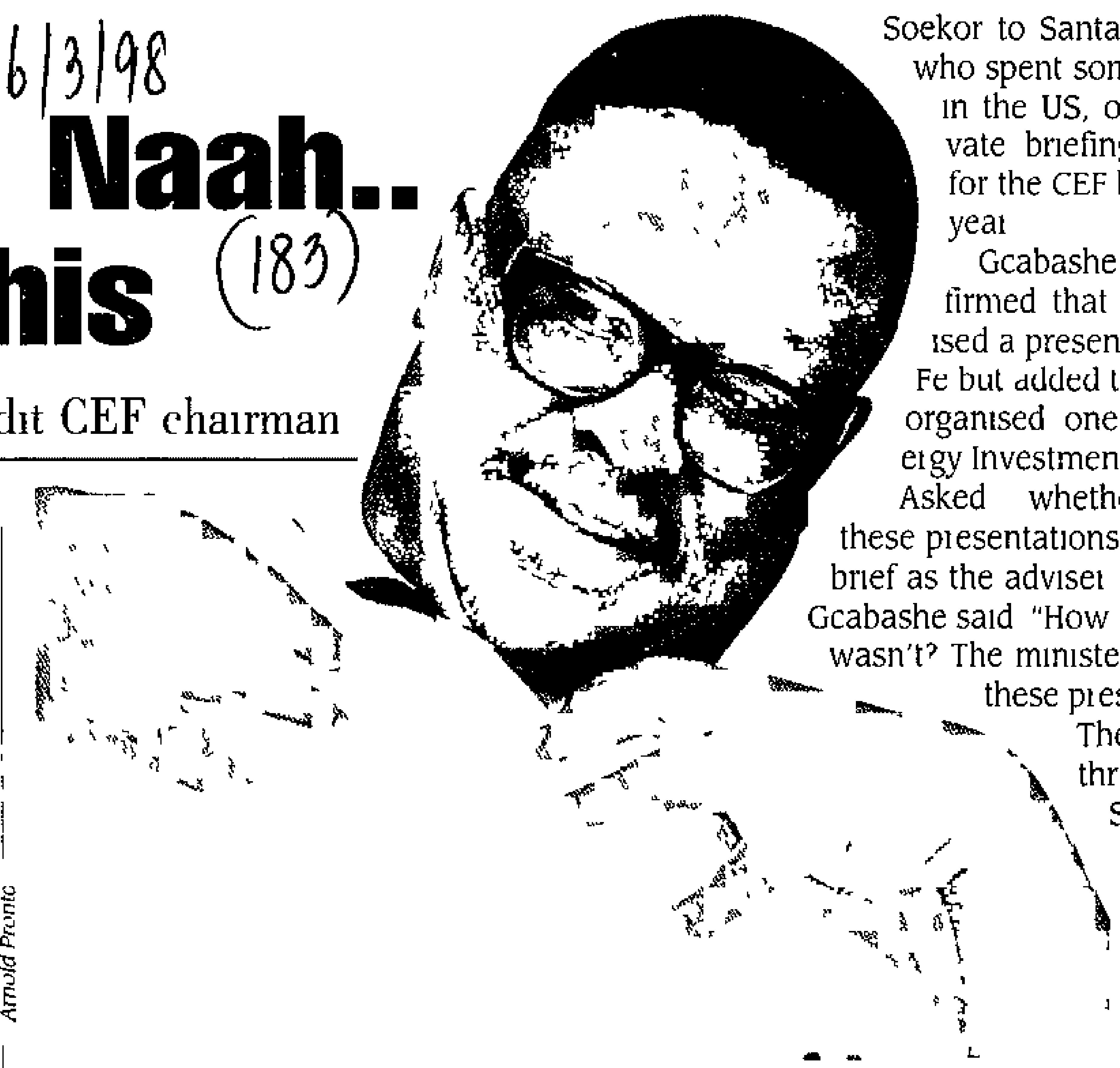
CENTRAL ENERGY FUND

FM 6/3/98

# Who? Me? Naah.. Listen to this

(183)

## Charges of a conspiracy to discredit CEF chairman


Arnold Pronto

**Don Mkhwanazi** *in his view he has nothing to answer for*

Is Don Mkhwanazi, the troubled chairman of the State-owned Central Energy Fund (CEF), the victim of a conspiracy by senior officials in the Department of Mineral & Energy Affairs?

Mkhwanazi believes that he is Offering a spirited defence of his conduct at the CEF, Mkhwanazi told the *FM* this week that he believes senior government officials are conducting a witch-hunt against him because of his opposition to the sale of State oil assets The CEF is the holding company for all State petroleum assets

Mkhwanazi has been under pressure to resign since last October, when the *Mail & Guardian* newspaper alleged that in his capacity as CEF chairman, he appointed, without following proper procedures, International Advisory Services (IAS), a company whose principals include Emanuel Shaw II, as consultants to the CEF Even before the reports appeared, Mkhwanazi was challenged on the IAS contract procedures by Gordon Sibiya, a CEF director and deputy director-general at Mineral & Energy Affairs, and Thulani Gcabashe, an adviser to the Minister of Mineral & Energy Affairs

The *Mail & Guardian* also reported that Shaw, a former Liberian Finance Minister, had a shady past and that his R3m contract had not been approved by the CEF board

As a result of the reports, Mineral & Energy Affairs Minister Penuell Maduna appointed a panel, chaired by Dick Bakker, then acting director-general of his department, to probe the circumstances surrounding Shaw's appointment The CEF falls under Maduna's portfolio The panel, whose main witness was Sibiya, submitted its report to Maduna last month But Maduna has neither made the report public as he promised, nor acted on its recommendations, which include that he declare the Shaw contract null and void

Interviewed in his Durban offices, a confident Mkhwanazi maintains he has nothing to answer for He asserts that both Sibiya and Gcabashe are waging a campaign against him The reason, he claims, is that he is seen as "a stumbling block" to plans to sell off parts of Mossgas, the State-owned oil refinery, and Soekor, the State's oil and gas exploration operation

Last year US oil group Santa Fe and Allied Energy Investments Ltd, a consortium of local and overseas investor groups, proposed buying Mossgas and Soekor from the CEF for between R400m and R600m

According to a transcript of Mkhwanazi's testimony to the panel, Gcabashe had since January last year pushed for the sale of Mossgas and Soekor to Santa Fe Gcabashe, who spent some time in exile in the US, organised a private briefing by Santa Fe for the CEF board early last year

Gcabashe this week confirmed that he had organised a presentation by Santa Fe but added that he had also organised one by Allied Energy Investments

Asked whether organising these presentations was within his brief as the adviser to the Minister, Gcabashe said "How could I do it if it wasn't? The minister was aware of these presentations "

The CEF board threw out the Santa Fe proposal The reason is spelt out in the transcript of Mkhwanazi's testimony, leaked to the *FM*, which states "We are not in the business of selling State assets while we have been given a very clear brief that we must restructure the group "

Mkhwanazi maintains that after the CEF board's decision was taken, his relationship with Gcabashe deteriorated

"It was never the same He started calling meetings of the board, but I was not told that there was going to be a board meeting Because I was seen as a stumbling block to selling Mossgas and Soekor to Santa Fe the relationship really deteriorated I even went to the Minister and I told him that I am not going to tolerate this I am either chairman of this board or somebody else is chairman," Mkhwanazi said in his testimony last December

This week Mkhwanazi confirmed that the CEF board had received proposals from Santa Fe and Allied Energy Investment

He says the Allied proposal was rejected by the board on the same grounds as that of Santa Fe

Allied's proposals included the purchase of offshore assets of Mossgas for R450m, as well as carrying the R910m cost of developing a natural gas field In return for its assets, Soekor would have received a 30% stake in Allied

The shareholders in Allied Energy Investments are Kopano Ke Matla Investments a wholly owned subsidiary of Kopano Ke Matla Trust, of which the Congress of SA Trade Unions (Cosatu) and

### BAKKER PANEL

**Recommendations specific to the IAS appointment**

CEF should terminate the IAS contract due to an apparent lack of transparency in hiring

CEF should demonstrate its commitment to transparency by opening the appointment to public tender.

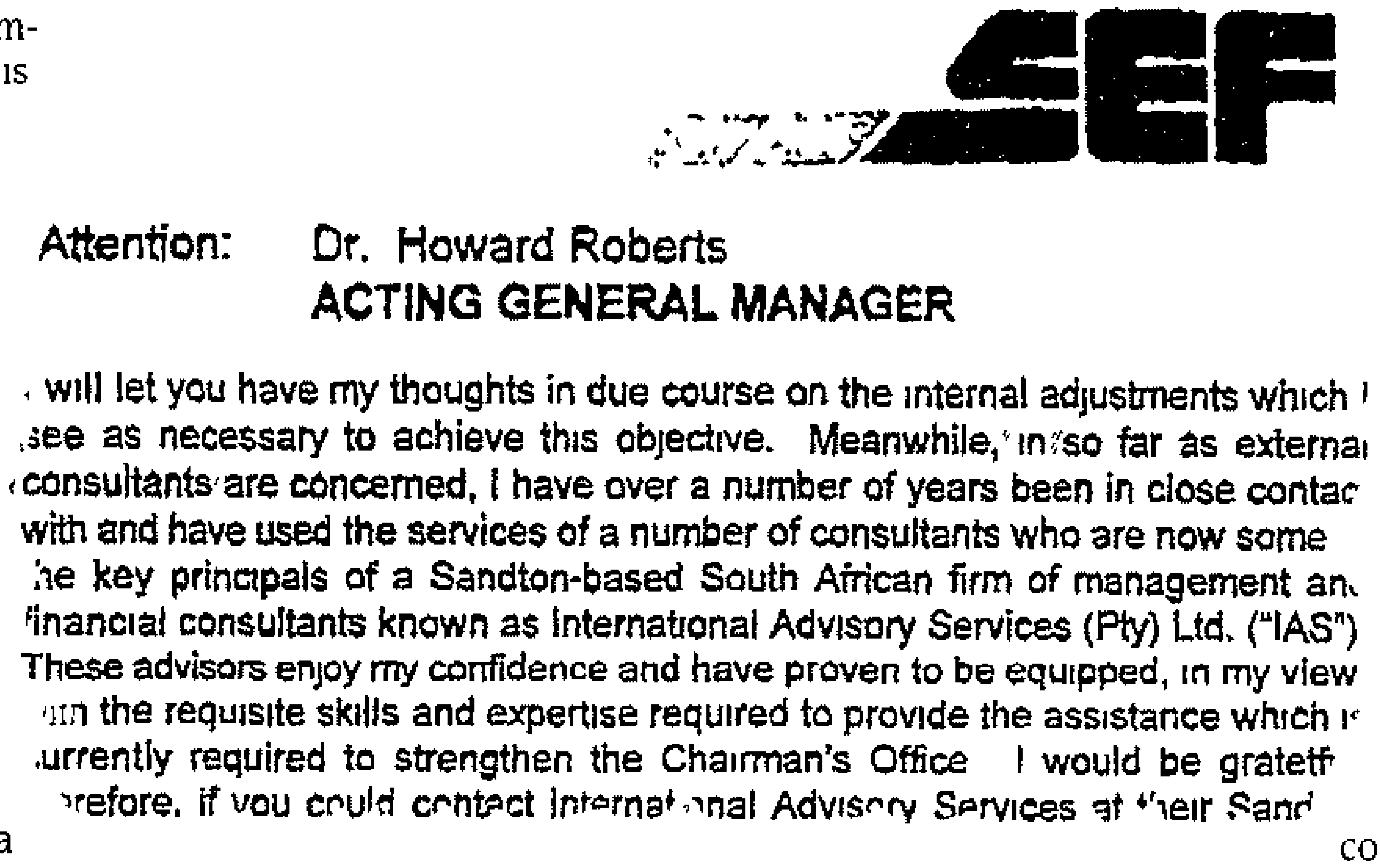
The term of the current board of the Central Energy Fund, which expires at the end of March 1998, should not be renewed

The Minister should declare the budget item as unauthorised due to the absence of a supporting Ministerial Directive is looking into this matter "

He declines further comment, claiming the matter is now sub judice

On his business relationship with Shaw, Mkhwanazi says he did not have "any commercial interest in any of Shaw's companies "

"But I have used Shaw as a consultant I have made that clear ever since this matter erupted, especially because of my previous working relationship with him in a number of different assignments, including the formation of a bank in a joint venture with a Malaysian company "



CEF

Attention: Dr. Howard Roberts
ACTING GENERAL MANAGER

will let you have my thoughts in due course on the internal adjustments which see as necessary to achieve this objective. Meanwhile, in so far as externa consultants are concerned, I have over a number of years been in close contac with and have used the services of a number of consultants who are now some he key principals of a Sandton-based South African firm of management an financial consultants known as International Advisory Services (Pty) Ltd. ("IAS") These advisors enjoy my confidence and have proven to be equipped, in my view in the requisite skills and expertise required to provide the assistance which i urrently required to strengthen the Chairman's Office I would be gratef erefore, if you could contact International Advisory Services at their Sand

Mkhwanazi proffers a copy of a letter written to CEF acting GM Howard Roberts last July 2 in which he discloses a business relationship with Shaw(see insert) It was in this letter that Mkhwanazi asked Roberts to negotiate a consultancy contract between the CEF and IAS

"And I have paid him (Shaw) money," says Mkhwanazi "He is good and he delivers And there is no-one who has actually questioned his abilities and capabilities Even Kobus van Zyl (the suspended CEF general manager) wrote to Minister Maduna when he was appointed, asking him to use a report done for the CEF by Shaw, saying it's a good report "

Mkhwanazi describes Shaw as articulate "He has expertise, knowledge and I find him very enriching

"I have used him in a number of projects and that is precisely why he was a preferred supplier at the CEF '

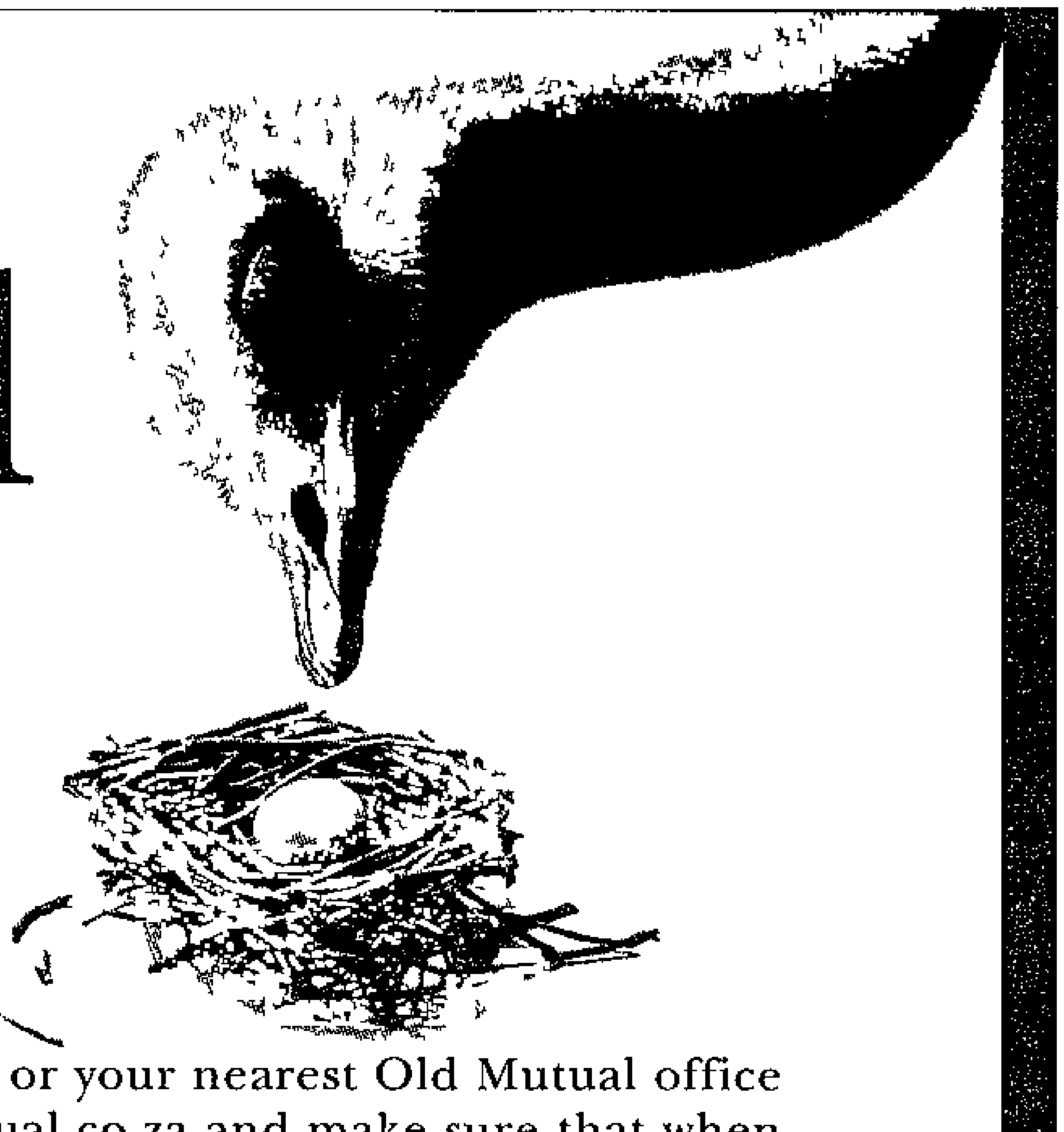
Mkhwanazi asserts that he followed all the necessary procedures in recommending the use of Shaw's company, pointing out that his predecessor, Roy Pithey, had appointed a number of consultants, including Rand Merchant Bank and the Monitor Company without calling for tenders and without seeking board approval

Rand Merchant Bank was contracted to advise the CEF on the restructuring of Mossgas for a fee of R4,2m, while the Monitor Company was paid R1m

"But precisely because of my prior professional relationship with Shaw, I did not want to negotiate a contract with IAS I requested Howard Roberts negotiate the contract

"He did exactly that Roberts could have come back to me and said he was not happy with IAS "

**Jabulani Sikhakhane**



**DEFENCE ACQUISITION**

# Military renewal plan hits fiscal wall

FM 27/2/98

## Arms spending drops to 14% of Defence budget from 44% in 1989

SA's proposed military renewal programme may be little more than wish-fulfilment

A leading military analyst says the future force structure and rearmament plan of the SA National Defence Force (SANDF), contained in the key Defence Review, is simply too expensive

Based on Cabinet's acceptance of the Defence Review last June, several foreign nations have outlined what they have to offer SA by way of essential materiel replacement (*Current Affairs* January 16)

The foreign sellers' proposals to SA generally comprise "packages" in which some weaponry is offered "free" as inducements to buy more expensive hardware And this month Deputy Defence Minister Ronnie Kasrils invited prospective sellers to make formal "best and final offers" Optimistically, he added "We are looking to the end of May 1998 as our deadline "

That date could slip

The Defence Review sketches a "force design" that would include a volunteer, 22 000-strong, peacetime combat force, 28 000 support troops and 20 000 civilians supported by 69 800 part-time members, and upgraded or new equipment, including four corvettes (see table)

In pursuit of military deals — of which the final price-tag could be R25bn-28bn at current prices — salesmen for such items as light utility helicopters and fighter aircraft have been lobbying in SA for some time

Countertrade and offset rules for defence procurement have been publicised and amended — so that at present, in theory, refurbishment of the SANDF should be linked to internally generated economic activity This should match forex outflows

SA has also sensibly stated that fiscal restraints mean the deals must only contemplate payments after a 30-month grace period In addition, indications are that SA will choose from a "menu" of the offered equipment If any country were to become a sole supplier, SA would be unreasonably indebted to it for decades

The affordability of the various offers under consideration is questionable According to Jakkie Cilliers, director of the Midrand-based Institute for Security Studies, "the unrealistic force design needs some serious pruning if the military is to fit under its budget ceiling" He expects this year there could be "an announcement on the acquisition of the corvettes and their associated maritime helicopters, the refurbishment of the Daphne submarines to stretch their life — and little beyond that"

Cilliers — in an Institute paper due to be published this week — states that "at best, the approval of the force design by Cabinet constitutes approval in principle for the maintenance of the specified capabilities at an *approximate* level or for the *consideration* of acquisition programmes "

Neither the existing Defence budget, nor proposals contained in the Finance Department's Medium-term Expenditure Framework, can sustain a military force on the scale outlined in the Defence Review, which, according to Cilliers, would cost R5,1bn/year at "combat capability"

The background of Defence cuts indicates the problem Cilliers says "The allocation for 1997/1998 was R9,4bn, down from about R17bn (in 1997 rand) in 1989 " Defence spending is now projected to remain pegged at 1,6% of GDP — meaning it will decline from 7,4% of non-interest spending in 1997/1998 to 6,8% in 2000/2001 Operating cuts, including retrenchments, will be inevitable

Cilliers points out that "only R1,3bn (14%) is to be spent on capital procurement compared to the 44% or R7,5bn spent in 1989 " Meanwhile, "fixed costs have remained high and the only avenue (for fiscal discipline) has been slashing capital expenses The result has been the virtual decimation of the local defence industry and little more than crisis acquisition "

Defence Minister Joe Modise has warned that much of SA's major military systems will be obsolete by 2005 While it must be assumed that he and Kasrils are talking to their book, there seems little doubt of the validity of Cilliers' evaluation — that the force structure set out in the Defence Review must be reconsidered

Cilliers says this means "SA has yet to define the roles and missions of the SANDF appropriately And Cabinet has yet to demonstrate its commitment to finance its approved policies "

Nongovernmental organisations and lobbies such as the Coalition for Defence Alternatives will be delighted In an open letter to President Nelson Mandela earlier this year, the coalition argued "Democratic SA has inherited an apartheid debt legacy of over R300bn which limits government's ability to meet the aspirations of the Reconstruction & Development Programme

"Yet both parliament and the Cabinet have approved the SANDF's applications for new equipment, subject to the availability of funding We are bewildered that new warships for the Navy, fighter aircraft for the Air Force or tanks for the Army apparently hold priority over education "

The sting lies in the phrase "availability of funding" If Cilliers is correct, the military brass will have to do their figures again — and the arms salesmen will have to look for new markets for their hardware while the SANDF declines into impotence

**Peter Wilhelm**

### THE SANDF'S OVERSEAS ACQUISITION WISH LIST

| Description | Quantity | Est cost | Countries bidding |
|---|---|---|---|
| Corvettes | 4 | R4bn (combat suites to be produced domestically for ±R1,4bn) | •Britain<br>•Germany<br>•France<br>•Spain |
| Maritime helicopters (for corvettes) | 5 | R1bn | •France/Germany<br>•Britain |
| New submarines (to replace Daphnes) | 4 | R6bn | •Britain<br>•Germany<br>•France<br>•Italy<br>•Sweden |
| Light utility helicopters | 60 | R2bn | •Italy<br>•France/Germany<br>•Canada |
| Advanced light fighters | 48 | R6bn–R9bn | •Britain/Sweden<br>•Germany<br>•France |
| Battle tanks (to replace Olifants) | 154 | R6bn | •France<br>•Britain |
| TOTAL COST (1998 rand) | | R25bn–R28bn | |

DON MKHWANAZI

(183)
KM 20/2/98

# The rise (and fall?) of an icon

If true, claims could sink magnate

**Allegations that** Central Energy Fund (CEF) chairman Don Mkhwanazi has been receiving indirect payments from Liberian oil dealer Emmanuel Shaw, if true, could sink the longstanding career of one of SA's most prominent black businessmen and send fresh shock waves through the black empowerment scene

It has been alleged that Mkhwanazi appointed Shaw to a R3m State oil job without the approval of the CEF board Last week the *Mail & Guardian* reported that a company of which Mkhwanazi is sole director has been receiving regular payments of up to a R50 000 from a company owned by Shaw — in part to pay the R36 000 monthly instalments on Mkhwanazi's R2,4m home in Johannesburg's exclusive suburb of Linksfield Ridge

Long before he entered the murky world of SA's post-sanctions oil world, Mkhwanazi was regarded as one of the icons of black empowerment Having risen to localised success in KwaZulu-Natal business, he attained national prominence by becoming the fiery president of the Black Management Forum in the late Eighties In 1991, he took part in the country's first major black empowerment deal that saw Nthato Motlana's New Africa Investments (Nail) group purchase a 10% stake in Metropolitan Life

By the early Nineties he was also corporate and management affairs specialist within the ANC's Department of Economic Policy Though he sits on numerous boards, including Nail, Metropolitan Life, CG Smith Sugar and Alpha Cement, he has not succeeded in a number of attempts to set up a major banking group

The highlight of his career was a visit to Malaysia last year as part of President Nelson Mandela's entourage, when he made contacts with several Malaysian businessmen He reportedly raised money to start a consortium in SA, but some members resigned after they heard he planned to pay himself a huge salary from the fund

Mkhwanazi denied this week having received kickbacks from Shaw An associate says they have had business dealings since long before Shaw became CEF consultant

Mkhwanazi's lawyers say they are considering options "We will only be able to advise him once we have a record of the submissions of the Bakker Commission of Inquiry," says lawyer Ian King The commission, headed by the Department of Mineral & Energy Affairs' former acting director-general Dick Bakker, recommended last month that Shaw's State contract be cancelled and that Mkhwanazi be fired as CEF chairman The commission also recommended Mineral & Energy Affairs Minister Penuell Maduna appoint new members when the board's term expires at next month Maduna — said to be a friend of Shaw — has been silent on the CEF saga He has been mulling over the report's recommendations for almost two months, saying that Cabinet must first study the report

Duma Gqubule

## Donald Mkhwanazi
Highlights of a career

**Qualifications include**

Graduate Diploma Marketing
[illegible]

**Directorships include**

Sugar
Alpha Cement
[illegible]

**Non-exec directorships include**

Metropolitan Life
New African Investments (Nail)

**Awards include**

Financial Mail JCB [illegible] (1989)
Harvard/SA Fellowship (1986)

SOURCE: WHO'S WHO OF SOUTHERN AFRICA 1996/97

# Deadly gases made near homes

(183)

Star 7/3/98

### By JACKIE CAMERON

A facility which produces deadly chemical warfare compounds has sprung up in the middle of Gauteng's fastest-growing residential and industrial area.

Armscor subsidiary Protechnik, set up secretly in the apartheid era, has moved its facility to Centurion, where it is expected to produce some of the world's deadliest chemical warfare agents.

Angry town councillor Frans Smith said residents and business people knew nothing about Protechnik's plans and he would demand an investigation into how the company received permission to shift its premises to his area.

The facility, built at Highveld Techno Park last year, is less than 1km away from an upmarket housing development and close to the N1 highway.

Protechnik obtained permission from the Centurion Town Council last year to conduct research and for the "moderate manufacturing" of chemicals to use in testing defensive chemical warfare equipment.

Protechnik was manufacturing mustard gas, among other agents, at its Magaliesberg facility which was recently inspected by international experts to ensure that the area had not been contaminated after the facility shut its doors there, Armscor said this week.

Centurion emergency services personnel admitted they could not guarantee the safety of residents and people working in the area if there was seepage from the premises, but said they had equipment to protect their own staff.

lusters)

# AECI's bottom line takes more damage than expected

(183)

ST (BT) 8/3/98

CHEMICAL INDUSTRY

**By DON ROBERTSON**

AECI's warning in October that financial results for the year to December were unlikely to match the previous year's figures were timely, but failed to project fully the extent of the difficulties being experienced

The result is that the giant chemical group has had to report an 11% drop in attributable profit to R381-million from R427-million in 1996 in spite of a similar increase in sales to R8 2-billion from R7.5-billion

Turnover includes exports of R1 5-billion for the year (R1 4-billion last year)

This left earnings at 246c a share (276c) and the headline figure at 237c (276c).

The total dividend has been maintained at 90c

The October cautionary notice warned that the slowdown in the economy, declining world nitrogen prices and high real interest rates would affect results

In the event, the performance of Kynoch was worse than expected and the fertiliser division reported a decline in trading profit to R67-million from R234-million

The loss was made up in part by R110-million in lost margins in the collapsed international nitrogen and urea markets, R77-million from the planned shutdown of the ammonia and urea plants at Modderfontein, and three weeks' lost production of nitric acid due to a ruptured pipe. Production has since returned to normal

Adding to the financial woes was a substantial decline in investment income to only R9-million (R104-million in 1996) following the sale of the group's interest in Afex Holdings

Countering this was a reduction in finance charges, from R242-million to R145-million, also reflecting the lower debt provision for Afex.

Taking more out of the operating profit of R671-million (R741-million), was an increased tax burden of R120-million compared with R33-million in 1996

The difficulties appear, however, to be restricted to the Kynoch division and accounting provisions — the rest of the group did commendably well with an increase of R117-million or 23% in trading profits, particularly from Dulux, SANS fibres, Polifin and Chemical Services.

MD Mike Smith says the Asian crisis and the outlook for nitrogen prices remain key uncertainties, but with improvements in most of the divisions, moderate real growth can be expected in the current financial year

ent and Housing Minister Hillary Armstrong, right, toured hannesburg, with the city's Eastern council mayor, Justice Armstrong was in SA under invitation from Constitutional Valli Moosa, who is due to release a white paper on local ition today. The UK about to embark on a similar process of formation

Picture Andy Katz

# inces 'want produce levies'

vanted to intro- n farm produce national agricul- il, council chair- id last week ir own arrange- ncluding veteri- ting of produce ig council, a cen- "The new mar- ws provinces

to apply to the council for statutory measures like levies. However, such intervention cannot negate arrangements at national level," Kassier said

Land and Agriculture Minister Derek Hanekom said he was aware of only the Western Cape wanting to bring back statutory levies.

Western Cape agriculture MEC Lampie Fick was unavailable for comment, but a media report said the province drafting legislation proposing that the department be privatised.

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# Chemical trade 'comes clean'

(183)

**Josey Ballenger**

BD 9/3/98

THE chemical industry and some allies have gone "green" in launching the first report on a voluntary initiative to improve companies' health, safety and environmental performance.

Since 1994, 120 SA companies have signed the international Responsible Care initiative, started in 1985 by the Canadian Chemical Producers' Association and now operating in 41 countries The initiative is administered locally by the Chemical and Allied Industries' Association, which represents 90% of chemicals manufactured and used in SA.

The initiative's goals are to improve the health and safety of employees and the public, protect and rehabilitate the environment, introduce cleaner technologies and promote sustainable development

Implementation of the initiative is assessed every two years, with the findings published in reports by the various member countries.

SA's inaugural report, launched on Friday in Johannesburg, was described as the industry's first self-assessment and will be used as a baseline to evaluate companies' performances

Trade and Industry Minister Alec Erwin said the department would watch the initiative's implementation to make sure the industry was sufficiently self-regulating He emphasised the need for "outside" auditors of companies' environmental performance and verifiable targets and said he could not see the initiative succeeding without labour's input

Shirley Miller of the Chemical Workers' Industrial Union warned against the initiative becoming "another cosy relationship between half the industry and government" and said there was "alarming evidence" of workers not being involved in Responsible Care She called for the involvement of community and environmental groups as well.

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# 'Pooling of electrical power benefits southern Africa'

BD 9/3/98

**Robyn Chalmers**

SIGNIFICANT benefits have emanated from the formation of the Southern Africa Power Pool (Sapp), including reduced operating costs and improved working relations between members

Francis Masawi, Sapp management committee chairman, said recently members had also prevented substantial load shedding and the subsequent loss of revenue

He said there were enormous challenges ahead for governments and electricity utilities throughout southern Africa By far the biggest of these was that most member countries had about 80% of their population without electricity.

"The reason for this is the cost of establishing the infrastructure to provide affordable power to the often scattered rural areas where most of the population lives," he said

The rationale behind Sapp was the creation of an efficient energy market with the goal of maximising transfers across the interconnected system

Members include Angola, Botswana, SA, Mozambique, Lesotho, Namibia, Zambia, Tanzania and the Democratic Republic of Congo.

Masawi said investment in energy sources was the single biggest such programme in the region's history, entailing capital expenditure of between $15bn and $20bn over the next 10 years.

Funds for this expansion would come mainly from private sector investors as the independent power producers model took root in the region.

Nampower technical services senior GM Imker Hoogenhout said nothing could be planned or developed in Sapp or within SA Development Community (SADC) without taking cognisance of Eskom which produced about 90% of electricity in the region.

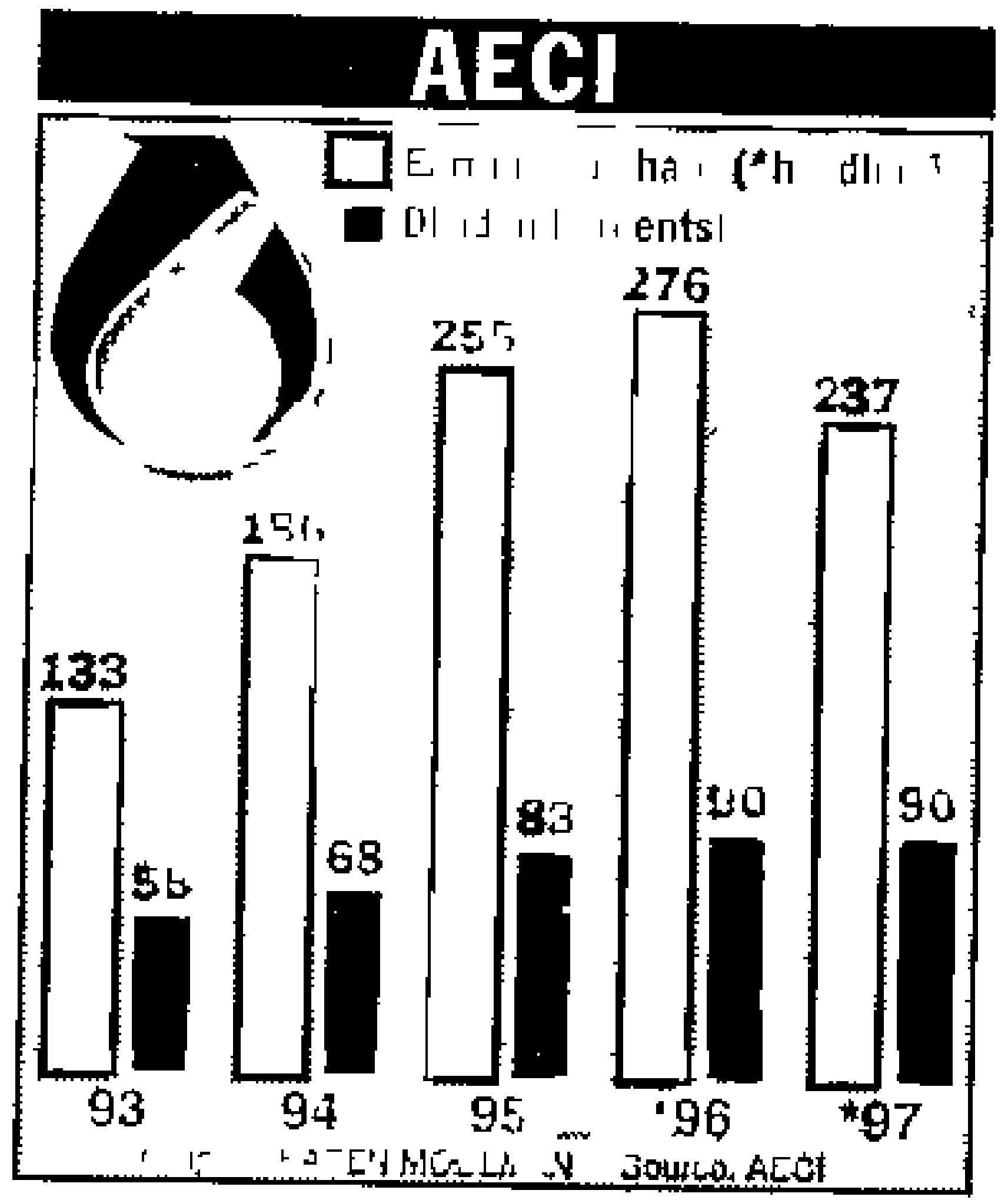
Hoogenhout said the SADC was still largely characterised by vertically integrated utility companies mostly operating under government influence.

Whether or not SADC was ready, the rest of the world was opening up the electricity supply sector to private initiative.

COMPANIES

# AECI maintains dividend despite slump

BD 9/3/98 (183)



**Amanda Vermeulen**

KNOCKS on several fronts had a substantial impact on chemical group AECI's year to December results, with net attributable profit slumping 11% to R381m

Headline earnings a share dropped 14% to 237c — but the year-end dividend was maintained at 90c

In the group's 1997 interim results, it forecast real earnings growth for the full year, provided interest rates were allowed to reflect a slowing economy and that agricultural conditions were reasonable

However, in October, the group issued a profit warning to shareholders that earnings were unlikely to match those achieved in the 1996 financial year.

This was due to a further weakening in domestic activity and a sharp drop in the performance of nitrogen business Kynoch

The prediction was validated in the group's year-end results announcement that Kynoch had reported a R187m slump in trading profit compared with R67m (1996 R234m).

Kynoch's performance contributed to the group's weaker net trading profit, which declined 9% to R671m, despite a 10% increase in turnover to R8,3bn.

Part of this was attributed to margin pressure following the unexpected collapse in international nitrogen and urea prices

A further blow was a charge of R77m relating to the closure of the ammonia and urea plants at Modderfontein, compounded by the loss of three weeks' production at the main nitric acid plant after a pipe rupture AECI's disposal of its stake in Afrox Holdings was responsible for the sharp drop in investment income to R9m (R104m), while an increase in tax to R120m (R33m) also took a bite out of the bottom line

On the positive front, the other divisions — especially Dulux and Sans Fibres — performed well, reporting a 23% increase in aggregate trading profit to R117m

Looking ahead, AECI said its purchase of UK group ICI's 51% interest in AECI Explosives — effective from January 1 this year — had left it well positioned to take advantage of an expected expansion in mining of underdeveloped mineral resources in Africa

The group also said that despite the fallout from the Asian market crisis and continuing uncertainty surrounding international nitrogen prices, further gains in most businesses should see it achieve moderate real growth in 1998 earnings

# Big lift set to speed up SA gas supply

(183)

## *Mossgas crane plan*

ARG 9/3/98

**HENRI DU PLESSIS**
SHIPPING REPORTER

**A monster crane on a special barge will lift a huge steel structure onto the Mossgas platform off Mossel Bay as part of a project to speed up the gas flow from South Africa's limited marine gas resource.**

The DB 101, a barge of the Dutch company Heeremac, lifted a compression module made in Singapore from the special transport barge Swift during a careful operation in False Bay, just off the coast near Boulders The compression module, designed to pressurise the gas in the offshore wells to force it out at a higher rate, weighs 1 500 tons, making the lifting operation the biggest yet handled in South African waters

The DB 101 is capable of lifting up to 3 000 tons It is one of Heeremac's smaller crane barges

The compression module, which cost Mossgas R170-million formed part of a R338-million project to speed up the gas supply from the wells The project was approved by the cabinet in June 1996, to boost the flow of the gas and keep production at current levels until 2001 The need to compress the gas is the result of the decrease in the natural pressure in the wells, as the supply is gradually depleted by exploitation

It was financed solely from an operating surplus which Mossgas had achieved every year since it went into production at the beginning of 1993, said acting chief executive Cliff Barnes

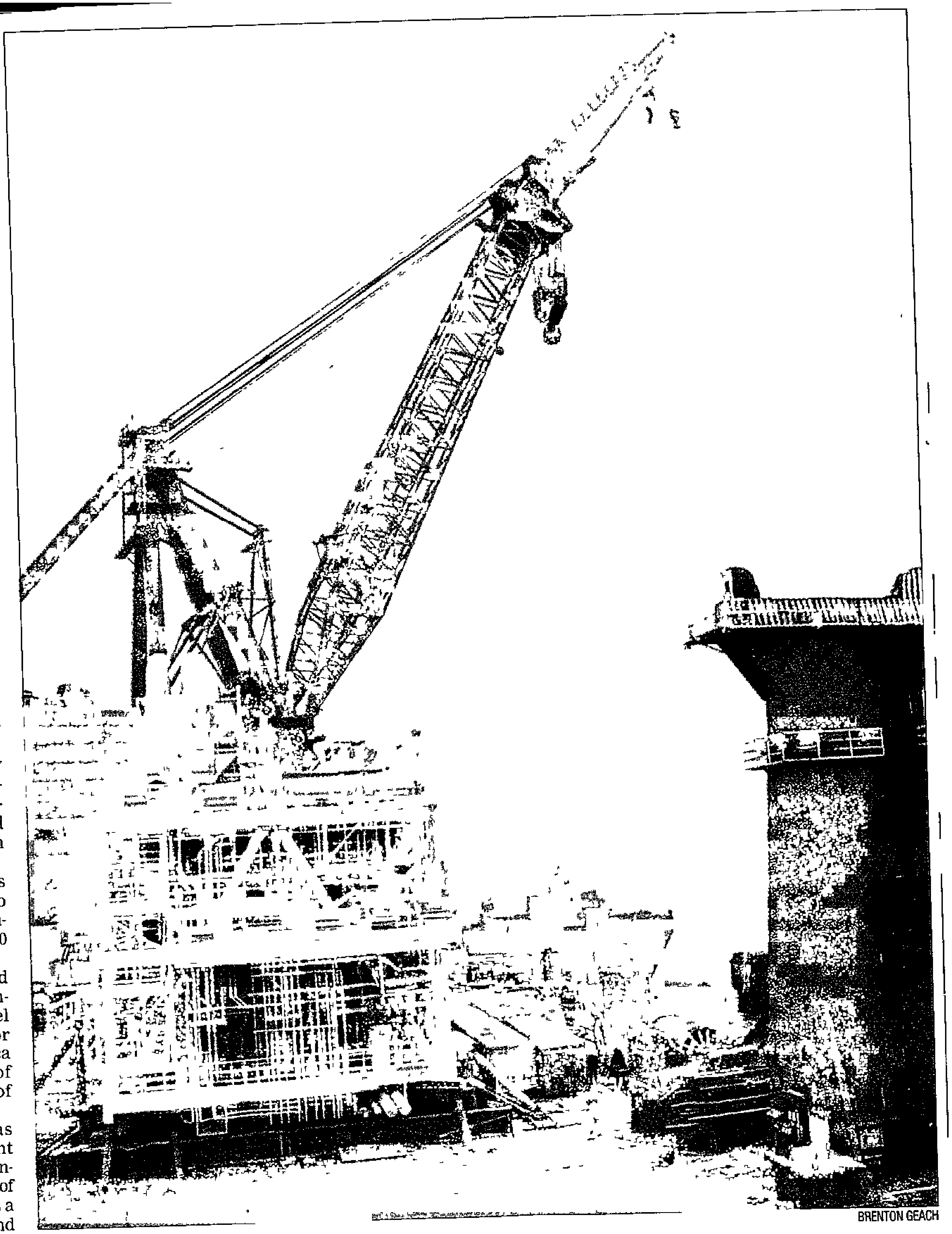
Mr Barnes said that in the most recent financial year to the end of March 1997, Mossgas had achieved an operating surplus of R628-million, before tariff protection and the levy for synthetic fuels was taken into account, or R715-million when these levies were included

Mossgas had saved the country more than R1-billion annually in foreign exchange by replacing 45 000 barrels of crude oil a day which would otherwise have had to have been imported, he said

Meanwhile, Mossgas executives have already begun to plan what to do when the known gas supplies, as indicated by seismic studies, run out in 20 years

One of the ideas which appeared financially most viable was to convert the Mossgas plant near Mossel Bay into a manufacturing plant for plastics raw materials South Africa could then become an exporter of plastics raw materials in stead of being an importer

In the interim, Mossgas has already applied to the Government for permission to develop the remaining gas fields in the region at a cost of R1,9-billion, Mr Barnes said It was a commercially justifiable project and Mossgas was still waiting for the Government's answer



BRENTON GEACH

**Crane with a view:** the crane barge DB 101 and transport barge Swift just off Boulders in False Bay

# AECI promises return to growth

ET (BR) 9/3/98 (183)

**JONATHAN ROSENTHAL**
INDUSTRIAL EDITOR

Johannesburg — AECI, the R8 billion-a-year chemicals commodity group, reported on Friday a 14 percent fall in full-year earnings but promised a return to real earnings growth this year

Mike Smith, the group managing director, said low nitrogen prices and production difficulties at Kynoch, the fertiliser producer, had slashed R187 million from earnings for the year to December 31

Earnings at Kynoch fell to R67 million from R234 million the previous financial year

Smith said even if nitrogen prices remained at their present low levels, Kynoch's earnings should improve through a combination of higher production volumes and greater efficiencies, as a result of the Modderfontein plant's maintenance shutdown last year

The difficulties at Kynoch masked better performances across most of the group's other operations These collectively increased their trading profit by 23 percent, or R117 million

Sans Fibres, the polyester fibre manufacturer, reported a near-doubling in trading profit to R111 million from the previous year's R65 million Exports had grown to 45 percent, while the market for PET, a packaging substance, had grown in volume by 35 percent as PET took market share from other packaging materials like glass

Smith said there was still a great deal of nervousness in the fibres market, as Asian clothing producers had cut prices in an effort to convert stock into cash But raw material prices were falling and Sans would have the benefit of greater industrial yarn capacity during the year

Smith said the explosives businesses had diversified away from the gold industry, which now represented only 30 percent of its business

AECI was budgeting for a 20 percent drop in explosives sales to the gold industry this year, he said

Polifin, the joint venture plastics producer, had increased its contribution to R370 million but was expected to have relatively flat earnings growth this year

The market reacted sharply to news of the earnings, which came in at the lower end of analysts' expectations

AECI's share price shed 20c to R16,80

# Sasol loses first round of environmental fight

ET (BR) 9/3/98 ([illegible]) (1.83)

**Jonathan Rosenthal**

Johannesburg — Round one in the ongoing legal battle between Save the Vaal Environment (Save), the non-profit environmentalist lobby, and Sasol, the petrochemicals from coal producer, went to the environmentalists

Save obtained on Thursday a High Court order withdrawing Sasol's permit to strip-mine coal in the environmentally sensitive Rietspruit wetlands adjacent to the Vaal river

The judgment could have far-reaching implications for the mining industry, as it found that interested and affected parties had a right to voice their objections before a mining permit could be issued by the department of minerals and energy

The judgment could also have implications for Sasol's other mining operations in the area, which Save said operated under temporary mining permits

Round two went to Sasol on Friday when it was granted leave to appeal the judgment This in effect placed the judgment in suspense and allowed Sasol to continue with its plans until the appeal was heard, Alfonso Niemand, Sasol's communications manager, said last week

At the heart of the dispute are Sasol's plans to establish the Sigma North West strip mine to replace its underground operations that provide coal to the Sasol Chemical Industries plant at Sasolburg

Last year Save brought a court action against Sasol and the mineral and energy affairs department, arguing that Sasol had been granted permission to establish the strip mine before their objections had been heard

The court found that granting authorisation to mine without hearing the concerns of affected parties ran counter to the values of an open and democratic society

Sasol said in a statement on Friday that it would not have proceeded with the planned mine because it was still waiting for the approval of its environmental management programme from the department of minerals and energy

"The possible consequences of this legal dispute have been taken into consideration in the commissioning plan for Sigma North West," Sasol said

"Meanwhile, as a temporary bridging arrangement, Sasol Mining is purchasing coal from external sources to ensure a stable supply of coal for feedstock to the Sasol Chemical Industries plant in Sasolburg The plant will therefore not be detrimentally affected "

Sowetan 10/3/98 (183)

# Mini-factories launched

**By Isaac Moledi**

PLASGROUP – the Centurion-based plastics manufacturer – has launched a cluster of owner-managed mini-factories adjacent to its state-of-the-art factory. Ten are already in full production

Plasgroup managing director Peter Jackson says the mini-factories are the first of a national network of plastics manufacturing clusters.

The scheme was adopted from the Far East, where it has been highly successful in stimulating small, medium and micro enterprises (SMMEs), he says

"The grouping together of many businesses encourages synergies, particularly in the transfer of skills"

Jackson says the scheme attracted wide support from the outset as it was specifically designed in accordance with the broad goals of the government's macro-economic policy of Growth, Employment and Redistribution (Gear)

"The cluster scheme was in fact designed with considerable input from the Ministry of Trade and Industry, with the expressed goals of job creation and the stimulation of SMMEs

"We were approached by the ministry along with the rest of the plastics industry to kick-start job creation in South Africa by means of the concept of industrial clusters," says Jackson.

"The plastics industry has huge potential which is nowhere near being fully tapped. As a high technology industry we felt there was opportunity to assist job creation by transferring our skills to those who fit our strict criteria, while outsourcing a large part of our production needs to small business."

Jackson says the scheme is being promoted as a black empowerment opportunity and half the mini factory licences already signed are with people from disadvantaged backgrounds

"Each mini factory is a dedicated single product manufacturer under licence to Plasgroup." For more information call Jackson at (021) 653-6666

# Maduna fires adviser for false statement

BD 11/3/98 (183)

**Linda Ensor**

CAPE TOWN — The personal adviser to Minerals and Energy Minister Penuell Maduna was forced to resign with immediate effect yesterday after making false statements about the minister's "inability" to address an international conference next week

A letter sent to the organisers and signed by a departmental secretary on behalf of the adviser, Thulani Gxabashe, said "We do not know whether the minister will still be holding his position then or whether he will be asked to take an assignment by the president to be elsewhere at the time "

Asked by Maduna yesterday to explain himself, Gxabashe did not deny sending the letter, describing it as a "joke" An outraged Maduna said "I told him this was too sick a joke and that he had better go "

Gxabashe was given a letter outlining Maduna's other complaints about him He said he would give his side of the story today

Maduna said he had not heard about the conference until last week when one of the organisers told him that Justice Minister Dullah Omar had been invited to speak in his place Omar refused on the grounds that this was Maduna's duty

The world's top experts on energy and natural resources law will speak at the conference which will be opened on Monday in Cape Town by President Nelson Mandela "Imagine if the president had gone there without the line function minister," Maduna said

The invitation was sent by Deneys Reitz's Michael Dale in July last year, but Gxabashe did not inform Maduna and replied that he was not willing to attend Maduna said he had asked Gxabashe for conference details but, by yesterday, had not received anything and Maduna had to ask Omar to provide him with a copy of the invitation

Gxabashe had also indicated to Dale that Maduna had "lost" the conference documents "This was too much It's the kind of behaviour I will not tolerate It makes me look like a fool and contributes to the impression that I am not available," Maduna said

(183)

# Maduna demands top adviser's resignation

CT(BR) 11/3/98

**JONATHAN ROSENTHAL**

Johannesburg — Penuell Maduna, the minister of mineral and energy affairs, yesterday demanded the resignation of his top adviser, Thulane Gcabashe, in an attempt to halt his criticism of Don Mkhwanazi, chairman of the Central Energy Fund (CEF), insiders said

Gcabashe and Gordon Sibiya, the deputy director-general of the department, have both campaigned to strip Mkhwanazi of his position at CEF for awarding a controversial R3 million consultancy contract to Liberian Emanuel Shaw II without tender

Press reports have linked Shaw to fraud in Liberia

In January, an inquiry appointed by Maduna found that Mkhwanazi and the CEF board had flouted procedures in awarding the contract and recommended the nomination of a new board and the termination of Shaw's contract Maduna, however, has failed to act, saying instead the inquiry was flawed

Gcabashe, one of two advisers in Maduna's inner circle, yesterday confirmed he had been asked to resign over a series of disagreements with Maduna, including the question of Mkhwanazi

Maduna said he had asked Gcabashe to resign but flatly denied this had anything to do with Mkhwanazi "How would this silence him (Gcabashe)? You don't silence him unless you kill him," he said

Gcabashe had publicly embarrassed him, exceeded his authority and acted in a reckless manner, added Maduna

Seemingly the final straw leading to yesterday's confrontation was a letter written by Gcabashe last September in response to an invitation to Maduna Gcabashe wrote he was unable to commit Maduna to a function scheduled for March as one could not be sure he would still be the minister

*Complex framework blamed for lack of interest*

# Soekor presses for fast policy reform

CT (MR) 11/3/98 (183)

**Lynda Loxton**

PARLIAMENTARY CORRESPONDENT

Cape Town — Soekor, the state-owned oil exploration company, said yesterday it had become urgent for government to develop a separate oil and gas policy and to renew its offshore prospecting lease

Joggie Heuser, Soekor's chief executive, told the parliamentary portfolio committee on minerals and energy that unless something was done soon, it would be increasingly difficult for Soekor to attract foreign investors to explore and develop South Africa's offshore oil prospects

He said a separate oil and gas policy was needed because the present legal framework for the industry was complex and confusing Investors were also concerned about plans to restructure the Central Energy Fund, under which Soekor falls, and whether any long-term subleases entered into with Soekor would be upheld

Soekor controls most of the offshore areas under prospecting lease OP26 Its petroleum licensing unit sub-leases offshore blocks because the state cannot afford to develop them itself But it has not been very successful in attracting investors because of red tape and lack of incentives

Heuser said although Soekor had persuaded the government to reduce taxation on oil and gas exploration from 72 percent to 35 percent, prospective investors still had to negotiate additional tax dispensations with the government to make their investment more attractive

Heuser said the department of minerals and energy affair's green paper on a minerals and mining policy did not take these factors into consideration and could, in fact, jeopardise any efforts by Soekor to award sub-leases

The situation had been exacerbated by the fact that Soekor's lease on OP26 would expire in 2007 and it could not grant the leases of more than 12 years that most prospectors wanted, he said

Heuser said that as a first step, Soekor's lease should be extended for a further 10 years and broadened to include the deep-sea offshore areas in South Africa's exclusive economic zone, where the potential for finding oil was greater

He said Soekor was also increasingly uncomfortable with its dual role as both referee and player in the sector He said an independent professional body should be established to take over the regulation and promotion of the industry

Heuser said Soekor had completed negotiations last year with a Canadian company to explore Blocks 1 and 6A The agreement would be submitted to the Soekor board and the department for approval soon

The department was also reviewing the sublease of Block 2 while Energy Africa was undertaking a detailed geophysical and geological study of Blocks 3B and 4B, he said

Pioneer Natural Resources, an American independent, has entered into a study agreement for six blocks A British independent has completed negotiations for a study agreement for two blocks

# 10c/*l* fuel levy hike will boost revenue by R1,7bn

(183)

**Samantha Sharpe**

CAPE TOWN — The fuel levy has been increased by 10c/*l*, which is expected to boost government revenue by R1,7bn in the new financial year

Finance Minister Trevor Manuel said the levy was one of the largest components of retail fuel prices, being fixed at 76,6c/*l* in respect of leaded petrol, 70,4c/*l* for unleaded petrol and 66,1c/*l* for diesel

However, in the context of the recent slide in international oil prices, the hike will not necessarily translate into a commensurate increase in petrol prices

It was more likely to provide a soft revenue source for the finance ministry

Manuel said in his budget speech the fuel levy increase would come into effect from April 1, coinciding with the monthly fuel price adjustment, if any

While the levy constituted 7,4% of total revenue collections accruing to the national revenue account, the latest increase would bring the total to 8,1% of national revenue

Manuel said this would add less than 0,5% to consumer price inflation, making it a good means of improving revenue

The 1998/9 budget also includes a R662,1m allocation to the department of transport for national road maintenance, translating into a 4c/*l* share of the total fuel levy rate

The allocation followed a cabinet decision at the end of last year that the National Road Agency would in future receive appropriations for road construction and maintenance, converted to a dedicated assignment of part of the existing fuel levy

BD 12/3/98

Government is to clamp down on evasion of value-added tax, particularly prevalent in the export of cigarettes to neighbouring countries

BD 12/3/98

# Duties on luxury consumer goods reduced by 5%

**Linda Ensor**

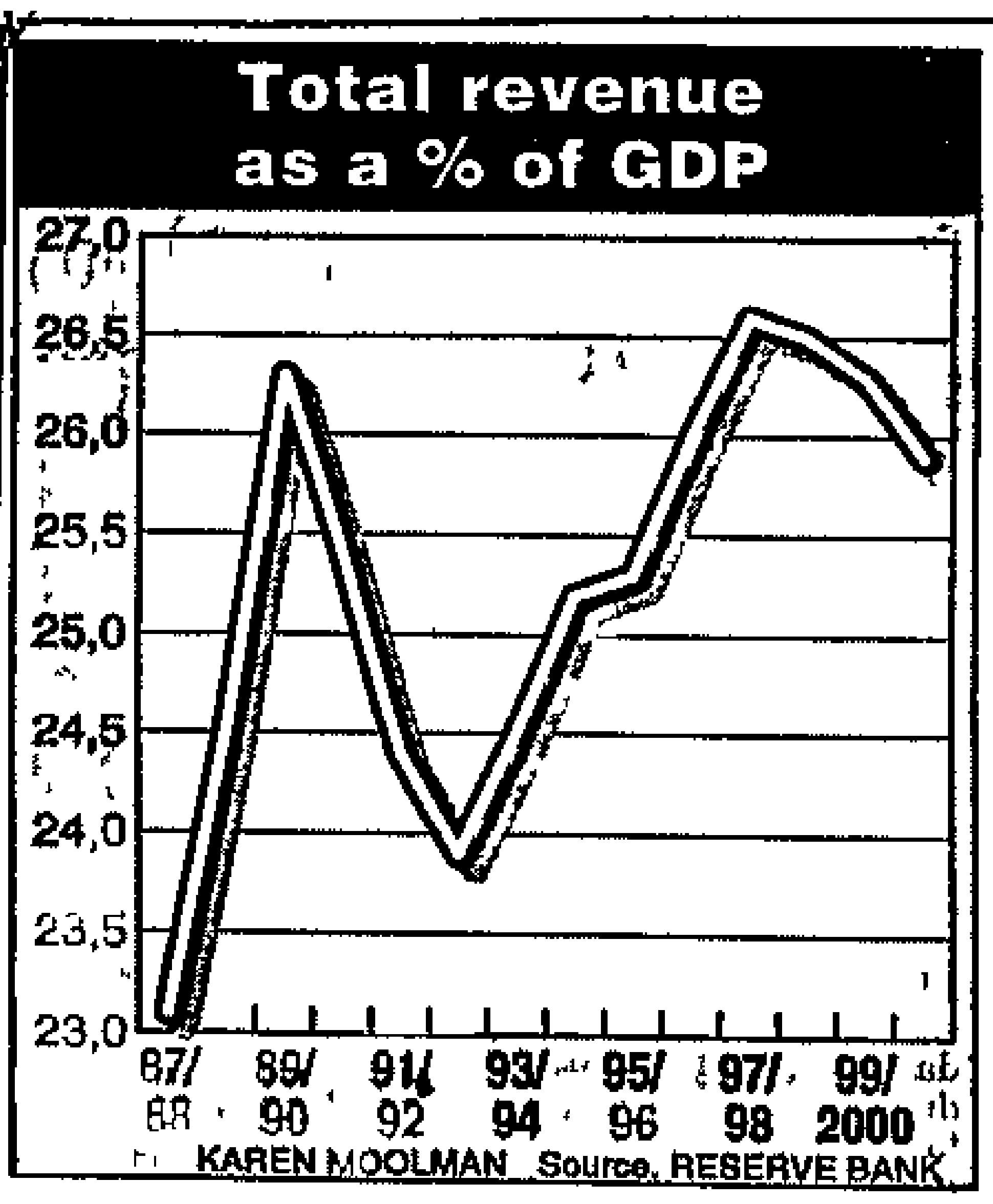
CAPE TOWN — Ad valorem duties on a range of consumer goods were reduced from 15% to 10% in yesterday's budget with immediate effect

Goods including perfumes, beauty products and electronic, camera and sound equipment would be cheaper and the temptation to avoid paying tax by undervaluing imported goods would lessen, the budget review stated

The duty on computers and related equipment was cut by 1% to 5% To counteract the effects of a single rate of VAT, the range of luxury items subject to ad valorem duties was extended to goods such as cordless telephone sets, cellular phones, video cameras, caravans, boats and dishwashers

The addition of new luxury items was kept to a minimum in line with a finding of the Katz Commission that to extend it excessively would result in ad valorem excise duties having to be administered alongside VAT

The net effect of broadening the consumption tax base by adding to the list was offset by the lowering of rates on existing products The overall effect would therefore be revenue-neutral.



Total revenue as a % of GDP

KAREN MOOLMAN Source, RESERVE BANK

# Officials plans to clamp down on VAT evasion

**Samantha Sharpe**

BD 12/3/98

CAPE TOWN — Government intends clamping down on "serious VAT evasion", which the finance ministry said yesterday was taking place through the false declaration of exports into neighbouring countries

Finance Minister Trevor Manuel said in the budget review that VAT evasion, particularly prevalent in the export of cigarettes and liquor to neighbouring countries, cost the country R150m in lost revenue

The severity of the problem had forced government to propose the exclusion of liquor and tobacco products from the current export incentive scheme, he said

The proposed measures meant traders from neighbouring countries would not be able to buy these products free of VAT in SA or obtain a refund of the tax at a land border post

"The zero-rating in respect of such products will only apply in relation to exports where an SA vendor consigns or delivers goods to purchasers outside SA," Manuel said

The proposals enjoyed the full support of the liquor and tobacco industries, with implementation to take place with immediate effect, and a Government Gazette published to announce the necessary changes in the scheme

However, Manuel said if the proposals did not curb current evasion levels, additional measures could follow

"Advisory notes in this regard were also posted to vendors with their returns," he said

# Convicted tax offenders face public exposure

BD 12/3/98

**Samantha Sharpe**

CAPE TOWN — Taxpayers failing to furnish annual tax returns could find themselves blushing in the glare of public scrutiny following a proposal in the 1998/99 Budget to publish the names of convicted tax law offenders

While the receiver of revenue has the power to release the names of guilty VAT Act offenders, those flouting the Income Tax and Customs and Excise Act have, so far, remained nameless

Finance Minister Trevor Manuel warned that guilty parties would no longer be awarded the privilege of anonymity, with all those convicted of tax law offences to be publicly exposed as part of government's drive to improve tax morality

"It is only right that those who pay their due should know whose tax default they are paying for It is accordingly proposed that the tax laws should be amended to provide for the publication (of the names) of persons convicted of offences in terms of these laws," Manuel said.

In keeping with reforms in other countries and SA's more open new democracy, government also intended examining the current secrecy provision contained in various tax legislation, Manuel said

This would include an investigation into how these secrecy provisions could be amended to enhance tax morality and effective revenue collections, which remained the driving force behind tax reform in SA, he said.

Improved tax collection and a broader tax base would net the fiscus an estimated R2bn in revenues in the new financial year, with government firmly committed to broadening the tax net Teams had already been established in each revenue office under close supervision by SA Revenue Service regional offices to undertake this task.

This project was a long-term measure to decrease the default rate, change the culture of nonpayment and attain acceptable levels of tax compliance, Manuel said

"Activities have included information-gathering, cross-checking tax information and business-to-business inspections and street walks using up to 1 500 revenue service personnel at a time"

As at October 1 last year, about 33% of the entities evaluated for income tax purposes were unregistered

# Human trials with Virodene carried out in Portugal

BD 12/3/98

PRETORIA — Human trials were conducted in Portugal late last year using the purported anti-AIDS drug Virodene P058, which had been banned in SA, the company holding the Virodene patent rights admitted yesterday

Cryopreservation Technologies manager Hugo Snyckers said the company could not say whether the tests had been terminated. "What they do there is their own business," he said.

A foreign news agency reported on Monday the Portuguese health minister had ordered an investigation into newspaper reports that a clinic was illegally testing Virodene on AIDS patients recruited through the Internet.

The ministry said the drug was illegal in Portugal, and anyone using it would be punished

Snyckers said he did not know whether the Portuguese tests were linked to trials conducted by a Portuguese firm, which had a co-development agreement with Cryopreservation Technologies

In terms of the agreement, both companies were entitled to conduct tests with each other's patented drugs, and had to report back on their findings

One of the SA researchers who developed Virodene, Olga Visser, is a shareholder in the Portuguese company, which is named after her Snyckers said he did not know if the drug was illegal in Portugal, and Clinica Olga Visser had informed them that this was not the case

Snyckers expressed concern that human trials might have been conducted illicitly "If the tests were done without the appropriate supervision, the results will be of no use to us," he said.

The Portuguese company had compiled reports based on the trials, and the results had been positive, he said. The SA Medicines Control Council has to date four times denied the researchers permission to do human trials using Virodene

Council chairman Prof Peter Folb said last month the researchers needed to make several corrections to their submission, which included some faulty scientific formulations, problems with the purity of the drug and the way it was produced.

"They must work on all the things that make Virodene unsafe and not suitable for human use," he said. "They must give us good reasons why Virodene would work in HIV-positive patients "

In 1996 Visser and Pretoria University cardiothoracic surgeons Prof Dirk du Plessis and Dr Callie Landauer asked the cabinet for R3,7m to continue their research into Virodene

At the time they claimed preliminary patient trails suggested a possible breakthrough in the fight against AIDS However, a committee probing the methods used by the three said no evidence was found that Virodene could inhibit HIV

The joint Pretoria University and Gauteng health department committee said the researchers had contravened accepted scientific procedures when testing the drug on 11 patients

Earlier this month, the Democratic Party released documents which it said indicated the African National Congress was promised a 6% stake in Cryopreservation Technologies Both parties allegedly involved denied this — Sapa.

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# Negotiators point to progress in trade talks

BD 12/3/98

John Dludlu

SA AND European Union negotiators sought to allay fears over continuing differences on sticky trade-related issues after the conclusion of another round of talks yesterday

Addressing a joint news conference in Pretoria yesterday, the two sides emphasised the degree of agreement achieved in five days of negotiations They also expressed guarded optimism that the mid-year deadline for the conclusion of the talks — set by political figures — could still be met despite limited progress in the latest round.

Interviewed later yesterday, EU chief negotiator Philippe Soubestre said he had hoped more progress would be made during this round, which dealt with trade-related issues.

He said the two sides were still far apart on the "big-five" subjects — competition, antidumping, countervailing and safeguard measures, and government procurement.

Soubestre said apart from being interested in free trade, the EU was also keen to see fair trade based on agreed rules on trade-related issues

Eltie Links, SA's ambassador, who is leading the Pretoria delegation, said relative progress had been made on antidumping, countervailing and safeguard measures The difficulties in the other issues stemmed, in part, from lack of policy, such as in competition law, and clear disagreement, as in the case of government procurement

Links also countered perceptions that SA was stalling in the talks He said Pretoria had delivered on its promise to provide clarity in dealing with sensitive items SA also undertook to address the EU's concerns on the standstill clause.

The clause, which raised concerns in Brussels, forbade negotiating partners from raising trade barriers during talks Links said the concern was the result of a misunderstanding and that consensus had been reached.

To resolve the issue, SA has promised to define more precisely just more than 400 items which will be exempted from this clause

Pretoria's call for a derogation, or special permission to adjust its tariffs during the negotiation period, is attributable to the current tariff restructuring process involving the simplification of its tariff book — considered to be among one of the most complex in the world.

The derogation will also provide government with the opportunity to move away from import controls to the introduction of tariffs Tariff duties are considered more transparent than quantitative restrictions

Soubestre also emphasised areas of agreement, such as aid co-operation, saying a framework had been agreed.

Although emphasising progress made during the past week, Soubestre called on negotiators to begin working at once in a bid to meet the June deadline agreed to by commissioner João de Deus Pinheiro and Trade and Industry Minister Alec Erwin.

EU chief negotiator Philippe Soubestre, left, addressing reporters at a briefing on trade-related negotiations with SA. SA's ambassador to the EU, Eltie Links, right, listens

Picture. TREVOR SAMSON

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# Talks to be held on R2bn empowerment fund

Patrick Wadula

THE National Small Business Council plans to meet with both public enterprise and deputy trade and industry ministers to discuss the government's R2bn National Empowerment Fund to be launched this year

CEO Monde Tabata said yesterday the council was seeking an urgent meeting with the two ministers to discuss the role of the council in ensuring the success of the scheme

"The fund will certainly provide much-needed impetus to the growing entrepreneurial culture in the country which has thus far been hamstrung by limited access to finance," he said

The fund, financed with proceeds from the government's privatisation programme, was aimed at assisting previously disadvantaged entrepreneurs and communities particularly in the development of small business

Meanwhile, North West Provincial Small Business Council chairman Ari Kgomongwe was elected a member of the Small Business Advisory Bureau

BD 12/3/98

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# Soekor 'needs legislation'

(183)

Linda Ensor

BD 12/3/98

CAPE TOWN — Dedicated legislation to govern the upstream activities of Soekor was needed, Soekor MD Joggie Heuser said yesterday

At a parliamentary hearing of the mineral and energy affairs portfolio committee on government's green paper on minerals and mining policy, Heuser said the legal framework under which oil and gas exploration was undertaken was "complex and confusing for the investor"

Heuser said the green paper did not recognise the differences in oil and gas exploration and production, or Soekor's position as a facilitator between the state and investors It did not indicate whether and how Soekor's existing rights and those of subleases would be preserved.

Soekor was responsible for subleasing SA's offshore acreage and Heuser feared the paper's proposals could jeopardise its current negotiations on subleases

To ensure long-term stability for investors he proposed that its main OP26 lease be extended and broadened

# Loads of sulphur stockpile for W Cape farmers

([illegible] X/187)

**STAFF REPORTER** ARG 12/3/98

**The remains of a controversial sulphur stockpile at AE&CI's site in Somerset West will be removed by a fleet of trucks over the next six weeks.**

The stockpile, which is contaminated with soil, belongs to the Department of Trade and Industry. It will be distributed among farmers for nothing

Two people died and many were treated for breathing difficulties when the sulphur mound caught fire in December 1995 and a south-easter blew toxic fumes into Macassar

Noel Williams, chairman of a parliamentary committee appointed to oversee the removal of the stockpile, said the material would be distributed among almost 200 farmers in the Swartland and Robertson-Worcester districts.

"The contaminated material has been blended into two piles, one of about 20% sulphur and the other of 60% strength," said Mr Williams.

"The bulk of the material is of 20% strength and will go to the Swartland to help counter soil deficiencies while the 60% material will be sent to fruit farmers in the Robertson-Worcester district."

Deliveries would be made by four 30-ton trucks from next week and would be completed by April 24

(183)

**AECI**

FM 13/3/98

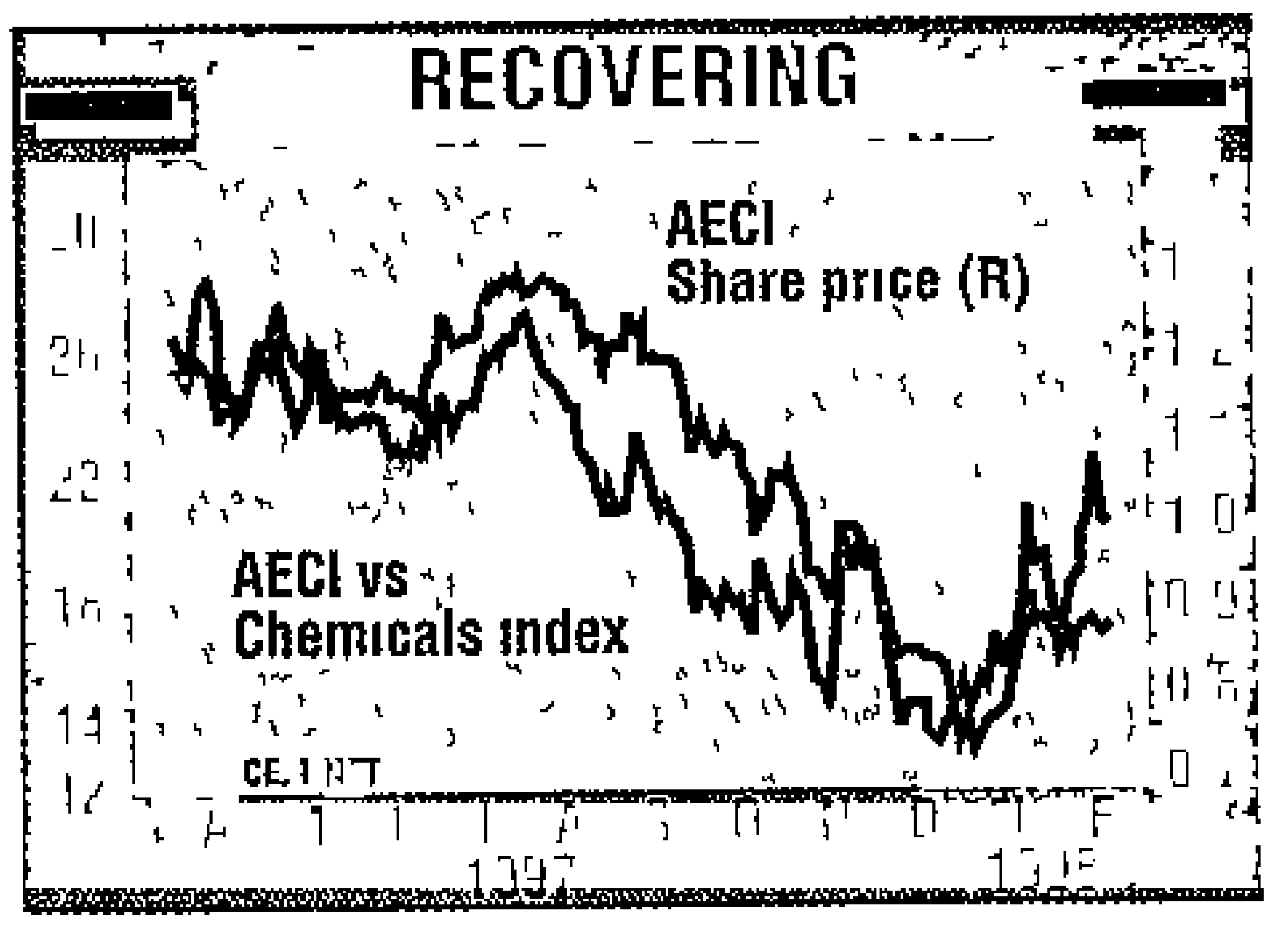
# Not yet out of the storm

The good ship AECI is still vulnerable to cyclical winds

**For all** the progress AECI has made in growing its value-added businesses, the company is still highly exposed to commodity cycles Doubters need only look at the group's latest set of results for the year to December 1997

They show a R187m reduction in operating profit from Kynoch, AECI's fertiliser subsidiary, following a slump in world nitrogen fertiliser prices and a prolonged shutdown period The decline forced group operating profits down by 9% and attributable profits by 11%

Excluding nitrogen, the group achieved a R117m increase in trading profit with good improvements from all of the major operating areas Both Sansfibres and Dulux sharply improved operating profit on modest turnover growth following the restructuring of both these businesses



Explosives managed to lift earnings slightly despite the recent decline in the gold industry The listed Polifin produced real earnings growth, and Chemical Services (Chemserve) generated another set of record earnings through its consolidation of strategic investments

In October, following AECI's cautionary that earnings were unlikely to match 1996 levels, the *FM* pointed out that Kynoch was increasingly the linchpin determining AECI's success Since then there has been some discussion about what needs to be done both to AECI and the troublesome nitrogen operation to lift performance

Analysts suggest that, in the short term, AECI needs to focus on improving Kynoch's cost base, which is particularly important for commodity-dependent operations One analyst suggests that an international alliance is badly needed in this business to facilitate the spread of risk and further investments in technology

This nitrogen business will benefit this year from higher production following the shutdown and a firmer price, though the average realised price for 1998 will be lower than 1997 Group MD Mike Smith says that with further gains in most businesses, AECI should be able to achieve "moderate real" growth in earnings in 1998

Smith remains happy with the group's strategic direction, which focuses on exiting/restructuring underperformers, investing in new areas to gain competitive position and teaming up in international alliances But there have been calls for more radical restructuring to unlock value and firm up core businesses for growth Certainly AECI still trades at a discount to NAV of 16% and the share price has been on a plateau for the past four years

Proponents of rapid change will no doubt be excited by the appointment of one of the group's star performers, Lex van Vught, to the position of executive director on the AECI board Van Vught served as MD of Chemserve between 1993 and 1997, during which time he grew EPS from 33c to 101c

"I think the appointment is fantastic," says one analyst "This guy has a got a demonstrable track record of entrepreneurship in a big company He is a lateral thinker and will bring some flair, which is desperately needed "

Van Vught confirms he has got some "radical ideas" that are known to the other directors "I will encourage a greater and more urgent transformation of AECI, and the MD and FD are not averse to considering all these different perspectives " He will not say at this stage what he would like to do, but it is commonly believed he favours unbundling of the listed Chemserve and Polifin

Van Vught does say that he expects future shake-outs in the SA chemical industry as a result of international shifts, and that there might be opportunities for AECI in this process

AECI is heading in the right direction with its focus on competitive niches But it needs to speed the process and become more market-focused The importance of the Van Vught appointment should not be underestimated in achieving this goal, together with the recovery prospects it moves AECI into buying country **Stuart Rutherford**

OIL FUND (183)

# Selective disclosure?

FM 13/3/98

**Documents in** the *FM*'s possession show that the secretary of the panel appointed to investigate the controversial contract between the Central Energy Fund and Sandton-based consultancy International Advisory Services (IAS) had a conflict of interests and did not disclose it

The *FM* has learnt that secretary Bahadzisi Maripe is the wife of Allied Energy Investment CEO Vincent Msibi

Last year, Allied submitted to the CEF (holding company for all State petroleum assets) a proposal to buy the offshore assets of Mossgas and Soekor The CEF board decided not to act on the proposal

Mineral & Energy Affairs Minister Penuell Maduna appointed the panel, chaired by his department's former acting director-general, Dick Bakker, after the *Mail & Guardian* newspaper alleged proper procedures had not been followed in awarding the CEF consulting contract to IAS

IAS principals include former Liberian Finance Minister Emmanuel Shaw, whom the *Mail & Guardian* described as having a shady past

The issue of Maripe's vested interest in the CEF probe becomes relevant in the light of CEF chairman Don Mkhwanazi's submissions to the Bakker Panel that he was a victim of a conspiracy by senior officials in the department Mkhwanazi accused Thulani Gcabashe (who was then Maduna's adviser) and Gordon Sibiya (the department's deputy director-general) of waging a campaign against him Mkhwanazi claims he is seen as a "stumbling block" to plans to sell parts of oil refiner Mossgas and oil and gas exploration company Soekor, both owned by the State

Robert Tshabalala

Gordon Sibiya

In his testimony to the Bakker Panel last December, he said Gcabashe had pushed for the sale of Mossgas to US oil group Santa Fe, while Sibiya, also a CEF director, had backed a proposal by Allied Energy Investment

Sibiya is founder and chairman of the Science & Engineering Academy of SA (Seasa), an NGO involved in upgrading the science and mathematics skills of black matriculants Seasa is an Allied shareholder

A spokesman for Bakker's office says Bakker is not allowed to comment on any issue relating to the panel All questions should be directed to either Sibiya or Gcabashe

Sibiya's office says he is out of the country until next Tuesday

Among the Bakker Panel's recommendations to Maduna were that the CEF board's term, which expires at the end of this month, should not be renewed and that the Minister cancel the IAS contract and declare the payments already made to the IAS unauthorised expenditure

Last week Sibiya claimed that because the CEF board merely noted the Allied proposal, he did not need to disclose his interest in it But the *FM* has established that the board discussed the proposal last June

At that meeting the board even called the chief executives of Mossgas and Soekor to present their views on the Allied and Santa Fe proposals The CEF decided not to act on the proposals until the restructuring of the CEF group companies was finalised

In his testimony to the Bakker Panel, Sibiya said he strongly believed in good corporate governance He added that in his 12 years as a consulting engineer, he had disclosed interests of whatever nature, however insignificant, as it was up to his clients to decide whether those interests mattered

Gcabashe resigned as Maduna's adviser this week at the request of the Minister

Jabulani Sikhakhane

# Oil corruption saga claims new casualty

(183) M+G 13-19/3/98

**Mungo Soggot**

The corruption crisis in South Africa's state oil industry claimed its most important casualty so far when Minister of Minerals and Energy Penuell Maduna sacked his special adviser on energy this week

Maduna's decision to axe his trusted aide Thulane Gcabashe, an African National Congress stalwart, has sent shock waves through the Department of Minerals and Energy, with many officials siding against an increasingly isolated minister

News of Gcabashe's departure leaked immediately from several officials, who also faxed out correspondence between Gcabashe and Maduna

Maduna offered three obscure explanations for his decision, but there is no doubt in the department that the real reason was tension between the minister and Gcabashe over the Emanuel Shaw II saga

**Penuell Maduna: Axed his top aide, Gcabashe**

Gcabashe has consistently opposed the head of the state oil company, Don Mkhwanazi — the man who gave Shaw, a notoriously corrupt Liberian politician, a R3-million job and then received money from him

Maduna — who initially appeared willing to drop Shaw and Mkhwanazi — has recently astonished his civil servants with his about-face on the saga and is now openly siding with the Liberian and with Mkhwanazi

Gcabashe's letter of resignation suggests Maduna discussed his decision to fire Gcabashe with Mkhwanazi, who has recently had at least two audiences with Maduna

"A friend in Durban called me and told me that Don is spreading a rumour that my days were numbered with my department  I responded by saying, perhaps he [Don] knew better  Indeed he knew  I shall cherish the good times we have had and wish you all the success "

Gcabashe, who is married to Chief Albert Luthuli's daughter, played an important role in forging Maduna's energy policy and performed key administrative functions such as checking the books of the state oil company, the Central Energy Fund (CEF)

He was given his job by President Nelson Mandela, who initially offered him the ambassadorship to Saudi Arabia on his return from exile in the United States, where he was a corporate banker  Gcabashe is understood to have received many messages of support from within the party this week

Maduna has rejected the recommendations of a commission of inquiry by his acting director general, Dick Bakker, which called on him to sack Shaw, Mkhwanazi and the CEF board  Mkhwanazi, meanwhile, last week launched a smear campaign against both Gcabashe and Deputy Director General Gordon Sibiya, claiming they had plotted a conspiracy against him

Over the past few weeks battle lines have been drawn between Gcabashe, Bakker and Sibiya on the one side, and Maduna on the other. Sibiya has publicly attacked Mkhwanazi for his appointment of Shaw

Neither Gcabashe nor Sibiya would comment this week, although Sibiya, contacted in Paris, said he was shocked at the news of Gcabashe's departure

It is understood Gcabashe has on several occasions persuaded Sibiya not to throw in the towel  Sibiya resigned from the CEF board when the Shaw scandal first broke

Apart from Sibiya, few other staff in the department are steeped in the highly complicated South African energy scene  It has historically relied on the CEF for energy-sector expertise  But the CEF has recently lost a string of its most experienced employees, some of whom quit after Shaw's appointment

The first reason the minister gave for Gcabashe's ousting was his adviser's alleged decision to tell a conference organiser that Maduna would not be available to give a speech  Maduna said Gcabashe had written to the organiser saying "we do not know whether the minister will still be holding his position then"  The *Mail & Guardian* is in possession of a memo Gcabashe gave Maduna reminding him about the conference

Maduna also alleged Gcabashe prepared a Cabinet memorandum for the minister to advance the case of US gas exploration company Santa Fe, which is keen to take over the synthetic-fuel producer, Mossgas  Mkhwanazi suggested in an interview last week that Gcabashe was in cahoots with Santa Fe

PHARMACEUTICALS

# Roche stung in drugs price war

FM 13/3/98

Generic forces brand name into retreat

(183)

A fierce price war is being waged between Swiss pharmaceutical giant Roche and generic drugs manufacturer Cipla-Medpro for SA's anti-malaria drugs market

Last month Roche slashed the price of its brand product, Lariam, by 47% in an attempt to undercut Cipla's new generic equivalent, Mefliam, which appeared on the SA market in December Cipla has responded by slashing Mefliam's price by 27%

Africa is an important market for the manufacturers — up to 2m of the continent's children die from the disease annually In Nigeria the disease strikes 50m/year — killing 300 000 Experts consider malaria an increasing threat to public health in SA Last year there were 20 111 malaria cases and 61 deaths

Roche's SA public affairs director, Kelvin Henry, confirms that the Lariam price cut was a deliberate move to "take on" Cipla and Mefliam

"Cipla have no R&D costs Can one sit back and allow this to happen to all one's products?"

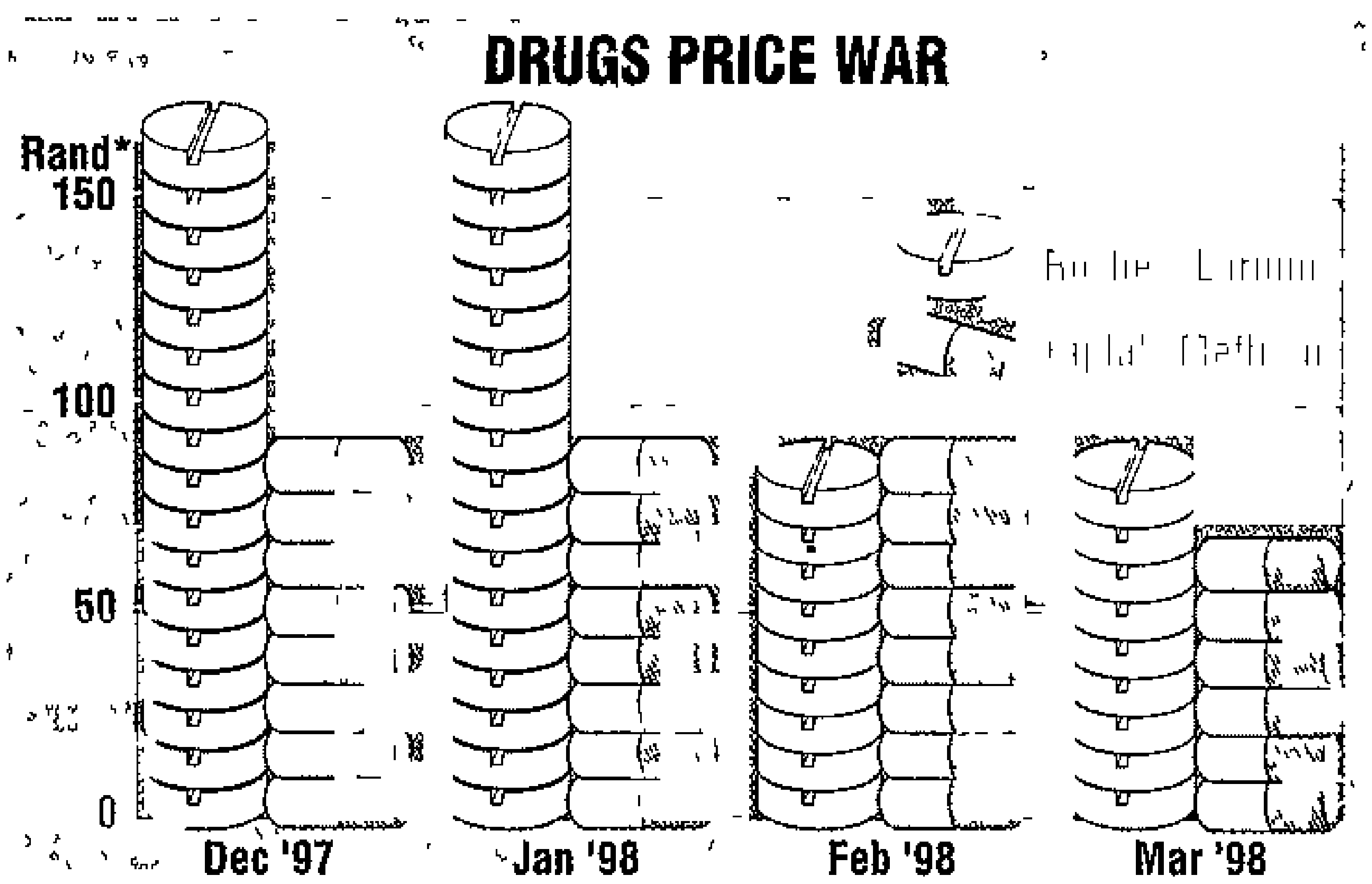
Cipla launched Mefliam last December at a recommended retail price of R89,99 (excluding Vat) for a pack of six

Lariam has been a high-profile, niche product for Roche, with sales of about R9m/year in SA Until the onset of the price war it sold across the counter at R192,99 for a pack of eight tablets The 47% reduction has brought Lariam's price down to R102,50, or R89,91 excluding Vat This undercut Mefliam by 8c/pack — with a bonus of two extra tablets

Cipla has responded by cutting Mefliam to R65,99/pack from March 1 In a letter to pharmacists, Cipla CEO Jerome Smith says the company "has a pricing policy of always being lower than the innovator (Roche) Towards this, we are further lowering the price of Mefliam even though our margins will now be sorely stretched "

Pharmaceutical companies justify high prices for brand-name drugs to recoup their research and development costs

However, the R&D programme for Lariam — a drug launched in the mid-Eighties — was carried out by the Walter Reed Army Institute of Research in the US The medical evaluation was made in a joint project that included the World Health Organisation and Roche



*Retail price/pack excluding Vat

Henry agrees that Roche was not involved in the initial R&D, but defends the high price it initially charged for Lariam "It wasn't a Roche molecule and Roche was not involved in the initial R&D But we were involved in the evaluation of 230 000 compounds from which the drug emerged There are massive costs in there, but I can't give you a figure "

Says Smith "We certainly did not predict the dramatic effect we would have on our opposition We note with keen interest and disbelief the major price reduction our competitor has had after years of selling at high prices "

**Africa is an important market for anti-malaria drugs manufacturers – up to 2 million children die from the disease annually**

He estimates that Roche's 47% reduction has taken "virtually R4,5m/year" off its bottom line

Smith adds "We don't look at what the innovator (Roche) sells at and come in at 5% or 10% less We look at our cost and a reasonable mark-up, and we price it at that In Mefliam's case the price was R89,99 Eight weeks later we hear that the innovator company has reduced its price to R89,91, to be just below us "

Says Roche's Henry "What I find a little disturbing is that if you do what you really want to do — and that's lower the cost of medicines — everyone shouts "

Henry says the 47% cut means Roche could now be selling Lariam at a loss "I would imagine it's pretty close to a loss, or a break-even It's not an uncommon business practice to have loss leaders

"Malaria is extremely bad news in SA We believe we're the best company to handle it If something goes wrong with the patient — and that's not unlikely with Lariam — we know we can answer all the questions For that reason we want our product available all the time If we have to reduce our prices to achieve that then we will do it

"Roche is fortunate in that we have a large portfolio of drugs and therefore a reduction of this nature can be subsidised "

But Henry denies that a price hike of 2%-7% over the rest of the Roche range announced at the same time as the Lariam price cut, was designed to make good the shortfall "There's a misconception out there that we increased our prices so that we could do this," he says "But it wasn t planned The prices on the other products would have gone up anyway "

Initially, Roche senior product manager Rodney Cronje said the Lariam price cut was "part of Roche's commitment to government objectives to reduce the costs of medicine and its social responsibility to make malaria prophylaxics and treatment more accessible and affordable "

In the same week, however, the company raised the price of most of its other drugs

Smith remains convinced that the across-the-board price increase was an exercise to balance the books "So how are they going to make it (the price cut) up? Their other drugs went up by between 2% and 7% What they lost on the swings, they gained on the roundabout "

More cuts could follow

On the latest move by Cipla, Roche's Henry says "We'll decide how to react to that "

**Jack Lundin**

# Oil plan for Table Bay

## *Pollution threat to prime beaches feared*

WILLEM STEENKAMP

**Supertankers moored in Table Bay near Robben Island, offloading refined petrol into an underwater pipeline – this is the plan that has South Africa's oil industry in an uproar**

An "oil war" is set to erupt between the major oil companies and the Government if the R350-million scheme to import and sell refined fuel directly to emerging black-controlled companies goes ahead.

The big oil firms import crude oil, which is refined locally

But if the project is approved, the government controlled Strategic Fuel Fund (SFF) will import refined petrol, jet fuel, diesel and other oil products and pipe it ashore in Table Bay to its old tank farm near Milnerton.

Refined oil products will be offloaded from supertankers connecting to a controversial new single-point mooring facility to be constructed in the sea between Robben Island and Bloubergstrand.

The refined fuel products will be pumped through a submerged pipeline, which will run along the ocean floor to a point north of Bloubergstrand, then south-east to the Milnerton tank farm near the Caltex refinery

The fuel will be stored in 39 old tanks used some time ago to store strategic crude oil supplies for the previous government. These tanks may have to be upgraded at an estimated cost of R20-million.

If the plan meets approval, the fuel will be sold directly to emerging companies (owned and operated by previously disadvantaged South Africans) and delivered by road transport from the tank farm This is set to lead to escalating competition between the major oil companies and SFF, and is expected to cause an outcry among environmentalists over the pollution threat to the Cape's prime beaches

Pieter Coetzee, deputy chief director of operations at SFF, said the project would be funded through the sale of crude reserves This means that taxpayers will indirectly fund the project Refined products will be imported from North Sea and Mediterranean refineries.

Road tanker delivery will not be handled by the SFF, but by companies owned by previously disadvantaged groups

At a recent public meeting, Bothasig and Milnerton residents expressed fears about a storage facility for refined fuel products in their neighbourhood The area has become increasingly urbanised and a large number of road tankers in transit is viewed as unacceptable by many residents

A spokesman for the Caltex refinery near Milnerton, which supplies the major oil companies, said the company supported black empowerment, but questioned the financial viability of the SFF scheme

"The profit margins on fuel are very low, and taking into account the road transport delivery costs of such as scheme, it remains doubtful whether it will be financially viable.

"Also, such a scheme flies directly in the face of the Government's goal of job creation Importing a refined product will not create jobs," said the spokesman.

Another industry source said the scheme seemed like a "last gasp effort" by the SFF to ensure its continued existence

But Mr Coetzee emphasised that downstream activities of the scheme, such as distribution and sales, would indeed create more jobs He admitted that the scheme would also ensure SFF employees would "retain their jobs"

Riaz Jawoodeen, director of research on liquid fuels at the Institute for Policy and Social Research (a non governmental organisation based in Cape Town), said the scheme was "ill-conceived and totally uneconomical"

*'The SFF is restructuring assets, but has no definite plan ... it is a stupid idea'*

Mr Jawoodeen said it made no economic sense to place a delivery point in Table Bay, while an existing pipeline in the harbour could be used to convey imported refined fuels to the tank farm depot.

Mr Jawoodeen said there were also large SFF storage depots at Saldanha that could be used for white fuels These could then be piped from Saldanha to Cape Town via an existing pipeline between Saldanha and Milnerton.

"This is an ill conceived idea by the Strategic Fuel Fund which is busy restructuring state assets, but clearly has no definite plan on how to achieve this goal Frankly, it is a stupid idea."

The placing of a single point delivery facility and a pipeline in the sea near Bloubergstrand is expected to lead to strong opposition from environmentalists

In July 1995 the Apollo C sank off Dassen Island and bunker oil washed up on the Cape's beaches for months afterwards The oil pollution had a major impact on tourism.

It cost more than R26-million in direct costs to clean up the beaches, while indirect losses suffered by the tourism industry ran into many millions more

The SFF is proposing that a mooring facility able to handle oil tankers of up to 150 000 tons be placed in the sea either south or north of Robben Island Marine experts have pointed out that Table Bay is generally known as a graveyard for ships Over the years more than 300 vessels have sunk in Table Bay, while 47 ships have foundered off Robben Island alone

The SFF has commissioned an environmental impact assessment to determine the benefits and impact of the proposed project. The study is being undertaken by the CSIR and Crowther Campbell & Associates

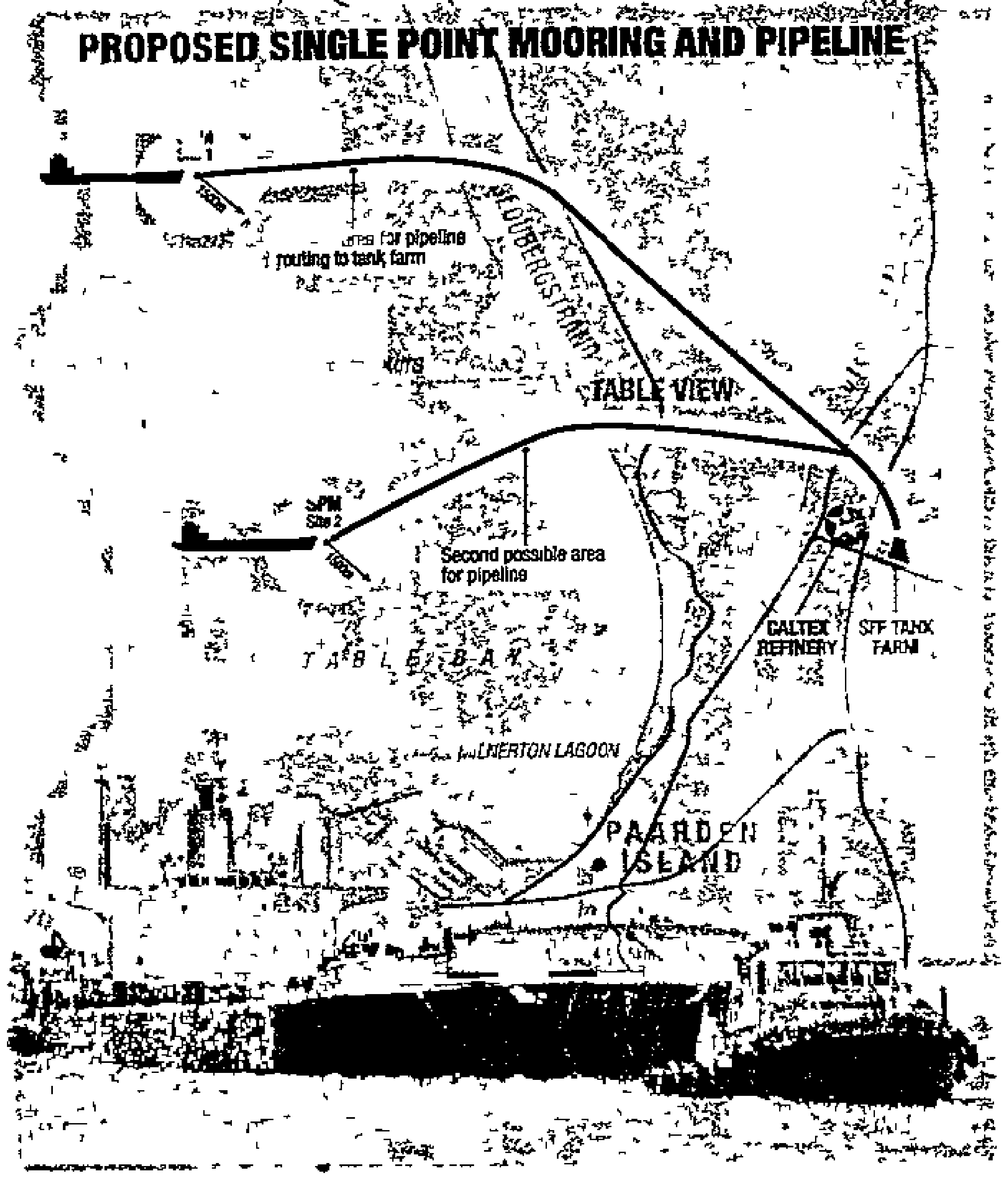
Anton Moldan, environmental advisor to the South African Petroleum Industry Association, warned that there was always a pollution risk when ships delivered oil products to a dedicated loading and offloading facility He said such a risk would have to be weighed against the possible economic benefits of the scheme

In a study on oil spills undertaken worldwide over a 15-year period it was established that 77,8 % of all "minor" oil spills (less than seven tons) occurred at so-called single point mooring facilities.

But, said Mr Moldan, it was the possibility of a supertanker being wrecked on the Cape's beaches that was of greater concern If one such tanker should founder in one of the Cape's notorious storms, the subsequent oil spill could rip the heart out of the Cape's most important industry – tourism.

Mr Moldan said an informed decision could only be made once the environmental impact assessment had determined the full impact and associated risks of the proposed project.

(183) ARG 14/3/98



**Pipe plan** these are the proposed two sites for an oil delivery pipe to the Milnerton tank farm which will allow 150 000 ton oil tankers to pipe refined fuel to the plant Site 1 is the preferred position for the proposed single point mooring and pipeline

# Outcry at direct fuel sales to black firms

183

Star: 14/3/98

By WILLEM STEENKAMP

An "oil war" is set to erupt between major oil companies and the Government if it goes ahead with a R350-million scheme to import and sell refined fuel directly to emerging black-controlled companies

Although the scheme would be funded by taxpayers, motorists could benefit if the greater competition leads to a price war

If the project is approved, the Government-controlled Strategic Fuel Fund (SFF) would import petrol, jet fuel, diesel and other oil products and pipe it ashore in Table Bay to its old tank farm near Milnerton

Refined oil products would be offloaded from supertankers linking in to a controversial new single-point mooring facility to be constructed in the sea between Robben Island and Bloubergstrand After being pumped ashore, the fuel would be trucked elsewhere.

## Pollution threat

If the plan meets approval, the fuel would be sold directly to emerging companies (owned and operated by previously disadvantaged South Africans) and delivered by road transport from the tank farm

This is set to lead to escalating competition between the major oil companies and SFF and cause an outcry among environmentalists over the pollution threat to prime beaches

Pieter Coetzee, deputy chief director operations at SFF, said the project would be funded through the sale of crude reserves This means that taxpayers would indirectly fund the project. Refined products would be imported from the North Sea and Mediterranean refineries.

FROM PAGE 1

## Fuel outcry

SFF would not run the road tanker delivery service itself – instead, companies owned by previously disadvantaged groups would do the delivery of products by road tankers.

A spokesman for the Caltex refinery near Milnerton, which supplies the major oil companies, said the company supported black empowerment but questioned the financial viability of the SFF scheme.

"The profit margins on fuel are very low and, taking into account the road transport delivery costs of such a scheme, it remains doubtful whether it would be viable. Also, such a scheme flies directly in the face of Government's goal of job creation. Importing a refined product will not create jobs."

Riaz Jawoodeen, research director on liquid fuels at the Institute for Policy and Social Research (a Cape Town-based non-governmental organisation) said the scheme was "both ill conceived and totally uneconomical". He added that the SFF, which was busy "restructuring state assets", clearly "has no definite plan on how to achieve this goal. Quite frankly it is a stupid idea".

## Environmentalists

The placing of a single-point delivery facility and a pipeline in the sea near Bloubergstrand is expected to lead to strong opposition from environmentalists.

In July 1995 the Apollo C sank off Dassen Island and bunker oil washed up on the Cape's beaches for months afterwards The oil pollution had a major impact on tourism to the region as people avoided beaches covered in oil.

It cost more than R26-million in direct costs to clean up the beaches, while the indirect cost to the tourism industry ran into many millions more.

The SFF is proposing that a mooring facility able to handle oil tankers of up to 150 000 tons be placed in the sea either south or north of Robben Island.

Marine experts have pointed out that Table Bay is generally known as the graveyard for ships. Over the years more than 300 vessels have sunk in Table Bay, and 47 ships foundered off Robben Island alone.

In a study on oil spills undertaken worldwide over a 15-year period, it was established that 77,8% of all "minor" oil spills (less than 7 tons) occurred at so-called single-point mooring facilities

Colin McClelland, of the SA Petroleum Industry Association, said oil refineries already had pipelines in place and that there would be no problem supplying emerging companies with these products

The industry supported black empowerment, and had already committed itself to an agreement under which all future service station licences for at least the next two years would go to black companies.

increase to R2,9 million in the Friday

## NEWS

*Armscor's Protechnik subsidiary expects a drop in military business this year*

# Residents unnerved by chemical warfare facility

CT (PR) 16/3/98 (183)

**Sherilee Bridge**

Pretoria— Protechnik Laboratories, Armscor's chemicals research subsidiary which produces deadly chemical warfare compounds, said last week it expected a drop in its military business this year

The establishment of the company's new R10,5 million facility at the Highveld Technical Park, near Pretoria, has upset residents and commercial ventures in the area because of the potentially lethal nature of its stockholding required for the research and production of protective materials and systems for defence against chemical warfare

Harry de Bruin, the managing director of Protechnik, said the taxpayer did not pay for the facility because it was funded by the company's commercial businesses, but the R8 million of fixed assets was a state investment. This meant that the public funded almost half of a facility which has the potential to contaminate its immediate surrounding areas

De Bruin said the military component of the autonomous business would drop 60 percent this year, with industry making up a 10 percent and growing portion of its revenues

The facility, which was secretly established during the apartheid era, admitted to undertaking research on military chemical compounds and protective solutions for foreign governments

De Bruin said the company had been speaking to the French and Germans but flatly denied undertaking any work for Saudi Arabia.

Defence budget cuts announced with the Budget last week meant that the small company would have to cut back spending by R1,3 million

"This is quite a blow for us It will take months before we can recoup this money commercially through contracts," said De Bruin

The company's expertise was honed during the arms embargo, and its move to the new premise had meant an expansion into the synthesis and analysis of chemical warfare agents.

Protechnik was also exploring biological warfare with the aim of establishing defence systems

Phillip Coleman, the technical director of Protechnik, said South Africa should be prepared against chemical warfare, and that the role of Protechnik was one of protector, not destroyer.

# Liquid fuels policy must address economic imbalances

writes **Riaz Jawoodeen**

(183) BD 17/3/98

## Debate on the policy framework for the restructuring of the liquid fuel industry still has a long way to go

APARTHEID and the international response to it, namely, sanctions, left SA with a complicated web of regulations governing the liquid fuel industry And Afrikaner economic empowerment, courtesy of the fiscus, through the synthetic fuel industry further complicated governance of the industry. The siege economy viewed the industry as strategic in the political and economic sense in order to preserve the apartheid system

Stakeholders tend to agree that adopting regulatory red tape from the former establishment or replacing it with new red tape would not lead to transformation and economic growth. It would instead fetter any further development of the industry

The regulatory system inherited from apartheid excludes black participation in the industry. It discourages any new local and foreign investment. This violates constitutional freedom of economic activity. Red tape generally increases transaction costs which keeps production costs high, thereby ensuring that SA remains uncompetitive in a rapidly globalising economy

The regulatory mechanisms governing the commercial functioning of the industry are archaic within the SA context and especially within a global context. However, whether a gradual approach to deregulation or reregulation is best is debatable.

There are three approaches to restructuring the industry· deregulation, regulation and reregulation

Deregulation is the approach of the oil industry, with minimal government intervention and an orderly transition period.

The regulation thesis is espoused by the former establishment in the mineral and energy affairs department. It centres on the adoption of the apartheid regulations (with their siege economy red tape) It also supports subsidisation of synfuel producers. This thesis has dominated policy for three years and is expressed in the draft white paper. Minister Penuell Maduna has since rejected important sections of this draft in favour of a reformulation of policy in the sector

The African National Congress supports reregulation, a qualitatively different policy framework to that of the previous regime Reregulation is a transitional policy to level the playing fields for a variety of interest groups

It implies deregulation from the apartheid framework in an orderly transition. Reregulation is a period of adjustment for the various players to gear their business towards a more competitive environment and to create conditions for the entry of new players, both foreign and local, into the domestic market Thus, reregulation will focus on the lifting of red tape and not its consolidation. It is not simply based on the two pillars of black economic empowerment and job loss, although consideration would be given to these concerns.

Traditionally blacks were marginalised from the economy except as consumers But black economic empowerment should not be created through uneconomical use of capital Afrikaner economic empowerment occurred at an unnecessarily high capital cost Capital resources are scarce and any uneconomical use of capital in this country will spur capital flows past the continent to other developing areas

There is an erroneous view in the former establishment that market relations would automatically address economic imbalances Throughout history government intervention has been central in ensuring a country was on a path of economic growth

The fundamental issue for government in terms of the elections is job creation Self-service stations are not a prerequisite for deregulation Neither is it a guarantee of lower pump prices for consumers Job losses create instability and should be avoided

It is often suggested that deregulation is the panacea to the

industry's problems. Government transitional policy is not based on a single vested interest but hinges on the vision enshrined in its reconstruction and development programme and growth, employment and redistribution strategy as much as it reflects constituency interests Government thinking on whether to deregulate is guided by the need to develop quickly the energy sector and ensure economic growth in real terms

Deregulation would not ensure cheaper fuel for consumers This occurs only at the start of deregulation. Self-regulated markets create an upward pressure on prices At the same time, in cases of deregulation in Africa, prices never fell with the lowering of international crude prices Government's priority is to ensure low energy prices for the disadvantaged as well as to ensure that deregulation does not subvert economic development through prohibitive costs

It is one thing to support economic empowerment of the historically disadvantaged, but another to evolve a viable programme to effect participation in the economy Client-based - empowerment and increased unemployment is all that the new SA offers the vast majority of its people If there was no correction of the injustice from economic apartheid, then the transformation project would fail and the future of market-related economics would be bleak

☐ *Jawoodeen is a researcher with the Institute for Policy and Social Research*

MADUNA

special investigative team spokesman Martin Aylward said yesterday Director Bushie Engelbrecht had planned to meet McBride last Monday but had not because of McBride's arrest. Engelbrecht did not

Sapa reports that Sinn Fein negotiator Gerry Kelly denied allegations that McBride was running guns for the Irish Republican Army.

**Comment: Page 15**

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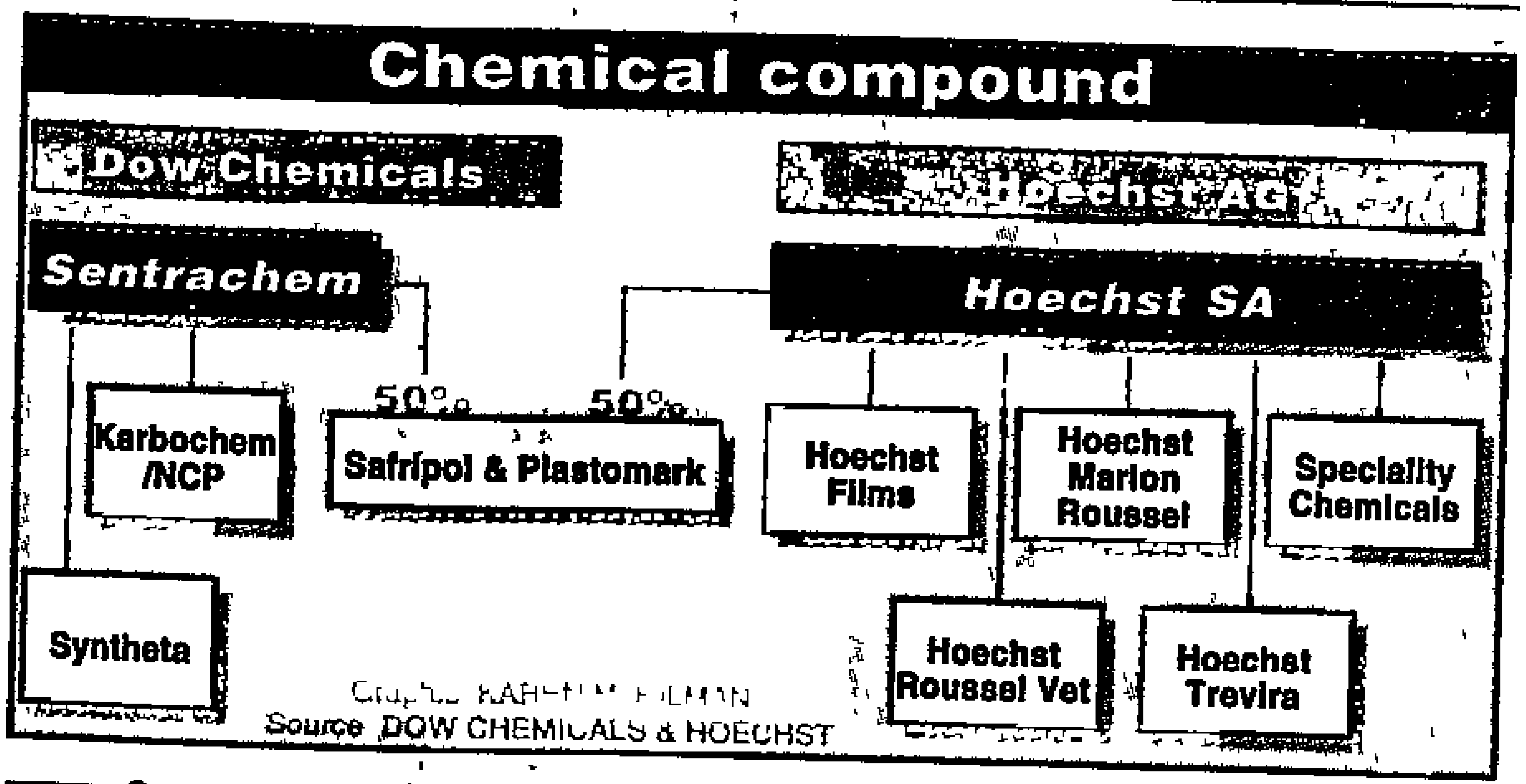


Source DOW CHEMICALS & HOECHST

# Firms locked in battle over Safripol

(183) BD 17/3/98

**Amanda Vermeulen**

GERMAN chemicals group Hoechst and US conglomerate Dow Chemicals — which controls SA group Sentrachem — are locked in a battle over the ownership of polyolefin company Safripol, in which both Sentrachem and Hoechst have a 50% stake.

Hoechst published a cautionary notice last month that it was in talks over Safripol, amid speculation that Dow was interested in acquiring Hoechst's stake. It has since emerged that both parties are vying to buy each other out in a deal which could be worth R400m.

Analysts said Dow was reluctant to pursue a joint venture relationship with a company which had traditionally been a direct competitor. One analyst said Dow was keen to break into the African plastics market, while the shortage of polypropylene in Europe also made Safripol attractive.

Another analyst suggested that a third contender for Safripol was chemicals and plastics group Polifin, but Dow was likely to be the victor. Polifin MD Trevor Munday was not available for comment.

Hoechst publicly stated that Safripol, which manufactures polyethylene and polypropylene, was a core business. It was believed to be determined to retain its interest in the company and its sister operation Plastomark, which handles the marketing.

Late last year Hoechst said it would gradually phase down its global business interests in industrial chemicals and polyolefins in favour of a focus on life sciences businesses such as pharmaceuticals. It is understood, however, that Hoechst's SA operation could be given a special dispensation to retain its interests in the polyolefin market as it represented the major contribution to the local subsidiary's revenue.

Hoechst was under pressure worldwide, with the Asian financial crisis and the weak oil price expected to flatten earnings this financial year. The Financial Times reported that European investors were uncertain about its prospects after its decision to shift its focus to life sciences businesses.

[redacted]

# ‘Drug companies will help cut health-care costs’

(183) BD 17/2/98

The global pharmaceutical industry is looking forward to another golden year, writes **Clive Cookson** in London

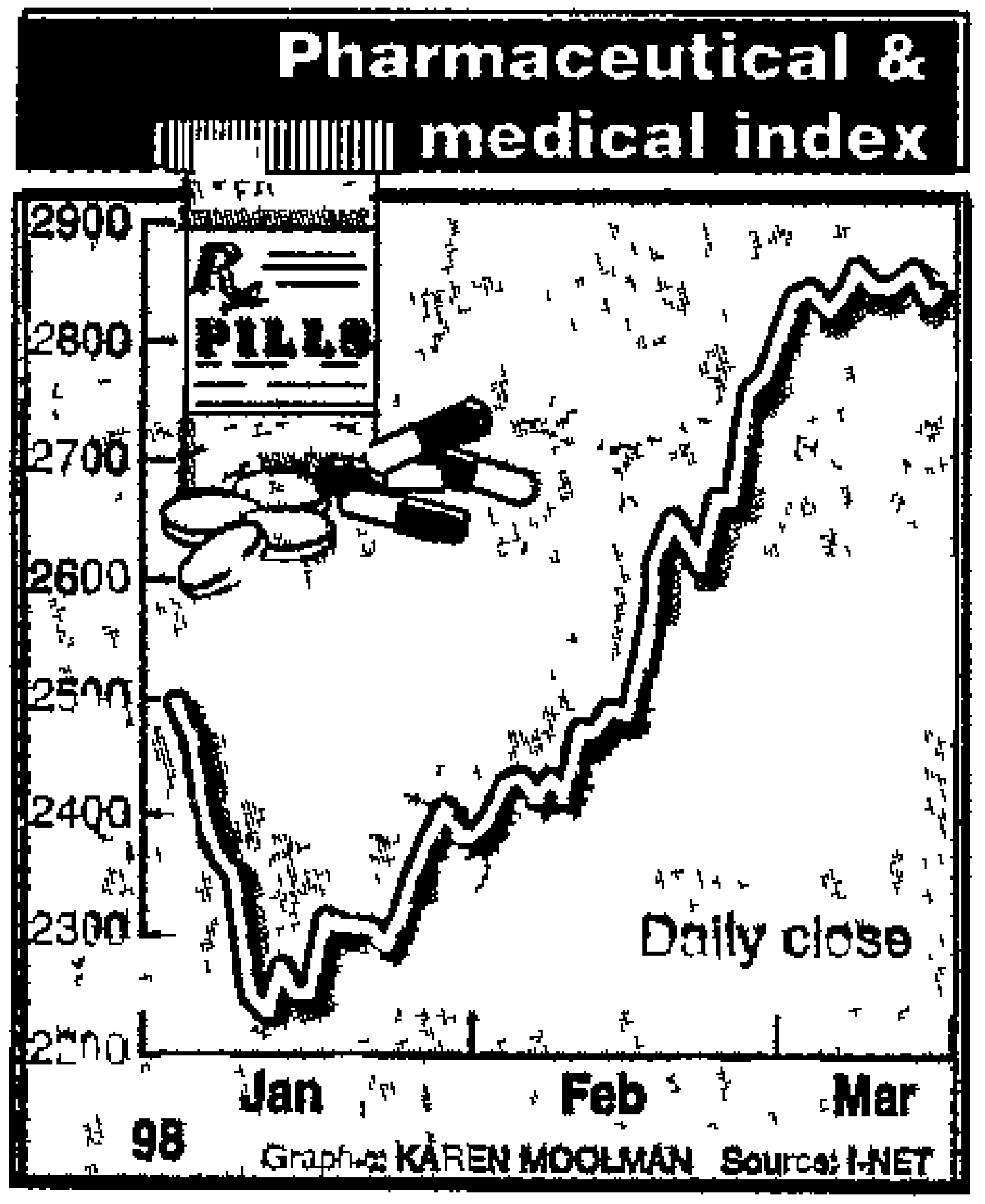
MOST pharmaceutical companies expect strong overall growth in sales and profits over the next 12 months, fuelled by double-digit expansion in the US market At the same time there is increasing excitement about a new wave of innovative drugs in the research pipeline as scientists apply new genetic and chemical techniques to pharmaceutical discovery and development.

There may be some setbacks as governments in Europe and Asia attempt to strengthen drug price control mechanisms, but on the whole, as Richard Markham, American CE of Germany's Hoechst Marion Roussel (HMR), puts it: “It's going to be a fantastic year for the industry.”

Analysts expect the global market to keep growing at about its current rate of 7% this year. As Markham notes, it is just five years since one respected team of investment analysts put out a fat report entitled The Pharmaceutical Industry of the Future — A Black Hole

In the early 1990s many people forecast that a combination of health-care reform programmes and ferocious price competition between similar drugs would drive down profits throughout the industry, to a point at which many companies would be forced to make big cuts in research and development — the lifeblood of their future. In response to such fears, shares in pharmaceutical companies were then trading at a price to earnings discount to the market.

As it turned out, the Clinton administration and Democrats in Congress failed to impose a damaging reform programme in the US, European governments took a more relaxed attitude to pharmaceutical pricing than the pessimists expected, and several companies cut costs substantially through mergers and acquisitions.


Pharmaceutical & medical index

Graphic: KAREN MOOLMAN Source: I-NET

The outcome has been four consecutive years in which pharmaceutical companies have outperformed the rest of the market, and p/e ratios which are back to their traditional premiums.

“The pharma industry has delivered in spades,” says JP Morgan Securities pharmaceutical analyst Mark Becker On average, companies have shown earnings growth of 13% over the past five years and are forecasting growth of 13% over the next five.

One reason for the improved outlook, Markham says, is that companies are winning the battle to convince governments that drugs, far from being a drain on health-care resources, help to save money The industry's growing band of pharmaco-economists is producing increasingly sophisticated analyses to show that innovative drugs lead to savings far greater than their own costs, for example by reducing substantially the time that patients need to spend in hospital.

“It is becoming increasingly clear that the pharmaceutical industry will be the saviour in the fight to cut health-care costs,” Markham says

The other reason for optimism is the way companies are increasing the productivity of their research and development operations by improved management and new technology. Large companies, such as HMR, which have managed to launch drugs at an average rate of about one a year, are now promising two or three important new products a year Glaxo Wellcome put 18 new chemical entities into the first “exploratory” stage of development last year, says research and development director James Niedel, compared with just six by Glaxo and Wellcome before their merger in 1994.

“I'm very excited about the R&D revolution,” says Salomon Smith Barney pharmaceutical analyst Kevin Wilson. “I think it will be very bullish for some parts of the industry.”

One buzzword in the industry, which Wilson predicts will become increasingly familiar to investors this year, is bioinformatics — the use of information technology to make sense of the vast volumes of genetic and biological data pouring out of research laboratories Companies vary greatly in the extent to which they have invested in it. SmithKline Beecham has perhaps the highest profile in this field.

Another likely buzzword for the future is pharmacogenomics — using genetic analyses of patients to prescribe the most beneficial drugs.

Although the pressure on pharmaceutical companies to merge has relaxed as their financial outlook has grown brighter, the industry is expecting further activity in mergers and acquisitions over the next few years. Consolidation may no longer be a matter of life or death, but companies are still attracted by the cost savings available from a well-managed merger.

Some names feature in takeover speculation more frequently than others Global companies in the second tier by size are often seen as targets.

Predicting takeovers is as much a matter of guesses and rumours in the pharmaceutical industry as in any other. With the largest companies holding less than a 6% market share, the biggest surprise would be if there was no further corporate consolidation this year. — Financial Times.

# Fertiliser company assesses impact of expansion

(183) ET(BR) 17/3/98

**Ravin Maharaj**

Durban — Indian Ocean Fertiliser (IOF), the manufacturer of phosphoric acid, sulphuric acid and granular fertilisers, was investigating the possibility of expanding production at its Richards Bay plant without causing too much damage to the environment, Don Ireland, the managing director, said yesterday

IOF said late last year it would go ahead with a R600 million expansion project at its existing site, pending the outcome of an environmental impact assessment (EIA)

Once completed, the new facilities would enable the company to increase its net foreign exchange earnings by about R330 million a year, and to expand current sulphuric acid and phosphoric acid production capacity by about 80 percent

About 70 full-time and 750 part-time jobs would be created

Ireland said the scoping report, which would lead to an extensive EIA, was being drawn up by environmental consultants He said some of the issues that had been debated at public meetings was possible air and water pollution and limited water resources in the region

He said there were concerns that expansion could lead to sulphur dioxide air pollution increasing between 60 and 80 percent over current emissions

In addition, Ireland said an assessment would be carried out on the impact of gypsum in water Gypsum, which is generated during the production of phosphoric acid, is dumped out at sea

*Taxpayer may foot the bill*

# R1bn 'black' oil scheme under attack

CT(BR) 17/3/98 (183)

**SHERILEE BRIDGE**

Johannesburg — A proposed second fuel network created exclusively for emerging black-controlled business could cost the taxpayer more than R1 billion, industry sources said yesterday

Plans by the state-owned Strategic Fuel Fund (SFF) to establish a single-point oil delivery facility and a pipeline near Bloubergstrand have been slammed by international oil companies operating in South Africa, who called for greater detail on the financial viability of the scheme

The import and sale of refined fuel directly to emerging black companies, in competition with the big oil companies which sell fuel refined from imported crude oil, could lead to greater competition and an industry price war

Colin McClelland, a director at the South African Petroleum Industry Association, said the scheme made no sense since the oil industry had agreed in principle to provide its products and the use of its distribution network at commercially competitive rates to emerging black companies

SFF wanted to pump petrol and diesel under Table Bay through an underwater pipeline to fuel storage tanks in Milnerton The imported, refined products would be delivered to service stations via road tanker transport

It has earmarked R350 million for the scheme but the establishment of depots, a distribution network and transport could push the total investment to more than R1 billion

Caltex, the Cape Town refinery and the country's biggest importer of refined fuel, said that to make socio economic sense there would have to be significant commercial benefits to offset the potential environmental risks

It said the size of the SFF Milnerton tankage, at 1 248 megalitres, was also out of proportion with the requirements of the emerging companies, which have been unable to create critical mass

South Africa's black-controlled fuel companies include Excel, which has a 20 percent Sasol shareholding, AfricOil, which has just acquired Zenex, and Tepco, a company in Thebe Investments

Mpho Sebona, the managing director of Tepco, said that as a recent entrant Tepco was keen to make use of any plan that would give black-controlled companies leverage in the industry

He said while the South African oil industry had been discussing plans for using existing networks, they were still at a conceptual stage and no firm offers had been made

"Black-controlled companies have not been able to make the headway they had planned because of restrictions in the industry," said Sebona

Compared with the major oil companies' web of 5 000 stations countrywide, the new black-controlled companies had to fight for the 78 new stations up for grabs each year, he said

The National Black Fuel Retailers Association was unavailable for comment yesterday

# Govt raises R2bn from sale of oil stocks

BD 18/3/98

(183)

**Kevin O'Grady**
**and Greta Steyn**

GOVERNMENT raised R2bn this year from the sale of part of its strategic oil stocks, the Strategic Fuel Fund confirmed yesterday.

Reuter reports fund acting GM Brian Casey said "instructions to sell sufficient crude oil to raise approximately R2bn for the fiscus" were received at the end of last year.

Economists suggested yesterday that a portion of the R2bn was slipped into the budget. Finance Minister Trevor Manuel placed R800m into the budget for the proceeds of the sale of state assets while officially stating that no provision had been made

Economists pointed out that one of the tables at the back of the budget review, B12, gave a figure of R800m for "sales of stock" They said the figure appeared to refer to the disposal of oil stockpiles This compared with last year's R1,25bn oil proceeds

They said if the proceeds exceeded the budgeted amount, it would still accrue to government

Casey's announcement came after the United Democratic Movement (UDM) accused government yesterday of selling off its coastal oil reserves to below authorised minimum levels in order to raise additional revenue and stick to its budget deficit target

Coen Kruger, head of the finance department's asset and liability management, said conservative budgeting had resulted in the R800m being left out of the financing figures While planning the budget, it was not clear that the proceeds would be available

Kruger said a similar approach had to be adopted to privatisation proceeds — one could budget only for amounts over which there was certainty Until the deal was done, one could not say with certainty what the proceeds would be Also, budgeting for privatisation proceeds would send a signal and influence negotiations

Market sources said there was speculation that government had kept the oil figure hidden because the finance department had realised even before the start of the fiscal year that it would have to finance overspending There was also talk that oil reserves had been run down too much

Casey said there were still 10-million barrels stored in mine shafts at Ogies, and government had an option on some of the 25-million barrels stored at tanks at Saldanha Bay, north of Cape Town

The official figures for the financing

Continued on Page 2

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## Oil stocks

(183)

Continued from Page 1

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requirement show zero provision for the sale of state assets, which include oil, privatisation and the use of assets of the SA Special Risk Insurance Association They show that government will meet its financing need of R41,5bn only through borrowing on the capital and money markets

In the last fiscal year sale of state assets — including oil and privatisation — netted almost R3bn

Economists noted that proceeds from privatisation, with the oil sales, should reduce the borrowing requirement — if there is no overspending. Most have pencilled in a figure of about R1,2bn for privatisation proceeds

Equisec economist Dawie Roodt said "I cannot understand why government would hide the fact that it will get in cash from the sale of oil stockpiles This should be bullish news, as it reduces the borrowing requirement "

In the 1997/98 fiscal year, government also underbudgeted for the proceeds from privatisation It nevertheless ended up borrowing more than budgeted for the fiscal year, as a result of overspending Roodt predicted the same would happen this fiscal year, with the deficit ending up at 4% of GDP instead of the budgeted 3,5%

Casey would not say exactly what quantity of oil had been sold, but said stocks were down significantly from the 35-million barrels, or three months' supply, in October last year.

UDM coleader Roelf Meyer said the cabinet had not publicly revised its stipulation that a minimum of 39-million barrels should be retained. The UDM believed that revenue from oil sales in the 1997/98 and 1998/99 budgets — R2,05bn in total — was far more than could have been generated if the minimum reserves were maintained.

It was unacceptable that, in an attempt to make the ANC government and Manuel "look good" by sticking to its deficit target, "SA now finds itself in a situation where the slightest crisis in the oil producing countries can potentially paralyse the SA economy".

Casey said: "Circumstances requiring the taxpayer to fund stocks of this nature are no longer in place. If government feels these funds can be put to better use, then tying up that money in stocks is not the right thing to do."

Sapa reports Casey said the Strategic Fuel Fund was awaiting ministerial instructions concerning the specific amount to be remitted to the treasury from the proceeds of the sales

The structure of the futures markets for crude made it possible to coordinate the sales so that the oil would remain in storage for quite some time, with the fuel fund having the option to buy back if necessary "Virtually no crude has left Saldanha," Casey said

Picture: Page 3

# US court decision holds no sway over battle with SA

BD 18/3/98

A US supreme court ruling would seem to support SA in its battle over intellectual property. The Americans, however, do not appear to see it that way, writes Washington correspondent **Simon Barber**

(183)

SA's Medicines and Related Substances Control Act is identified in the US Trade Representatives' (USTR's) annual report, released last week, as "our largest patent rights concern". That is a strong indication that, notwithstanding President Bill Clinton's forthcoming visit, SA is going to be placed on the USTR's "priority watch list" of intellectual property violators due out next month.

Without a ruling by the World Trade Organisation (WTO) in SA's favour, or a compromise before the dispute gets that far, Pretoria could find itself deep enough in the US dog house to be denied the "enhanced" trade benefits proposed under Clinton's "partnership" with Africa and Congress's Africa Trade and Opportunity Act. Indeed, the latter, should it ever become law, specifically lists intellectual property protection among the criteria for selecting which countries' exports are to be favoured with expanded duty-free access to the US market.

Under the circumstances, one begins to appreciate Pretoria's objection to the bill's conditionalities, though it must be said that SA could still be penalised without the legislation.

The USTR, using its authority, already threatens to withhold certain benefits under the generalised system of preferences from "priority watch list" countries, or at least those that have not taken steps to get off the list.

ZUMA

The US gripe with the medicines law, which seeks to make pharmaceuticals more affordable for SA's poor majority, is twofold First, the plain language of the act gives Health Minister Nkosazana Zuma the power to abrogate valid drug patents Second, it permits "parallel imports" of patented drugs obtained at better prices outside the distribution channels of the companies that hold the patents. This, says Pharmaceutical Research and Manufacturers of America (PhRMA), the industry lobby, is a "clear violation" of SA's obligations under the WTO agreement on trade-related intellectual property and a "serious threat to the viability of American pharmaceutical investment in SA".

It may be of some consolation that on the question of parallel or "grey market" imports, no less a body than the US Supreme Court is arguably on SA's side. Consider its unanimous ruling last week in Quality King Distributors Inc v L'anza Research International. California-based L'anza makes pricey hair-care products To sustain its prices, it only permits its shampoos and other unguents to be sold to beauty salons and cosmetology schools. At least in the US It does sell at steep discounts to foreign distributors, one of which resold a shipment (apparently bound for Libya with L'anza's knowledge and in violation of US law) to Quality King, a major US wholesaler to discount retail outlets. Quality reimported the goods, which then found their way onto the shelves of various pharmacists back in California.

L'anza sued under the US Copyright Act of 1976, which it claimed had been intended to discourage precisely this kind of "roundtripping" — a common enough practice whereby US distributors exploit manufacturers' multitier pricing systems by acquiring exported consumer goods which companies like Proctor and Gamble have heavily discounted (dumped?) in hopes of increasing brand recognition and sales in foreign markets.

Last year SA "exported" $23m worth of "returned US goods", not counting machinery and aircraft parts shipped back for one reason or another It is a fair bet that at least a portion of the merchandise was "roundtripped", and because the statistics are based on US, rather than SA, customs data, it is conceivable that some never even reached SA shores. The murkier sort of "U-boat operators", as they are known, do not even bother to ship except on paper.

In any event, L'anza said Quality had violated its copyright by selling its products back into the US without its permission. The 1976 law is contradictory as to whether a US copyright holder has an unrestricted right to control distribution in the US, or whether his rights over the further disposition of any copyrighted item are "exhausted" upon its "first sale". Lower courts ruled for L'Anza. The Supreme Court, over the strenuous objections of US industry (save the discount retailers) and the US government — which complained that its negotiating stance on intellectual property issues worldwide was in jeopardy — reversed the lower courts in Quality's favour and upheld the "first sale" doctrine.

So it is now US law and policy, until such time as Congress rewrites the statute, that owners of intellectual property, while protected against the illegal copying of the property, forfeit the right to set the domestic price of that property once they sell it for export.

Under this doctrine, if universally applied, the SA government would seem to be perfectly within its rights to purchase, or allow its private sector to purchase, patented pharmaceuticals from any legal owner offering the cheapest price

Not so fast, says PhRMA's Tom Bombelles. The court dealt only with copyrighted items, not patented ones, so the doctrine would not be relevant to "grey market" sales of his industry's products. Besides, he says, if you permit pharmaceuticals purchases outside the patent owners' channels, you risk getting stuck with potentially life-threatening counterfeits. Finally, the industry is already giving the SA government rock bottom prices.

These arguments are not without merit, but neither are the purposes of the SA government. The question is whether the US government is justified in penalising SA for according US intellectual property — the distinction between copyright and patent rights is for lawyers, not people — treatment unanimously sanctioned by the US Supreme Court

# Clinton pressed to tackle medicine control act in SA

(183)(85)

WASHINGTON — Members of Congress yesterday pressed Assistant Secretary of State for Africa Susan Rice for assurances that President Bill Clinton would use his approaching state visit to SA to insist on changes in the Medicines and Related Substances Control Act, which the US drug industry had termed an "egregious" threat to its patent rights.

Congressmen Ed Royce, chairman of the house Africa subcommittee, and Robert Menendez, the panel's senior Democrat, took turns questioning Rice on the issue at a hearing called to preview Clinton's six-nation Africa tour, which starts on Sunday

Both members are expected to be part of the president's delegation

Rice replied that the administration, while supporting the act's goal of cheaper medicine for low-income South Africans, was "concerned about the means"

BD 18/3/98

If the president did not himself raise the subject while in SA, Commerce Secretary William Daley — who is accompanying him — would.

Menendez also sought an undertaking that the US would file a formal complaint against SA in the World Trade Organisation on the grounds that the act violated the body's obligations to protect intellectual property.

"That decision has not yet been made," Rice said.

"We're still looking for common ground If that's not possible, and it may not be, the US trade representative will weigh the pros and cons."

Pharmaceutical Research and Manufacturers of America (PhRMA), the US drug industry lobby, has petitioned the US trade body to place SA on its "priority watch list" of intellectual property violators, due out in April That could lead to SA being denied the increased duty-free access to the US market both Congress and the administration are proposing for reform-minded African countries

# Govt has sold SA's coastal oil reserves, says Meyer

CT 18/3/98

(183)

**JOHANNESBURG** The United Democratic Movement claimed yesterday that the government had sold all South Africa's coastal oil reserves or kept them below the level authorised by the cabinet

The UDM said it was forwarding the information, which could trigger a political row, to opposition parties represented in Parliament

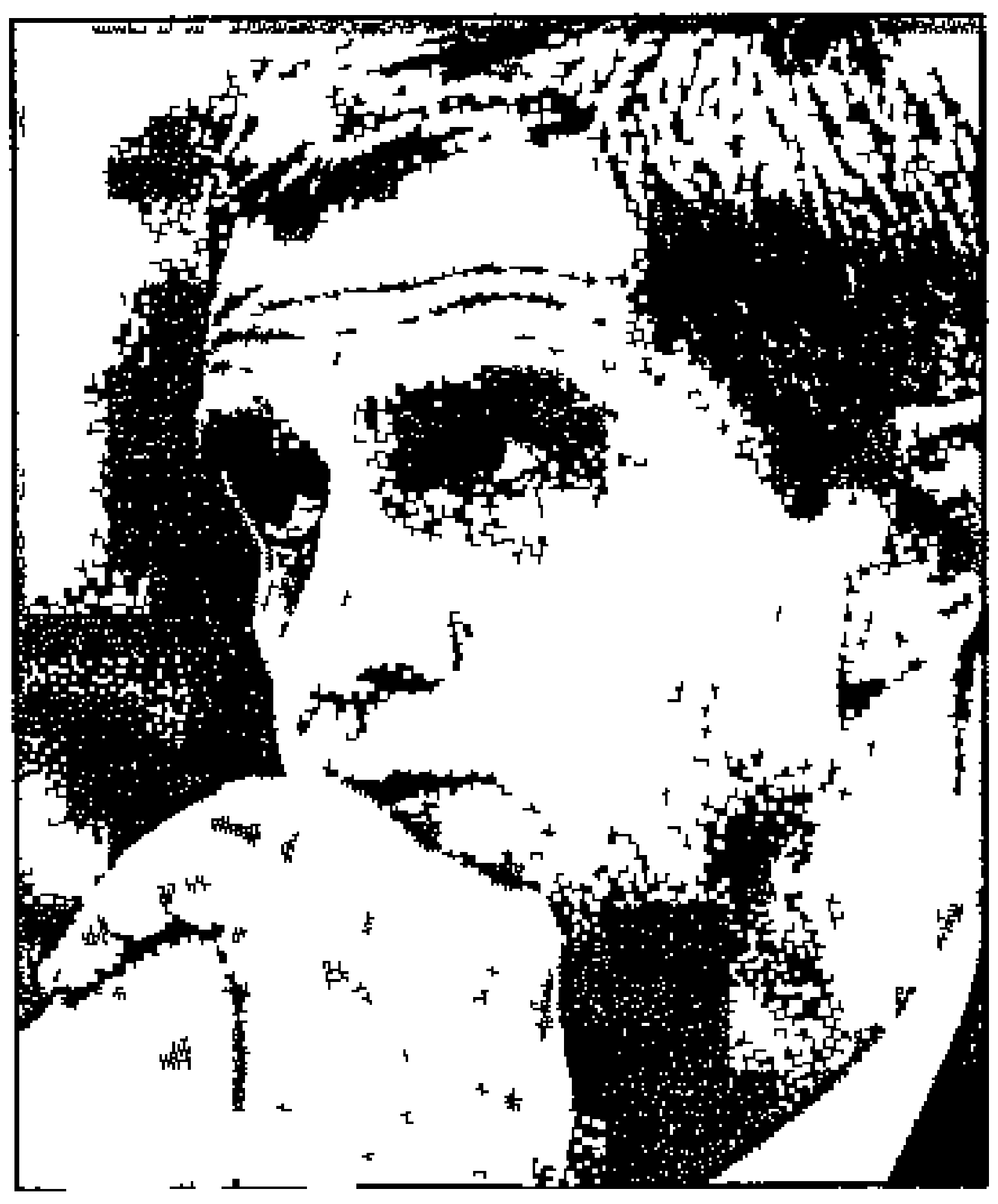
"We believe the sale took place towards the end of last year," UDM co-leader Mr Roelf Meyer said at a news conference here

"The fact that it seems as if the money was used to balance the books of the government in the year before the elections raises deep concerns about the integrity of the ANC government in the interest of all "

The party demanded that the government make a full disclosure of the sale. Meyer, who addressed the conference together with co-leader Mr Bantu Holomisa, claimed that the information in his party's possession indicated the oil had been sold overseas

He accused the ANC of not giving a true reflection of the situation in the Budget unveiled last Wednesday by Finance Minister Trevor Manuel

The minister announced to Parliament that R1,25 billion went into the state revenue account with the sale of South African oil reserves during the past financial year A further R800 million is budgeted for as income in the next fiscal year



**ACCUSER:** Roelf Meyer

"According to information received by UDM, it now seems as if the ANC government has sold all the oil reserves of the country and that either some sales are unaccounted for, or that the reserves were kept at a lower level than authorised by the cabinet," Meyer said

Thirty-nine million barrels of oil is the strategic minimum oil reserve for South Africa in terms of a cabinet decision.

Meyer said his party was making the disclosure in time for the sitting this week of the Selection Committee on Finance which is to discuss the Budget

"The selling of the stock was done purely to (put money) into the state revenue fund for the sake of the Budget," Meyer said

"Not only could such a step (the sale of oil) jeopardise our total economy, but it could also make the country strategically vulnerable If the ANC did not deliver a true reflection in the Budget this could be detrimental to the image of South Africa as a trustworthy and stable global economic partner."

Meyer said the whole affair raised great concern and underscored "the doubt that exists about the government's ability to achieve fiscal discipline and the projected growth rate" of 3,5% "If it is true that all South Africa's oil reserves have been sold, why is a full account of those sales not reflected in the Budget?"

The allegations by the UDM come in the wake of the government's announcement that the fuel price will go up by 10 cents a litre

"In what way is the hike in the petrol and diesel price a result of selling South African oil reserves?" Meyer asked —Sapa

# BUDGET RESPONSE

*Rise called a 'calculated move' by the government aimed at boosting domination of trains and buses*

([illegible]) (183) ([illegible])

# Taxi industry slams 10c a litre fuel levy increase

**[illegible]BA HLOPHE**

Johannesburg — The 10c a litre rise in the fuel levy announced in the Budget was a calculated move by the government to squeeze minibus taxi operators out of the market and boost the domination of buses and trains, [illegible]ob Baleni, the general secretary of the National African Federated Transport Organisation (Nafto), said yesterday

He said the levy would result in the collapse of many operators who did not receive the subsidies enjoyed by bus operators and train operators

"The minibus taxi industry is not subsidised, and each operator has to bear the brunt of such levy increases without any support from the government," Baleni said.

There are an estimated 130 000 taxis in the country, with about 60 000 operating illegally The industry's turnover is about R3 billion a year

Ketso Gordhan, director-general of the department of transport, said that although the taxi industry had a valid concern, it had to appreciate that the fuel levy was used by governments worldwide as a general tax to fund their expenditure

The increase in the petrol levy is expected to raise an additional R1,7 billion for the fiscus but add less than 0,5 percent to consumer inflation.

Herman Lemmer, the chief executive officer of the Road Freight Association (RFA), said the increased petrol levy would cripple the road transportation industry's competition against rail transportation.

"This is an indication of unequal treatment between road and rail transportation, and the timing was bad because the freight industry is facing greater competition," Lemmer said

But Tony Twine, a senior economist at Econometrix, said there were no grounds for the minibus taxi industry to complain about the levy because petrol prices had been rising at a slower rate than consumer inflation for the past 10 years.

**IN A JAM** *Nafto has warned that the 10c a litre increase in the fuel levy will result in the collapse of the mini-bus taxi industry*

The Star Wednesday March 18 1998

# UDM raises alarm over depleted oil reserves

Star 18/3/98 (183)

## Government sold supplies to balance books, or is keeping them below level authorised by Cabinet, says Meyer

**Sapa**

The United Democratic Movement claimed yesterday that the Government had sold all South Africa's coastal oil reserves, or kept them below the level authorised by the Cabinet

The UDM said it was forwarding the information, which could trigger a political row, to opposition parties represented in Parliament

"We believe the sale took place towards the end of last year," UDM co-leader Roelf Meyer said at a news conference in Johannesburg.

"The fact that it seems as if the money was used to balance the books of the Government in the year before the elections raises deep concerns about the integrity of the ANC Government in the interest of all"

The party demanded that the Government make a full disclosure of the sale.

Meyer, who addressed the conference together with co-leader Bantu Holomisa, claimed the information in his party's possession indicated the oil had been sold overseas.

He accused the ANC of not giving a true reflection of the situation in the Budget unveiled last week by Finance Minister Trevor Manuel.

The minister announced to Parliament that R1,25-billion went into the state revenue account from the sale of South African oil reserves during the past financial year. A further R800-million is budgeted for as income in the next fiscal year

"According to information received by the UDM, it now seems as if the ANC Government has sold all the oil reserves of the country and that either some sales are unaccounted for, or that the reserves were kept at a lower level than authorised by Cabinet," Meyer said

Thirty-nine million barrels of oil is the strategic minimum reserve for South Africa in terms of a cabinet decision.

### Demand to know if fuel price hike is consequence

Meyer said his party was making the disclosure in time for the sitting this week of the selection committee on finance, which is to discuss the Budget.

"The selling of the stock was done purely to (put money) into the state revenue fund for the sake of the Budget," Meyer added.

He said his party would be forwarding the information to all parties in Parliament so that they could demand a response from the Government.

The newly formed UDM has no representation in Parliament.

"Not only could such a step (the sale of oil) jeopardise our total economy, but it could also make the country strategically vulnerable .. If the ANC did not deliver a true reflection in the Budget, this could be detrimental to the image of South Africa as a trustworthy and stable global economic partner," he said

Meyer said the matter underscored "the doubt that exists about the Government's ability to achieve fiscal discipline and the projected growth rate" of 3,5%

"If it is true that all South Africa's oil reserves have been sold, why is a full account of those sales not reflected in the Budget?"

Meyer raised the possibility that the alleged sale of the reserves could have been influenced by the Government's negotiations with Iran to provide that country with storage place for their oil

The UDM, however, conceded that it did not know which countries could have bought the oil reserves.

The UDM's allegations come in the wake of the Government's announcement that the fuel price would go up by 10c a litre.

"In what way is the hike in the petrol and diesel price as a result of selling South Africa oil reserves?" Meyer demanded to know.

The oil reserves were stockpiled during the apartheid years when the international community imposed sanctions on South Africa.

# Govt criticised for selling oil reserves

Sowetan 18/3/98

(183)

**By Khangale Makhado**

THE United Democratic Movement (UDM) has criticised the Government's decision to sell oil reserves, saying such a sale should not be undertaken simply to balance the country's Budget

Addressing a press conference in Johannesburg yesterday, UDM co-leader Mr Roelf Meyer said information received gave the impression that the ANC-led government had sold all the oil reserves in the country

He said as a result reserves were kept at a lower level than authorised by the Cabinet

According to Meyer the Cabinet took a decision that 39 million barrels of oil must be the strategic minimum

"The UDM does not mind the selling of state assets if the sale contributes to capital investments through which further growth could be created

"Such sales should, at the very least, stimulate current growth Assets of such a strategic nature should not be sold simply to balance the budget and create a false impression of the economic situation in the country," Meyer said

The UDM said their claims were vindicated by the Finance Minister's figures showing that R1,25 billion went into the state revenue account with the sale of South African oil reserves during the past financial year

The party accused the minister of giving "little attention to the sale of such a strategic state asset" saying this challenged the notion that the Finance Ministry's intentions were above board, transparent and in the interest of the country

"If the ANC did not deliver a true reflection in the Budget, this could be detrimental to the image of South Africa as a trustworthy and stable global economic partner

"It seems as if this money was used to balance the books of the Government in the year before elections, raising deep concerns about the ANC's integrity," Meyer said to deliver," said public works deputy director-general Sivi Gounden, ad-

documents as well as a standard contract, he said.

lic works department, the National Exhibition Centre, First National Bank (FNB) and Shareworld were holding

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A BDFM publication

# Govt accused of secretly selling off oil reserves at cut-price rates

(183) (~~[illegible]~~) BD 19/3/98

**Linda Ensor**

CAPE TOWN — Government was accused by the United Democratic Movement (UDM) yesterday of secretly selling 25-million barrels of strategic oil reserves at well below market prices

This follows the disclosure by Minerals and Energy Minister Penuell Maduna at a news conference yesterday that sales in January had realised far less than the expected R2bn

He said that after deducting an undisclosed sum to be be retained by the Central Energy Fund for cash-flow purposes, R800m would accrue to the state in the 1998/99 fiscal year. "We did not reach our earlier estimate of R2bn — it was below this," Maduna said

Finance director-general Maria Ramos said the R800m had not been included as part of ordinary revenue in last week's budget and would be used to reduce the borrowing requirement of R39,5bn to R38,7bn Finance Minister Trevor Manuel said· "We need to put to bed any notion that this was done quietly to balance the budget."

But UDM co-leader Roelf Meyer remained dissatisfied with Maduna's replies He said even if the sale of 25-million barrels had realised R2bn, they must have been sold at less than the prevailing price in the first two weeks of January when they were negotiated

Meyer said this corroborated his view that government hurriedly sold off the oil reserves to boost the funds available in the next fiscal year He also asked why the crude oil was not sold to SA companies so that local fuel consumers could have benefited

"The government's response confirms the UDM's claim that coastal oil reserves were sold without cabinet approval. The information given raises more questions — for instance, there is a huge discrepancy between the amount reflected for the sale and the actual value of the reserves sold. We will be making further inquiries "

Strategic Fuel Fund acting CEO Brian Casey disputed Meyer's claims, saying the stocks were "certainly" not sold at below $10 a barrel. "We never sell below market value — we do not speculate with taxpayers' money "

Maduna said he did not think government could have made a better decision. He justified the deal on the grounds that the buyer agreed to rent SA storage space while SA had first option to repurchase the oil if necessary He did not disclose the buyer's identity

Meyer responded. "If a foreign buyer bought it at this price and was prepared to rent storage space, they must intend to sell the oil at a higher price at a later stage The questions remain unanswered."

Explaining the history of the transactions Maduna said his department, which constantly monitored oil price movements, noted towards the end of last year that the price was on a downward slide, hitting $11 50 a barrel. He had decided that it was advisable to reduce stocks to release money As the

Continued on Page 2

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# Oil

(~~[illegible]~~) (183) BD 19/3/98

Continued from Page 1

cabinet had already held its last meeting of the year, he approached President Nelson Mandela and Deputy President Thabo Mbeki Discussions were also held with Manuel, Trade and Industry Minister Alec Erwin and Transport Minister Mac Maharaj.

Maduna told them up to R2bn could be raised if oil stocks were sold, whereas a delay might mean less revenue.

Approval was obtained and the go-ahead was given to the Central Energy Fund to proceed with the sales at its own discretion

Casey confirmed on Tuesday that "instructions to sell sufficient crude oil to raise approximately R2bn for the fiscus" were received at the end of last year He said that in the first two weeks of January SA's crude oil stockpile was cut from 35-million barrels to just above 10-million barrels.

Maduna said SA was cutting its huge reserves in line with international trends As the world was awash with oil, it was no longer necessary to have such a large stockpile.

# SA bottom of the barrel for oil collection

BD 19/3/98(183)

**Josey Ballenger**

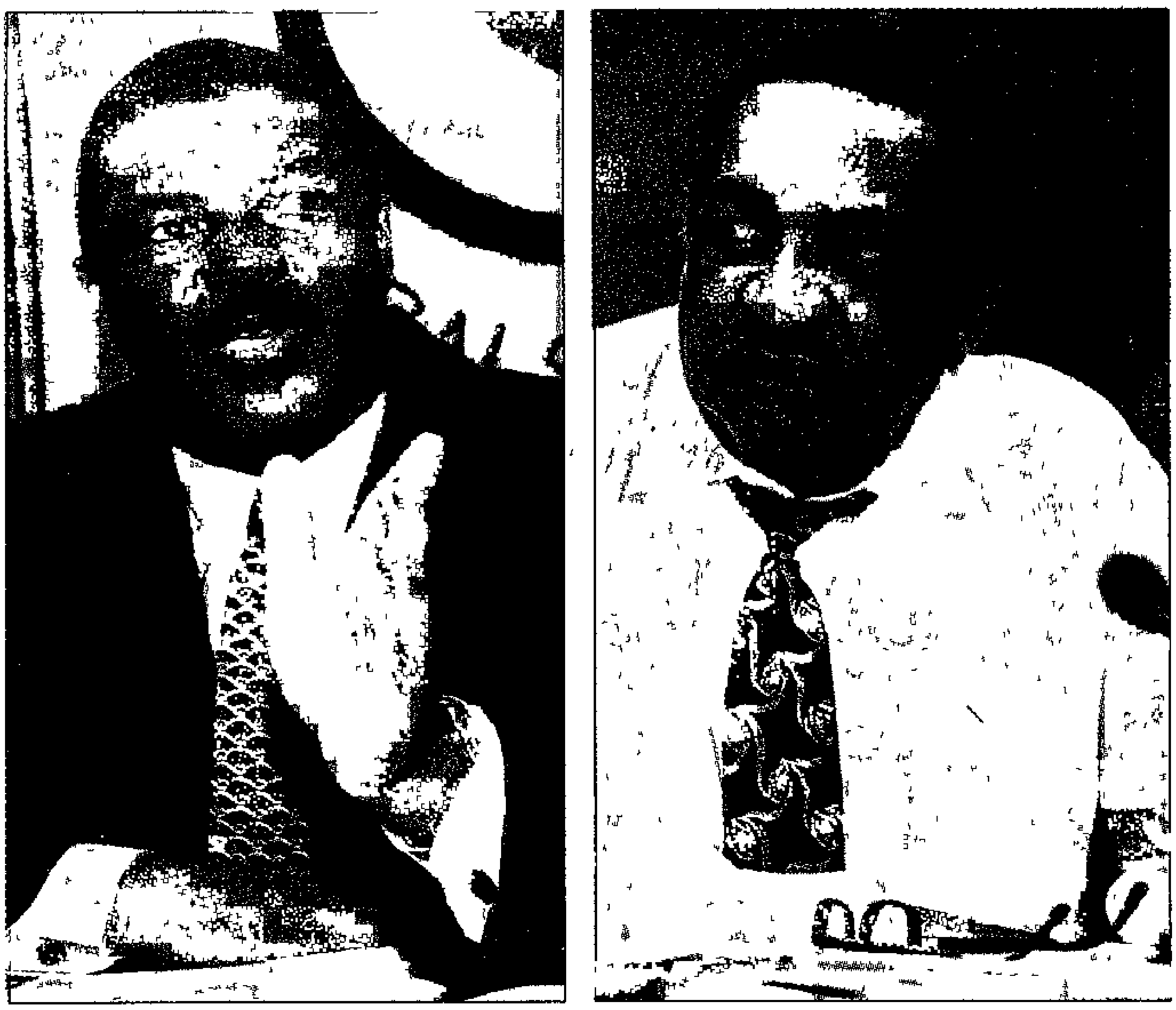
RECENT surveys by the American Petroleum Institute and a European organisation show SA has one of the lowest used-oil collection rates in the world at 14%, according to the Recovery of Oil Saves the Environment (Rose) Foundation, the SA lubricants industry's self-regulator

A study of 11 countries spanning Europe, South America and Asia completed last November — and other studies by the institute and the European oil industry's health, safety and environmental organisation, Concawe — show SA fared towards the bottom of the barrel SA collected only 14% of the 330-million litres of lubricating oil sold last year, of which Rose collected 70%

Rose CEO Simon Norton said an estimated 50-million litres of used lubricating oil would be "haphazardly disposed or burned in an uncontrolled manner" in industrial furnaces this year, out of a potential 100-million recoverable litres (An estimated 50% to 60% of total purchases is consumed or destroyed through usage, or lost through leakage )

Norton said the international reports were a clear indication of "how far behind we are" in collecting used oil While he said national collection had risen from 24-million to 45-million litres a year in the past three years, SA was still lagging behind countries such as Australia, with a 23% collection rate and France at 43%.

Norton said the foundation aimed to encourage the manufacturing, mining, transport and civil engineering industries to recycle It was also concerned that collectors had not adopted sound environmental practices and that some recyclers were resisting adherence to environmental law and Rose's additional controls



***RECRIMINATIONS*** *Penuell Maduna, the minerals and energy affairs minister, left, and Thulane Gcabashe, right, a former top aide to Maduna* PHOTO: JOHN WOODROOF

# Former aide accuses Maduna

CT (BR) 19/3/98 (183)

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

**Johannesburg — Thulane Gcabashe, a former top aide to Penuell Maduna, the minerals and energy affairs minister, said yesterday that Maduna had tried to suppress a proposal on the future of Mossgas that could have saved the taxpayer R985 million.**

**Last week Maduna demanded Gcabashe's resignation on the grounds that he had attempted to push the Sante Fe proposal into a Cabinet memorandum,, had made policy pronouncements on the future of the Sasol subsidy and written a letter questioning Maduna's future as minister.**

In a letter demanding Gcabashe's resignation last week, Maduna asked. "Why did you deem it appropriate to have a pro-Sante Fe Cabinet memorandum prepared to countermand my clear instruction that the request for a ministerial directive from Mossgas should be referred to the Cabinet in view of the sensitive nature of the Mossgas question?"

In a statement issued yesterday, Gcabashe disputed the reasons for his dismissal and questioned Maduna's motives

"The Mossgas proposal would cost the government R985 million more and take a third of the time longer to complete than the Santa Fe proposal for the same project.

"Of even greater concern was the fact that the Mossgas proposal was very misleading in that it was likely to lead the Cabinet to believe that it (Mossgas) only needed an initial R180 million

"If the Cabinet approved the R180 million, it would actually be committing to what appears to be a flawed project requiring a total of R1,9 billion," Gcabashe said

He claimed in his response that he had called for a public debate on the issue of the Sasol subsidy (which could cost more than R300 million this year at current low oil prices) in a paper delivered in February to the portfolio committee on minerals and energy He claimed this was not making policy but merely adhering to a Cabinet resolution that the subsidy be reviewed by June 2000

Last night Susan Shabangu, the deputy minerals and energy affairs minister, issued a statement in response to Gcabashe's allegations, stating that "the ministry stands by the reasons furnished in the letter terminating Gcabashe's contract"

# Black-owned fuel firms call for help

ET(POR) 19/3/98 ([illegible]) (183)

**Sherilee Bridge**

Johannesburg — Emerging black companies in the fuel industry yesterday called for government intervention to ensure meaningful black participation in the industry

Welcoming the news that the Strategic Fuel Fund (SFF) had set aside R350 million to establish infrastructure to import and sell refined fuel directly to emerging black companies, the National African Black Fuel Retailers' Association (Nabfra) said without government facilitating schemes such as these, the black component of the industry would have no impact

Sandile Klaas, a member of Nabfra and owner of a service station in Johannesburg, said black-owned companies needed help to enter the multinational-controlled industry

"Entry is still difficult for black companies Based on present barriers to entry, it will take us a long time before we reach a critical mass Before the industry moves into free-market thinking, there must be a significant black presence in the market place," said Klaas

SFF plans, which include a blueprint to establish a single-point delivery facility and a pipeline near Bloubergstrand, have been slammed by international oil companies operating in South Africa, which questioned the financial viability of the scheme

Colin McClelland, a director at the South African Petroleum Industry Association, said earlier this week that the scheme made no sense since the oil industry had agreed in principle to offer emerging black companies its products and use of its distribution network at commercially competitive rates

The established industry questioned the necessity of a parallel network, which could cost taxpayers more than R1 billion if depots, a distribution network and transport were included in the infrastructure expenditure

But the SFF has said that as a taxpayer asset, the new network would be best suited to bring the greatest benefit to the greatest number of people

Brian Casey, the general manager of SFF, said he believed such a scheme would reduce fuel costs He said results of an environmental impact study were expected at the end of the year and, depending on the state of deregulation in the industry, a formal decision would be made

# Ministers dismiss oil-sale suspicions

(183) Star 19/3/98

Cape Town – There was nothing untoward about the Government having sold off the bulk of South Africa's strategic oil reserves, Finance Minister Trevor Manuel and Mineral Affairs and Energy Minister Penuell Maduna said yesterday.

Addressing a media conference, Manuel said it had been clearly stated in the Budget Review that the R800-million proceeds from the oil sale, paid to the fiscus from the Strategic Fuel Fund (SFF), would not be included in revenue.

"It is important that we put to bed any notion that we did it (sell off the oil) secretly," Manuel said.

Finance director-general Maria Ramos said the money had not been included as a financing item when the Budget was drawn up, but would probably mean planned government bond issues of R30,97-billion would be reduced

The United Democratic Movement has claimed that the Government sold all of the country's oil reserves, or kept them below the level authorised by the Cabinet.

Maduna said he had discussed the sale with President Nelson Mandela, Manuel and others, including the Department of Trade and Industry, before getting a mandate for the oil sale to go ahead and giving the SFF permission to sell it at its own discretion

Although he would not disclose who had bought the oil, Maduna said the sale agreement dictated that South Africa would have the first option of buying it back

The oil had not left South Africa's shores and was being stored on behalf of the new owners, who were paying considerable storage fees

SFF acting general manager Brian Casey said the sale left South Africa with more than 10 million barrels in reserves from the original 35 million barrels. The sale agreements had been negotiated in January

This was about a month's supply for the country, but if all options were exercised, "we will have in excess of four months' supply".

Maduna said the money would go to the treasury, where it belonged, rather than being kept in storage tanks at taxpayers' expense

The deadline for remitting the R800-million to the treasury was April 1.

Maduna said there was a world oversupply of crude oil, making it one of the easiest commodities to buy, with the price dropping fast

Because of this and the high cost to the taxpayer of keeping vast strategic oil stocks, many countries were managing their supplies down – some even to zero, such as New Zealand

It was reported yesterday that the sale of the oil had raised about R2-billion this year Maduna would not confirm this figure, but said part of the money would be retained by the SFF for cash-flow purposes – Sapa

**SENTRACHEM** (187) FM 20/3/98

# Sweet Cuban deal turns sour

## No cigar as US parent pulls the plug

**Sentrachem has** axed exports worth R100m/year to Cuba on instruction from its parent company US chemical giant Dow Chemical Co

Dow bought Sentrachem last December To fulfil obligations under US law it was obliged to stop Sanachem, a Sentrachem subsidiary, shipping millions of rand worth of pesticides to the island Under US legislation companies are prohibited from trading with Cuba

It is estimated that Sanachem was owed up to US$20m by the Cubans when Dow killed the trade Asked to confirm the figure and whether it is to be written off, a Dow Chemical spokesman in Switzerland said "A company cannot discuss business figures like this"

Dow's decision emerged when a SA businessman was prevented from arranging a deal with Sanachem

"When I went to see them to sell raw materials for their Cuban stock Aad Krose (European purchasing manager for Dow AgroSciences) told me that Sanachem has withdrawn from supplying Cuba," says the businessman

Krose was visiting SA to advise on Sanachem's new purchasing structure following the takeover Sanachem has been absorbed into Dow AgroSciences

From Dow AgroSciences office in Nice, France, Krose declines to comment But the Dow Chemical spokesman confirms the decision

"US law prevents US companies and their subsidiaries from trading with Cuba So Dow will comply fully with the law"

Sanachem's pesticides have been vital for Cuba's sugar crop and formed the bulk of SA's exports to Cuba, which Customs & Excise says totalled R77m in the first nine months of 1997 Of this, agrichemicals totalled R53,8m, and machinery and electrical appliances R22m

Sanachem's share, however, could be as much as R100m At the time of the takeover, a Dow executive said exports to Cuba accounted for 10% of Sanachem's sales In 1996 Sanachem reported turnover of just over R1bn

**Fidel Castro** *trade with SA growing but US embargo still bites*

It was in 1989 that the first SA pesticides were shipped to Cuba by Farm-Ag, a Durban-based company owned by Robert Maingard Following Sentrachem's 1994 purchase of Farm-Ag's 50% stake in Sanachem, Maingard became deputy chairman of Sanachem, which took over the Cuban trade

With diplomatic relations now in place between SA and Cuba, trade between the two countries is encouraged by government

Farm-Ag's and subsequently Sanachem's venture was a low profile operation, with stock invoiced through an offshore company in Jersey In December 1996 Sentrachem's then group financial director Norman Kennelly admitted to the *FM* "It's not something we publicise, but we do supply herbicides for their (Cuba's) sugar crop"

Sanachem offered extended terms to Cuba, accepting sugar contracts as security Payment came in tranches and was on occasion delayed

**Jack Lundin**

# Thabo to Don: 'You're looking good'

(183) M+G 20/3/98

**Mungo Soggot**

Don Mkhwanazi, the state oil chief under investigation for receiving "kickbacks", enjoyed special acknowledgement from Deputy President Thabo Mbeki at a public gathering last weekend.

Mbeki's office has confirmed he turned to Mkhwanazi during his speech and said the businessman was "looking good despite what the *Mail & Guardian* has written about him".

Mbeki was addressing the high-profile gathering at the funeral of the late deputy director general of foreign affairs, Tebogo Mafole.

Mbeki's representative, Ricky Naidoo, said this week Mkhwanazi was one of several people — including Mbeki's legal adviser, Mojanku Gumbi, and Minister of Health Nkosazana Zuma — who earned an affectionate mention from the deputy president.

Naidoo said it was reading too much into Mbeki's words to call the remark an endorsement of Mkhwanazi, adding that those at the funeral to whom he had spoken to about the remark regarded it as having been made "in jest".

Others present said Mbeki's comments came across as an endorsement of Mkhwanazi, who has worked closely with Mbeki in the past. They said Mbeki had a brief face-to-face conversation with Mkhwanazi after his speech.

Naidoo said this should also not be taken too seriously as many people at such gatherings want to talk to the deputy president.

Mkhwanazi is being investigated by the Office for Serious Economic Offences after the *M&G* found evidence that he has been receiving money from his Liberian associate, Emanuel Shaw II, to whom he gave a R3-million state job.

When Shaw's appointment was first exposed last year, Mkhwanazi sought to bolster his and Shaw's position by announcing that Mbeki had recommended that Shaw conduct an audit of the state oil company in 1995.

It later emerged that Mbeki had merely advised the then minister of minerals and energy, Pik Botha, to conduct the audit.

Mkhwanazi also said at the time that he introduced Shaw to Mbeki in the early 1990s, but swiftly stopped all references to the deputy president when the scandal gathered momentum.

An internal inquiry appointed by Minister of Minerals and Energy Penuell Maduna into Shaw's appointment has recommended that Mkhwanazi and his board be sacked and Shaw fired. Maduna has rejected the inquiry's recommendations, and passed the matter to Public Protector Selby Baqwa. Maduna forwarded the inquiry's report to Mbeki's office six weeks ago. Naidoo said Gumbi is still analysing the report and "going into the matter thoroughly".

Maduna last week sacked his special adviser, Thulani Gcabashe, who has vigorously opposed Mkhwanazi's behaviour and refused to endorse Maduna's defence of Mkhwanazi.

Gcabashe broke his silence on his axing this week in an article in the *M&G* which concludes: "The questions now are what are Maduna's real motives, what is his involvement with Mkhwanazi, and is this a case of 'Maduna fiddles while South Africa burns'?"

**What are Maduna's motives? PAGE 24**

# What are Maduna's real motives?

(183)

M+G 20-26/3/98

**Thulani Gcabashe**

SPEAKING OUT

When the Minister of Minerals and Energy, Penuell Maduna, requested my resignation on March 10, it came as quite a surprise. The unceremonious manner in which my employment was terminated — "submit to me by fax your resignation with immediate effect and vacate the office you were occupying hitherto forthwith" — and the accusations levelled at me need revisiting.

His accusation that I did not call his attention to the International Bar Association conference is incorrect He was shown the original correspondence in September last year and did not voice any concerns at that time.

The issue of his attending the conference as opening speaker was discussed with him again more than a week prior to my firing (March 5), well in advance of the conference on March 16. Also, I did not control his diary; he and his secretary do that. I merely advised the secretary prior to the acceptance of an invitation as to how important it was.

The accusations regarding Santa Fé Energy are even more outrageous, particularly when you read them with Central Energy Fund (CEF) boss Don Mkhwanazi's defamatory allegations in the *Financial Mail* of March 6.

My introduction to Santa Fé came at Maduna's instruction in September 1996. Deputy President Thabo Mbeki asked him to investigate Santa Fé's concerns about its (Santa Fé's) response to an open tender from the government for proposals concerning the purchase of assets of Mossgas and Soekor.

Maduna asked me to investigate the matter (I joined the ministry in September 1996) Since May 1996 (the date of Santa Fé's original proposal), the terms haven't changed, other than to suggest its proposal contemplate a lease rather than a sale of assets. The Santa Fé proposal contemplates an investment in excess of R5,5-billion in this country.

The memorandum to which Maduna refers was presented to the Cabinet and concerned Mossgas's request (approved by the CEF board) for R1,9-billion and its proposed use of funds, and Santa Fé's proposal. Mossgas's amended request was for an immediate R180-million as part of a total of R1,9-billion.

The memorandum pointed out that there were significant differences between the two proposals, among others that the Mossgas proposal would cost the government R985-million more and take a third of the time longer to complete than Santa Fé's proposal

Of even greater concern was the misleading nature of Mossgas's proposal, in that it was likely to lead the Cabinet to believe that Mossgas only needed R180-million. If the Cabinet approved the R180-million it would actually be committing to a total of R1,9-billion.

Finally, the memorandum was compiled by Director General Sandile Nogxina, then deputy director general Gordon Sibiya and me, not unilaterally by myself, as Maduna suggested

The third accusation concerned the Sasol subsidy. Note that Sasol's profits last year were more than the combined profits of all other South African oil companies.

A Cabinet resolution accepted management consultant Arthur Anderson's recommendation that an improved mechanism for the subsidy should be implemented by January 1997. This hasn't happened. The resolution also stated the subsidy should be reviewed by June 2000. My paper, delivered to the portfolio committee on minerals and energy on February 9, called for a public debate on the issue.

Shortly thereafter, I received a letter from Sasol questioning my motives and requesting a meeting with me. My motives are making sure that the best interests of the ministry and of the country are served. I sent it a list of questions to familiarise myself with its position prior to the requested meeting. I was dismissed before receiving its response

Maduna has stated that the contents of my presentation to the portfolio committee requesting the open debate are "causing [him] untold embarrassment" With whom and why?

The reasons for my dismissal are not those stated by Maduna, but the consequence of my continuing concern about Mkhwanazi and Emanuel Shaw and other issues, not the least of which is the fact that state assets are being compromised and Maduna is aware of this

Maduna asked Sibiya and me to endorse his rejection of his own commission of inquiry's findings into the Mkhwanazi/Shaw affair. We refused because we believed that this rejection was ill-advised to begin with.

Maduna has forced me into exposing these issues publicly because he preferred to attack me personally. The questions now are what are Maduna's real motives, what is his involvement with Mkhwanazi, and is this a case of "Maduna fiddles while South Africa burns"?

*Thulani Gcabashe was fired from his position as aide to Minister of Minerals and Energy Penuell Maduna on March 10*

# Africa's powerful economic engines disagree on oil

BD 25/3/98

**Kingsley Kubeyinje** (183)

LAGOS — Nigeria and SA, Africa's two most powerful economic engines, have taken conflicting steps in relation to their respective huge oil reserves

Whereas SA has reportedly sold off most of its oil reserves accumulated under previous administrations, Nigeria is stepping up efforts to raise its strategic reserves to 40-billion barrels, up from the current 25-billion barrels.

To realise targets, two multinational oil companies in Nigeria — Shell and Elf Petroleum — have received the strong backing of the military government in their renewed offshore search for hydrocarbon.

Both companies are sinking $108,5m into their projects in a desperate bid to open up the hydrocarbon potential of the deep waters in their areas of operations

Nigeria has an unexplored deep offshore basin of about 2 000m and the basin is believed to contain hydrocarbon resources, capable of substantially boosting the country's crude oil reserves

The west African country is also granting small indigenous oil exploration companies concessions to exploit marginal oil wells which are shunned by the multinationals because of their limited quantities of oil If the current efforts pay off, Nigeria expects to get an additional 500 000 barrels a day

Unlike SA, which has a highly diversified economy, Nigeria's economy is largely oil-based

Earnings from the sale of crude oil account for more than 80% of Nigeria's foreign exchange income.

Brian Casey, acting general manager of SA's strategic fuel fund reportedly said in Cape Town that SA had sold off most of its 25-million barrels of oil stored in government tanks.

# Medicines council may be scrapped

(183)

BD 25/3/98

**Josey Ballenger**

A NEW element of uncertainty has emerged in SA's drug regulation with a proposal to scrap the Medicines Control Council (MCC) this year.

An independent task team set up in January by Health Minister Nkosazana Zuma has recommended that the MCC be replaced with a new medicines regulatory authority

The team, which consisted of three international experts and one local one, found that the MCC was competent in ensuring the acceptability of medicines sold in SA and it possessed a well-managed inspectorate to ensure standards were respected

However, it also had many weaknesses, including "significant problems" with communication between the council, the department, industry and the public. This had led to "misunderstanding and mistrust", and confusion over the designation of responsibilities Other shortcomings were an insufficient administrative system, a large backlog of registrations and potential conflicts of interest among council members

Task team member Prof Graham Dukes, a European lawyer and physician, said it was "unavoidable" that council members' research was funded by pharmaceutical companies for them to stay at the forefront of their fields However, SA had no controls and should heed other regulatory bodies' examples in forcing members with such conflicts to remove themselves from relevant discussions

Additionally, the MCC's drug knowledge and experience was "concentrated in too few academic centres" so that decisions were made without input from representatives of all population groups.

The team said it would be "more effective" to replace the structure and relevant legislation than try to modify them, while incorporating the existing system's best elements The new structure should recruit many of the MCC's "experienced" staff and advisers, and those likely to "experience difficulty in radical change" should be invited to take up other tasks in public health.

The team acknowledged the MCC was "in the past well-regarded internationally" but said the new body stood to gain even greater stature

Prof Peter Folb, who has been MCC chairman for 18 years, was out of the country yesterday, but a representative said he would make a statement tomorrow The task force said Folb "expressed his support for any transition process that may be required".

One thing expected to please past Zuma critics is the task force's opinion that the minister should not have the authority to override the new body's decisions — opposing a clause passed late last year allowing this.

The proposed new authority would have two drug approval commissions. one for assessing "orthodox" or science-based drugs and another for "traditional" medicines A separate, multidisciplinary board would be able to question, refer back or rescind the committees' decisions when necessary.

Pharmaceutical industry sources said they were concerned that the drug regulatory process might grind to a virtual halt during the transition

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(183)

# New medicines control council

**By Mokgadi Pela**

A NEW Medicines Control Council (MCC) could be established by the end of the year, director-general of health Dr Olive Shisana said yesterday

Addressing the media in Pretoria on the Report of the Task Team Reviewing the Medicines Regulatory Process, she said the team recommended that it laid the foundations of the new system and that the present order "should cease to exist"

Another recommendation of the review is that within the new Medicines Regulatory Authority, two channels for new drug approval be created

One element in the new procedure would be for assessing non-orthodox medicines, using appropriate expertise so as to ensure that these are safe and properly labelled

"It is proposed that the new authority have its own technical secretariat, structured to support the new process It would be largely self-funding on the basis of fees charged," Shisana said

Meanwhile, long-time chairman of the MCC, Professor Peter Folb, has expressed his support for the transition process and his loyalty to Health Minister Nkosazana Zuma in developing a system to meet South Africa's needs

Zuma established a task team on January 19 to do a situation analysis of the functioning of the MCC, including the process of medicines registration The team consisted of local and international experts and their mandate was to prepare a report to be submitted within three months of the commencement of the review

The review team also identified a series of shortcomings in drug regulation which have developed in more recent years

"In particular, there has been a failure of communication between the MCC, policy makers, administrators, the general public and the pharmaceutical industry," Shisana said

**MINERALS AND ENERGY** *Report is 'not worth the paper it is written on', says attorney*

# CEF slams findings of 'biased' Bakker inquiry

CT (BR) 26/3/98 (183)

**NCABA HLOPHE**

**TROUBLED WATERS** *Penuell Maduna, the minerals and energy affairs minister, and Christine Qunta, the Central Energy Fund's attorney*

PHOTOS JOHN WOODROOF

Johannesburg — The Central Energy Fund (CEF) yesterday slammed the findings of the Bakker Commission's inquiry into the activities of the CEF The commission recommended the fund's board be dissolved when its term of office expired next week

"The report is not worth the paper it is written on It is biased, partial, and implementing its recommendations would be a gross miscarriage of justice," Christine Qunta, the CEF's attorney, said at a news conference yesterday morning

Late last night Qunta said the CEF would consider its options, "depending on reasons given by the minister", if Penuell Maduna, the minerals and energy minister, dissolved the board

The inquiry was instituted by Maduna last November to investigate alleged irregularities and nepotism in the appointment of a consulting firm, owned by Liberian Emmanuel Shaw II, on a R3 million contract to advise on the restructuring of the CEF

The report recommended that the minister should not renew the term of the board when its expired at the end of the month It called on the CEF to terminate the contract with Shaw's International Advisory Services (IAS) without damages

It also said the board had not approved the appointment of IAS and that Don Mkhwanazi, the CEF chairman, had failed to declare his relationship with Shaw

Qunta said the CEF had exercised the "preferred supplier" method in its appointment of IAS instead of the "open" or "limited" tender methods She said Mkhwanazi had motivated the nomination of IAS to Howard Roberts, his acting general manager, and had declared his business relationship with Shaw

She also criticised the inquiry for being partial in the investigation and for failing to declare its vested interests

Qunta said Dick Bakker, the inquiry chairman and the then acting director-general of the minerals and energy department, and Gordon Sibiya, the deputy director-general and the main complainant, had had a close working relationship and that both had applied for the position of director-general

"To be seen to be finding any fact against Dr Sibiya may be problematic for Bakker, should Sibiya become his superior"

She also said that advocate Bahadzisi Maripe, a member of the inquiry's panel, was likely to have been biased because her husband, Vincent Msibi, was the chief executive officer of Allied Energy Investments (AEI) AEI's offer to purchase Mossgas and Soekor, both wholly owned subsidiaries of the CEF, had been rejected by the CEF board

Sibiya is also the chairman of the Science and Engineering Academy of South Africa (SEASA), which was part of a consortium led by AEI

Maduna could not be reached for comment yesterday

Meanwhile, Jonathan Rosenthal reports that Sibiya yesterday said he was considering legal action against Mkhwanazi and Qunta unless they publicly retracted their statements Sibiya said he had never applied for the position of director-general, as claimed by Qunta, and that neither he nor the SEASA would have benefited financially if AEI had purchased Mossgas

Sibiya also questioned statements indicating that the CEF board had rejected an offer by AEI to purchase Mossgas He said he had tabled a resolution at a board meeting to halt discussions on the AEI offer as such discussions had not been approved by the government

Sibiya said he was not aware of any board decision authorising Mkhwanazi to spend CEF funds to investigate the legality of the Bakker Commission

# AECI considering unbundling options

(183)

BD 26/3/98

**Amanda Vermeulen**

THE severe decline in chemical group AECI's nitrogen business during the 1997 financial year is leading to suggestions that it unbundle and focus on only one or two global businesses

Weaknesses in the nitrogen division slashed group headline earnings 39c or 14% to 237c a share AECI chairman Leslie Boyd said the current low market rating of the group's nonlisted components made the unbundling scenario "superficially seductive"

"The evidence of recent years is overwhelmingly that interventions by the centre have created value far exceeding the annual cost of R30m, not much of which would be saved by disbandment "

Boyd said, however, investors' had recognised the nitrogen division was the "potential Achilles heel" He said the existing production process was not sufficiently robust to stay profitable under international pricing conditions

"The group will intensify efforts to lift the competitiveness of the existing facilities while continuing to promote the reordering of nitrogen manufacture "

Another concern was the lack of payoff on substantial investment in research and new business development Boyd said the focus on development had sharpened, and less promising projects would be weeded out

He said the Asian crisis was likely to have an indirect effect on AECI It was disappointing that the Reserve Bank had not eased monetary conditions to counteract the expected slowdown in growth and that government was intent on new legislation which would increase employment costs

Despite this, further gains in most businesses should allow the group to achieve moderate earnings growth this year, Boyd said

# Mossgas and oil companies have no common ground on price tag

(183)

**Linda Ensor**

CAPE TOWN — The oil industry's demands that outside parties be prohibited from purchasing Mossgas fuel were hampering a final resolution of the pricing impasse between Mossgas and the oil companies, sources said yesterday.

Parliament's committee on public accounts is considering holding talks next week.

The talks were initiated by the mineral and energy affairs department at the instigation of the committee last year. The committee expressed concern about the amount taxpayers were paying in the form of a synfuel levy in order to compensate Mossgas for the lower price paid by the oil industry for its fuel.

Geoff Doidge, a spokesman for a subcommittee, said there was concern — expressed by the Central Energy Fund as well — about the oil industry's demand for exclusivity to prevent global players from entering the SA market. Mossgas should be in a position to import feedstock to top up its production. "If it is prevented from doing so it will lose its market position," the committee said.

By importing condensate Mossgas would be able to utilise the 10% refining capacity presently out of production. However, oil companies insisted they would only indulge in business locally.

The oil industry has offered to uplift all Mossgas' fuel, and to include new black entrants into the market as parties to the agreement. Oil companies not party to the agreement would be prevented from purchasing Mossgas' fuel, forcing them to find offshore sources of fuel or from SA oil refiners.

The annual difference between the two prices is estimated by Mossgas to total more than R140m, which taxpayers pay via the equalisation fund.

Mossgas demanded that it be allowed to import feedstock to enhance its production capacity which the oil industry has refused. This was a major obstacle to concluding an agreement, the sources said, as oil companies were demanding that the price paid for the product produced from imported feedstock should be lower than that paid for Mossgas' other products. They believed that they could be producing additional fuel themselves.

BD 26/3/98

# Fund attorneys describe inquiry findings as 'miscarriage of justice'

(183)

**Patrick Wadula** BD 26/3/98

THE Central Energy Fund's attorneys yesterday dismissed the findings and recommendations of the Bakker inquiry into the appointment of Emmanuel Shaw's International Advisory Services (IAS) as adviser on the restructuring of the state-owned CEF

Attorneys Qunta Ntsebenza, represented by Christine Qunta, said at a news briefing in Johannesburg yesterday the recommendations were inconsistent with the basic precepts of fairness which were a long-standing part of SA's law and more recently part of the constitution.

"They amount in effect to a miscarriage of justice," she said

The CEF had appointed the attorneys to study the panel's report The development followed allegations which appeared on numerous occasions in the news media that the CEF did not follow procedures in appointing the IAS as an adviser to CEF chairman Don Mkhwanazi.

A panel was appointed by Minerals and Energy Minister Penuell Maduna and headed by Dick Bakker, the then acting director-general in Maduna's department, to investigate the allegations of improper conduct by the CEF.

The most controversial findings by the panel were that the board of directors did not approve the appointment of the IAS and that Mkhwanazi did not disclose a personal or business relationship with Shaw.

Qunta said the appointment was done within an approved CEF budget passed by the board for the 1997/98 financial year. The budget provided for R5,07m for consultants' fees and the restructuring of the CEF group The contract fee for Shaw's consultancy firm was R3m

The panel recommended that IAS's contract be cancelled and the CEF's board's term not be renewed

Next week Maduna will have to decide whether to extend or end the term of the board of directors after having extended it in December last year

Qunta said the proceedings of the inquiry were unfair and biased to the extent that there were a lot of irregularities. "In fact the Bakker inquiry should be ignored because members of the panel did not apply their minds," she said. The panel ignored the evidence given by Mkhwanazi, CEF acting GM Howard Roberts and the CEF's board At least two people on the panels could be considered to have lacked impartiality

Qunta said the CEF had begun the restructuring process and, whether the board was reappointed or not, the process would continue.

African exports. It also envisages debt relief and the creation of an African infrastructure fund linked to political

Clinton is visiting on his African tour participated in the international anti-land mine campaign.

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# Medicines control body proposals draw criticism

**Josey Ballenger**

REPRESENTATIVES of the pharmaceutical industry, the private health sector, academia and opposition parties expressed concern yesterday that a proposal to collapse the Medicines Control Council (MCC) could result in a new "political" drug regulatory body lacking qualified people.

However, there were positive reactions also to recommendations made by a task team that the new body be more autonomous and responsive to the industry and the public.

The task team, appointed by Health Minister Nkosazana Zuma in January to review the MCC, presented its findings to the public on Tuesday. The four-person "core" team included one local and three international experts and was supported by three health department officials.

Zuma will comment publicly on the report for the first time on Monday in Cape Town. Sources believe she supports most, if not all, of the report's suggestions

"All the criticisms (of the MCC) may very well be valid, but the perception in the industry is that if you do not fall in line with the health department, you are 'out'. Doesn't it look a bit suspicious or coincidental that these recommendations were made at the same time as (unapproved anti-AIDS drug) Virodene disputes?" asked Liberty Life managed care specialist Karyn Warrington.

Prof James Joubert, head of Stellenbosch University's medicine department, said: "The problem is we do not have clarity in terms of (the new body's) members. We could be losing a system that was recognised internationally and nationally as impartial and extremely professional."

(26) (183) BD 26/3/98

# New body to control medicines planned

(187)

ARG 26/3/98

The Department of Health has accepted proposals to scrap the Medicines Control Council (MCC) this year and replace it with a new regulatory authority

In a statement yesterday, the department said MCC chairman Peter Folb had expressed his support for "any transition process that may be required".

However, Democratic Party health spokesman Mike Ellis said the timing of the new proposals was worrying and asked whether there was a causal relationship with Health Minister Nkosazana Zuma's conflict with the MCC.

A team of experts, appointed by Dr Zuma in January to review the regulatory process, said in a report to the minister that the MCC had developed considerable capacity for making sure medicines sold in South Africa were acceptable.

However, they also identified weaknesses in the system, including

- Frequent failures of communication between the MCC, policymakers, the public and pharmaceutical industry
- Confusion on division of responsibility for policy and technical matters
- A large backlog of registrations
- Potential conflicts of interest

The experts proposed that a new, autonomous authority be set up by the end of this year – Sapa

# New 'accountable' body to regulate medicines

CT 26/3/98 (193)([illegible])

**JOVIAL RANTAO**

DR Abe Nkomo, chairperson of Parliament's health committee, has hailed the findings of a ministerial review team which has proposed drastic changes to the regulation of medicines in South Africa

The review team — which was chaired by Professor Graham Dukes — yesterday tabled a report which recommended that the present Medicines Control Council (MCC) cease to exist by the end of this year and should be replaced by a new Medicines Regulatory Authority

NKOSAZANA ZUMA

It proposed that the MCC should be immediately suspended and a temporary council appointed to handle current work until the end of the year.

The team also suggested that the inspectorate of medicines within the MCC should continue, but with a greater degree of autonomy and more adequate resources

It further recommended that two expert technical committees be established to assess science-based medicines and complementary and traditional medicines

The team's report has been submitted to Health Minister Nkosazana Zuma, who is expected to comment on Monday

Speaking after the review team had briefed the committee, Nkomo described the review of the medicines and regulatory system as a comprehensive and balanced piece of work

"I believe the review will contribute significantly to improve both the structure and the functions of the successor body to the MCC," he said. "The health committee was struck by the backlogs in registering medicines, identified by the review team, and we welcome their suggestions to speed up the process of registering medicines, consistent with internationally defined standards.

"The review team has also suggested broadening drug knowledge and expertise through training Our committee believes this will go a long way toward building the necessary capacity in universities and colleges across the country, and in addition will open new career opportunities for many for the first time

"Thanks to this review we will have a medicines review authority which will truly be accountable to the public as well as to the politicians The review is no reflection on the work carried out to date by the MCC but should instead be seen as building on the work they have done over the years"

# Mossgas ups stakes in pricing impasse with oil industry

(183) CT (BR) 26/3/98

**Lynda Loxton**

PARLIAMENTARY CORRESPONDENT

Cape Town — Mossgas, the state-owned oil-from-gas producer, has upped the stakes in its pricing impasse with the oil industry by proposing to import semi-refined oil, which will place it in direct competition

Both sides refused to comment on the issue yesterday, but the parliamentary standing committee on public accounts was told that although there had been some progress in the long-stalled negotiations, several new key issues had emerged

Geoffrey Doidge, who leads one of the committee's subgroups, said there appeared to be disagreements over whether Mossgas could import semi-refined oil, or condensate, to compensate for the drier gas expected to come out of its proposed new EM gas field, and at what price the refined petrol should be sold to the oil industry

Mossgas has not yet been granted permission to raise the R1,9 billion it wants to develop the EM field It is 49km west of the main FA gas field, which is expected shortly to run out of gas But, because the gas from the EM field will not contain enough condensate to run the Mossgas plant at full capacity, it has applied for permission to import condensate

This will, in effect, make it another refinery operating in direct competition with the commercial refineries processing crude oil The oil industry is understood to be reluctant to pay Mossgas the higher producer price known as in-bond landed cost (IBLC) for this product

But if it does agree to pay IBLC, the industry does not want Mossgas to sell some of its petrol directly to the public, probably through one of the new black-owned oil companies

The committee has been pressing Mossgas and the industry to resolve its pricing impasse for some time now, mainly because it costs the taxpayer about R150 million a year

Doidge said yesterday he had asked Henri Kluever, the auditor-general, to seek greater clarity on the issues at stake

The deadlock arose when the informal agreement between the oil industry and Mossgas that the oil companies would buy Mossgas fuel at a discount to IBLC lapsed

In return for being paid the lower price, Mossgas got a synthetic fuel levy from the equalisation fund run by the Central Energy Fund

No new agreement was negotiated, and the informal arrangements stayed in place until the oil companies were forced to import fuel after technical problems at their refineries

Mossgas argued that because the oil companies were no longer having to export surplus fuel, they should pay it the higher IBLC The oil companies disagreed because they said they were not net importers of fuel

Nobody could broker any deal between the two, even though, faced with growing capacity constraints, the oil industry became a net importer last year and offered to pay Mossgas the IBLC

Now Mossgas has complicated the negotiations by its new plans to extend its life. In February, Dave Day, the chief executive of Mossgas, told parliament it had asked Cabinet to approve a R1,9 billion offshore loan to extend its life by up to 30 years This is the first time the issue of condensate imports has been raised in public

Day said the investment would boost the value of Mossgas to $2,5 billion and provide the state with a valuable asset to list on the JSE

Pg 7

# Health committee welcomes proposals to drastically change medicine regulations

Star 26/3/98 ~~85~~ (183)

**By Jovial Rantao**
Political Correspondent

Cape Town – Dr Abe Nkomo, chairman of Parliament's health committee, has hailed the findings of a ministerial review team which proposed drastic changes to the regulation of medicines in SA.

The review team, chaired by Professor Graham Dukes recommended yesterday that the present Medicines Control Council (MCC) should cease to exist by the end of this year and should be replaced by the new Medicines Regulatory Authority. It said the MCC should be immediately suspended and a temporary council appointed to handle ongoing work.

The team also suggested that the inspectorate of medicines within the MCC should continue, but with greater autonomy and more resources

It also recommended that two expert technical committees should be established to assess science-based medicines and complementary and traditional medicines.

The team's report has been submitted to Health Minister Dr Nkosazana Zuma, who is expected to comment on Monday.

Speaking after the review team had briefed the committee, Nkomo described the report as comprehensive.

"I believe it will contribute significantly to improve both the structure and the functions of the successor body to the MCC. The health committee was struck by the backlogs in registering medicines, identified by the review team, and we welcome their suggestions to speed up the process, consistent with internationally defined standards.

"The review team has also suggested broadening drug knowledge and expertise through training. We believe this will go a long way to building the necessary capacity in universities and colleges. This is no reflection on the MCC but should be seen as building on the work they have done," he said

**Real power is economic**

# CEF lawyer slams Bakker Report

(183)

Sowetan 26/3/98

### By Isaac Moledi

THE lawyer representing the Central Energy Fund (CEF) has criticised the Bakker Report, saying the CEF board could take legal action if its term of office was terminated on the basis of the report's recommendations

Christine Qunta who said at a media conference in Johannesburg that she was acting on behalf of CEF and not its chairman Don Mkhwanazi, was responding to the recommendations by the Bakker Commission of Inquiry

According to the recommendations, the embattled CEF board and Mkhwanazi should be sacked

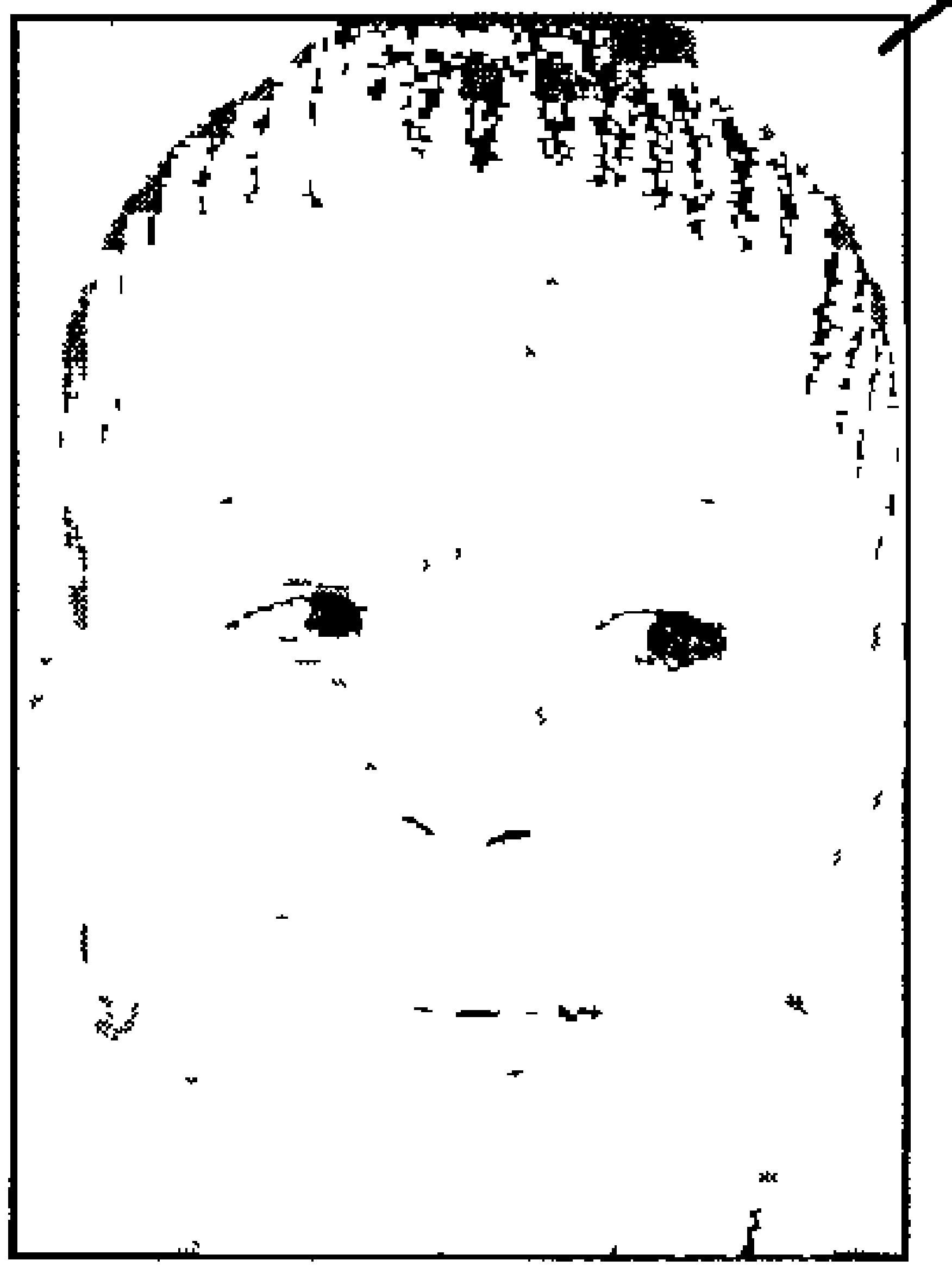
## Not approved

The report also recommended that International Advisory Services (IAS) executive director Emmanuel Shaw II be fired as the CEF board of directors had not approved his company's appointment as a consultant

The commission was appointed by Minister of Minerals and Energy Affairs Penuell Maduna in November last year to inquire into the R3 million CEF-IAS contract

But Maduna rejected the commission's recommendations and forwarded the report to Deputy President Thabo Mbeki The matter was also referred to public protector Selby Baqwa

Qunta accused the people who sat on the panel of the commission of not being impartial and dismissed the report as biased and unfair



CEF legal representative Christine Qunta.

She said the findings of any tribunal should be based on evidence submitted to it and that the evidence had to be tested as far as possible to ensure that it was based on more than hearsay or the biased opinions of particular witnesses

"The report, however, failed in every important respect to test the evidence or seek corroboration for certain assertions made," she said

## Legal right

"The panel ignored almost entirely the evidence of Mr Don Mkhwanazi, the board members and members of the management who gave evidence regarding CEF's procurement procedures and the events surrounding the appointment of IAS," she said

Qunta said she was of the opinion that if any person had his or her rights violated, that person had the right to exercise his or her legal rights

"This means that the CEF board of directors have the right to take legal action if they feel their term of office has been terminated on the basis of the Bakker Report recommendations"

The board's term of office expires next Tuesday but Qunta said it could be extended

# Clinton upstages Maduna hearing

ST (PR) 27/3/98 (183)

**Lynda Loxton**

Cape Town — The Budget debate and President Bill Clinton's address to parliament stymied efforts yesterday by a parliamentary ad hoc committee to determine whether Penuell Maduna, the minerals and energy minister, had contravened the rules last year by casting aspersions on the integrity of Henri Kluever, the auditor-general

Maduna arrived with two senior advocates, who claimed that Maduna's comments that Kluever had covered up oil scams in the Strategic Fuel Fund were true and therefore not a contravention of any parliamentary rules

Kessie Naidu, an advocate, denied that Maduna's statements might have contravened a rule that said the competence or honour of a judge, public protector or auditor-general could not be impugned

Naidu said he had been dismayed to read in a letter to Maduna that the committee believed there was prima facie evidence that Maduna had contravened the rule

"That amounted, from a lawyer's point of view, to finding sufficient evidence to put, in a criminal case, the accused on his defence"

Naidu claimed the rule applied only to debates and not to question time in parliament, when ministers were called to account for their actions If the rule was applied during question time, this could result in ministers "withholding important matters of public and national interest"

Committee members, however, said they had not accepted that Maduna's statements were true, only that he had made the comments

Whether or not the comments were true was the subject of an investigation by Selby Baqwa, the public protector

"Even if true, there was a feeling in this committee that the statements contravened (the rule)," committee members said The meeting is expected to be resumed in the next session of parliament, which starts on April 20

# 'Damaging comments' upset officials

BD 27/3/98

(183) ([illegible])

**Linda Ensor**

CAPE TOWN — Two leading officials in the mineral and energy affairs department are to seek legal advice on damaging comments they said were made about them by an attorney acting on behalf of Central Energy Fund (CEF) chairman Don Mkhwanazi

Deputy directors-general Gordon Sibiya and Dick Bakker objected to comments made by Christine Qunta, ostensibly on behalf of the CEF

Qunta dismissed the findings of a department inquiry headed by Bakker into the appointment of Emmanuel Shaw's International Advisory Services as an advisor to Mkhwanazi on a R3m annual contract

Among the inquiry's recommendations were the nonrenewal of the CEF board's term of office, due to expire at the end of this month. Qunta criticised the findings as unfair and amounting to a miscarriage of justice Members of the panel of inquiry were accused of not having applied their minds

Bakker said he was upset by Qunta's "personal" and "uncalled for" comments, which reflected a misunderstanding of the panel's report findings

Sibiya, a member of the board, objected to her claim to represent the board, saying he had no knowledge of a resolution being passed to appoint her. If she represented Mkhwanazi, he hoped he would pay her fees

Among the false statements made about him, he said, were that he had applied for the position of director-general, had a financial interest in company bidding for Mossgas and was the main complainant against Mkhwanazi and the board He accused Mkhwanazi of smearing him and his colleagues and lowering the morale of department staff in an attempt to divert attention away from himself

Mineral and Energy Affairs Minister Penuell Maduna is expected to announce the members of the next CEF board over the next few days

# Maduna enlists advocates for defence

BD 27/3/98

(183)

**Wyndham Hartley**

CAPE TOWN — Mineral and Energy Affairs Minister Penuell Maduna enlisted the support of two advocates of the high court yesterday at a hearing of a special parliamentary committee on his criticism of Auditor-General Henri Kluever

A special parliamentary ad hoc committee appointed to investigate derogatory remarks Maduna made in the National Assembly last June has found informally that he contravened parliamentary rule 99 This rule says that criticism of an official, such as that made by Maduna, must be made through a substantive motion. The committee decided to give Maduna an opportunity to address it

Maduna introduced his companions, HK Naidu and K Moroka, advocates from Durban and Johannesburg High Courts. He said he had full confidence in them and left the defence of his remarks in their hands

Naidu recorded his dismay that the committee had made a prima facie finding against Maduna before he addressed it. He said he hoped that it was a mistake. He argued that the parliamentary rules on questions differed from those governing ordinary debates Maduna had made the offending remarks during question time.

Naidu argued that it was illogical for Parliament to place these restrictions on ministers during debate. He said the statements which Maduna had made about Kluever were true and therefore he was duty-bound to reveal them Maduna was not in contravention of rule 99, he said

The meeting was cut short by the conclusion of the budget debate in the National Assembly and the arrival of US President Bill Clinton in Parliament.

# CEF plans listing on the JSE

CT (BR) 27/3/98 (183) ([illegible])

**NCABA HLOPHE**

Johannesburg — The Central Energy Fund (CEF) may hive off "non-core" operations before listing on the JSE as an integrated energy company, in a fillip to empowerment companies, according to a new internal report

The proposals, made at a CEF bosberaad, are expected to form the basis of recommendations by International Advisory Services (IAS), the embattled consultancy working on the restructuring of the CEF

The state is expected to maintain a 50 60 percent controlling stake in the proposed listed national energy company, with the remainder of the shares split between black economic empowerment groups, strategic equity partners and employees

"This structure would preserve the state's ownership and control over national resources, and create a vehicle to actively participate in the energy sector without distorting free competition in and outside the country," the report said

In terms of the proposals, Soekor could remain as the upstream exploration and production company while Mossgas could be the refining company The Strategic Fuel Fund could then remain as the oil trading and storage company

Petronet would have to be transferred from Transnet to the new company, and a new liquid fuels distribution and marketing company be formed in partnership with emerging companies

Maurice Radebe, spokesman for the emerging oil companies, said they would welcome the initiative to empower emerging black oil companies

"We would then expect to participate in the process once the CEF takes a decision about these proposals," he said

Colin McClelland, executive director of the South African Petroleum Industry Association, said the liquid fuels industry supported the use of state assets to further black economic empowerment He could not comment on the restructuring of the CEF

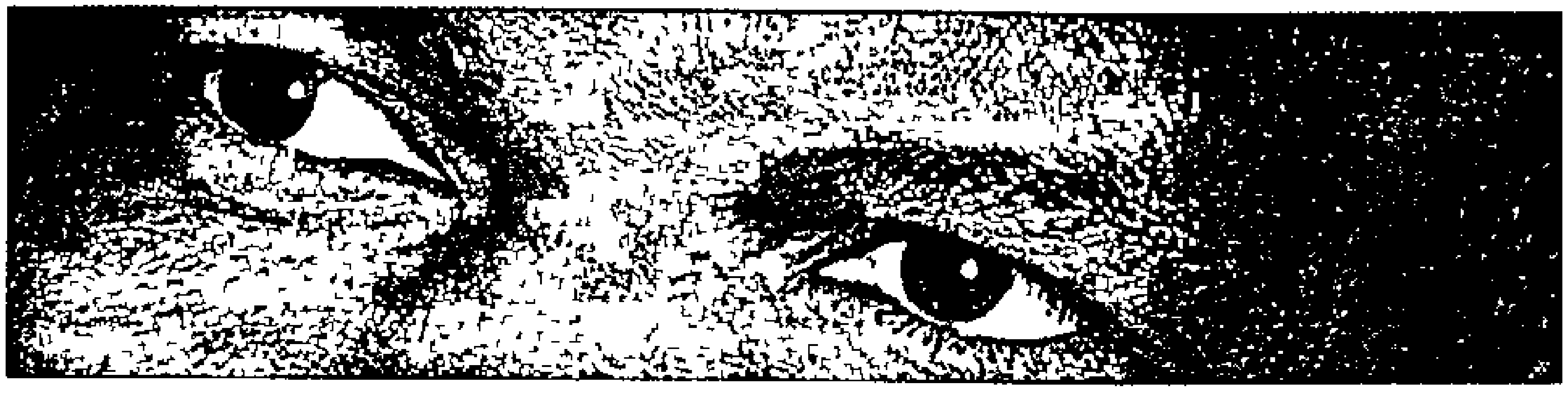
# COMMISSION CHAIRMAN BAKKER MAY SUE CEF ATTORNEY CHRISTINE QUNTA

Johannesburg — Dick Bakker, the chairman of the commission
of inquiry into activities of the Central Energy Fund (CEF),
yesterday stood by his report and threatened to take legal
action against Christine Qunta, CEF's attorney, for "personal
and slanderous remarks" she made when dismissing the report
"We acted in the interest of the taxpayers, whose R5,3 mil-
lion is being squandered," Bakker said He said the contract of
the International Advisory Services (IAS), CEF's advisers on
restructuring, should be terminated because it bound only the
state to deliver the payment without checks against dereliction
by IAS "That contract is not worth the paper it is written on
because it is one sided and does not have provisions for perfor-
mance by IAS," he said

CT (MR) 27/3/98

Bakker defended the report's recommendations that the
CEF's board's term should not be renewed at the end of the
month — Ncaba Hlophe

(183)



CENTRAL ENERGY FUND

# Maduna in search of Solomon's wisdom

(183)

## CEF lawyers advise Minister to ignore Bakker report

FM 27/3/98

Spare a thought for Minerals & Energy Affairs Minister Penuell Maduna By Tuesday next week he will have to decide whether to extend or end the term of the current board of directors of the Central Energy Fund (CEF), the company housing the State's oil assets

In December last year Maduna extended the term of the CEF board to March 31

Maduna is caught between a rock and a hard place Should he decide not to renew the CEF board's term, he may be perceived to have accepted the recommendations of the Bakker Panel, set up to probe allegations of improper conduct within the CEF Such a decision would inevitable be challenged in the courts

But should he renew the board's term, he will come under pressure from opposition politicians who have been baying for blood since the *Mail & Guardian* first alleged that the CEF improperly awarded a R3m consulting contract to International Advisory Services (IAS)

In response to the *Mail & Guardian* articles, Maduna appointed a panel, chaired by Dick Bakker, the then acting director general in Maduna's department, to probe the allegations

The newspaper claimed that CEF chairman Don Mkhwanazi had appointed IAS without following proper procedures

IAS directors include Emmanuel Shaw 11, the former Liberian Finance Minister The *Mail & Guardian*, describing Shaw as having a shady past, alleged Mkhwanazi had benefited from their friendship

Among its recommendations, the Bakker panel said the term of the CEF board should not be renewed It also recommended that the IAS contract be cancelled

Maduna has yet to release the official Bakker report Copies have, however, been leaked to the media

Maduna told parliament in February that the findings of the Bakker panel had "basic flaws" The embattled Minister now appears to have an independent opinion supporting this view

The CEF's attorneys Qunta Ntsebenza, this week advised Maduna against following the recommendations of the Bakker report

They argue that following the recommendations "would be inconsistent with the basic precepts of fairness which have come to be accepted in our common law and since 1994, our Constitution"

Qunta Ntsebenza says its opinion was similar to one offered by Mkhwanazi's attorneys in Durban and a senior counsel, Advocate Peter Olsen

Qunta Ntsebenza also express the view that the Bakker panel was impartial and biased against Mkhwanazi and other CEF directors

The legal firm says at least two members of the panel, the chairman Bakker and Bahadzisi Manpe, the secretary to the investigation, could not be seen as impartial as they had an interest in the outcome of the enquiry

Manpe is chief director of management services in the Minerals & Energy Department

The lawyers also question the role of Gordon Sibiya, a CEF director, the panel's main witness and a close colleague of Bakker in the Department of Minerals & Energy Affairs Sibiya is also deputy director general of the department

The lawyers argue that, in a dispute between the department and CEF, Bakker was likely to side with the department and in particular, with Sibiya

"The findings of facts and the whole tone of the report (Bakker) tends to support the perceptions of bias"

As reported by the *FM* (*Current Affairs* March 13), Qunta Ntsebenza found that Manpe is the wife of Vincent Msibi, the chief executive of Allied Energy Africa, one of two companies that proposed to buy the CEF's Mossgas and Soekor assets

The CEF board decided not to act on the proposals

"She did not disclose this to the panel nor did she recuse herself as would have been necessary

"This constitutes such a serious irregularity that it would nullify the proceedings and therefore, the findings based on those proceedings," the lawyers argue

Maduna is also having to fire-fight on another front His former adviser Thulani Gcabashe, whom he sacked earlier this month, has written an open letter to the press alleging that Maduna had pressed

Arnold Pronto

**Mkhwanazi** *lives to fight another day*

cont →

him and Sibiya to endorse a rejection of the Bakker report

"We refused to do so because we believed that his condemnation of his own inquiry was ill-advised to begin with"

In his letter Gcabashe also refutes one of the reasons Maduna gave for firing him — the accusation that he prepared a pro-Santa Fe memorandum for submission to Cabinet, contrary to Maduna's instructions Santa Fe is a US-based energy group that sought to buy Mossgas and Soekor assets

**Jabulani Sikhakhane**

(183)

**SANACHEM**

# The worm turns

FM 27/3/98

Cyanamid bites back into SA

**Agrochemical company** Sanachem has lost its market dominance in SA's insecticide war against the eel worm, the parasite that wreaks R752m/year damage on SA crops

Sanachem has been shoved aside by Cyanamid — owned by American Cyanamid — which now captures 60% of the R10m/year sales to farmers

The switch has come at a price to farmers, who until recently were forced to pay a 46% premium for Cyanamid's product, Counter, after Sanachem failed to ensure supplies of its worm-killing Terrafos

"In 1996 Sanachem totally missed the boat," says an industry source "Even last year they only started manufacturing about September, which was too late "

He adds that US chemical giant Dow Chemical Co, Sanachem's and parent Sentrachem's new owner, has told them to "really tackle the market "

Cyanamid's Counter is the proprietary product and was the SA market leader in the fight against the eel worm for many years But by 1995, with poor local representation, its position dwindled to virtually nothing, leaving the field open for rival Sanachem's new generic equivalent

In 1996 Cyanamid relaunched Counter in SA, replacing the insecticide's old clay-based carrier with an "environmentally friendly" paper-based one

The relaunch coincided with Sanachem's production troubles — which the company refuses to discuss One theory is that the weakening rand made the cost of importing the two basic raw materials from the US — the poison and its carrier — prohibitive

Now Sanachem, integrated into Dow AgroSciences following December's takeover, has resumed production of Terrafos — using a locally produced clay-based carrier and importing cheaper poison from China

A distributor says "They're both good sellers The farmers know both work, but they tend to go for the cheaper product "

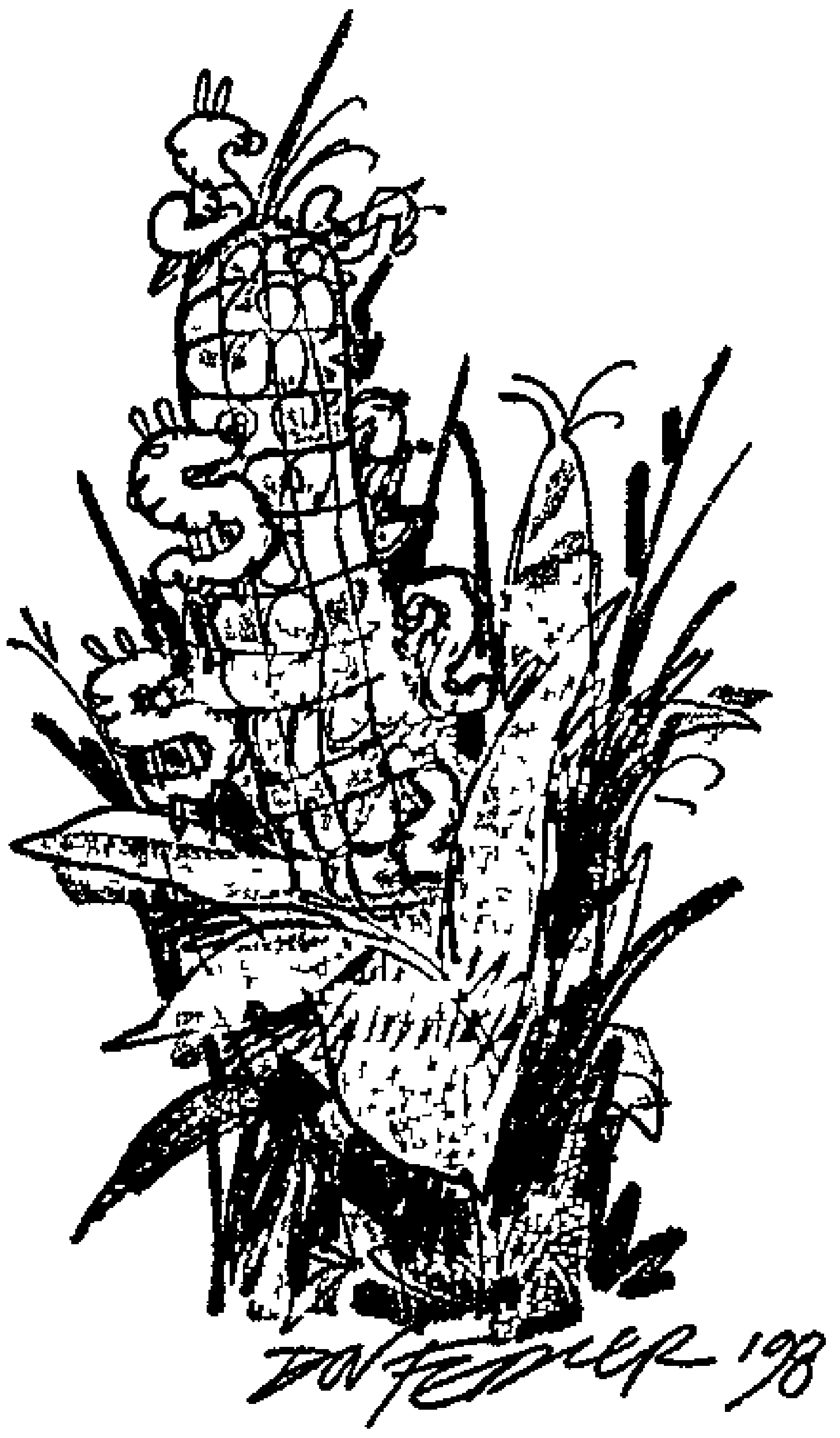
The egg-laying eel worm, formally known as the nematode, is responsible for the loss of 14% of SA's agricultural crops

There are thousands of species The one that dines on the maize crop — and is targeted by Counter and Terrafos — is the *Meloidogyne*, or root-knot nematode It eats R208m worth of maize annually

Keeping the pest at bay does not come cheap Counter (150 g active), retails to farmers at R19/kg, Terrafos (100 g active), at R13/kg With Counter's increased strength, the company claims costs are comparable

Our inquiries caused much wriggling at Sanachem John Job, MD and CEO of Sentrachem, was consulted and the *FM* was referred to Dow's European HQ in Switzerland There a communications executive says "Surely there's someone in SA who can talk to you about the eel worm "

**Jack Lundin**



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Botswana President Ketumile Masire, is due to begin assembling Hyundai cars in May and start building Volvos in 1999

It is Hyundai's first plant in southern Africa By the year 2000 the company aims to produce 30 000 Hyundais and 10 000 Volvos a year, of which 80% will go to the SA market

South Africans are expected to buy about 250 000 new cars in the year 2000

Hyundai expects to buy components worth R200m a year from SA suppliers

Though some of the assembly equipment has still to be installed, there is already plenty of activity Despite the hopes of SA competitors, there is no sign of smoke or mirrors

**David Furlonger**

**OIL PRICES**

# Opec takes the pledge once more

FM 27/3/98

(183)

## SA stands to gain more than it will lose from higher price

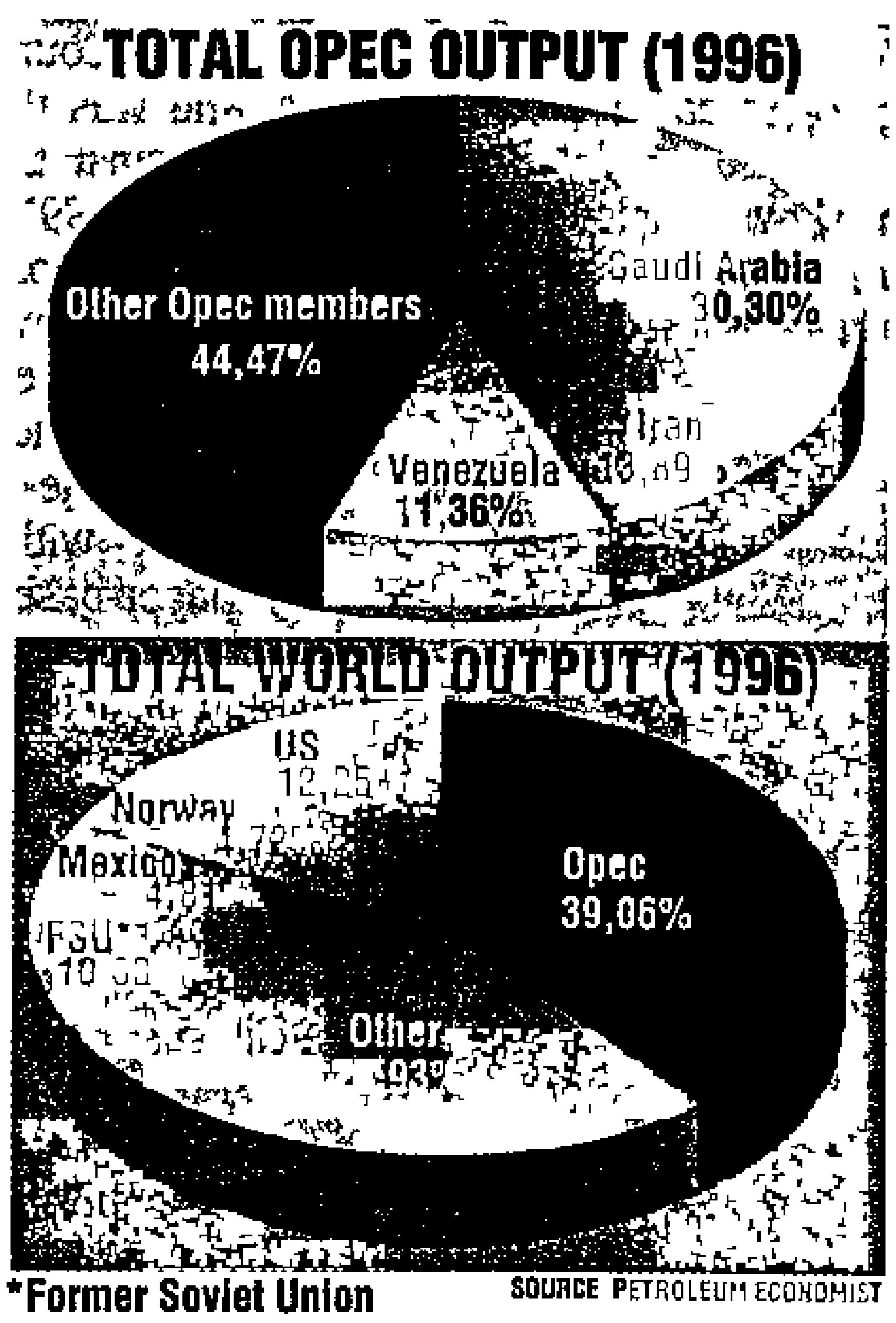
Major oil producers have committed themselves to huge production cuts, signalling hope that the downward oil price spiral could be reversed The cuts could total 2m barrels per day (BPD)

Monday's trading showed the market was inclined to believe the agreement will hold — Nymex May futures in the US rose by US$1,90/barrel to $16,51 for a gain of around 13,5%, while gold responded positively

The dramatic weekend announcement was the culmination of yet another Opec conference held in Riyadh, Saudi Arabia It was notable for the attendance of a major non-Opec producer, Mexico, whose output of nearly 3,5m BPD is almost 5% of the current world total of over 70m BPD

The price war of recent months ultimately derives from a serious loss of cohesion within Opec, with several members aggressively increasing output and ignoring production quotas Opec output has risen sharply since 1990 — from 23,87m BPD then to 28,52m BPD in the second half of 1997, despite frequent avowals that the cartel would adhere to strict quotas

Ironically, Opec founding member Venezuela has become an aggressive and therefore disruptive producer In 1993 it produced only 2,37m BPD In November 1997 it produced 3,41m BPD, an increase of around 40% and 42% above quota It reportedly cherishes plans for dramatic increases in output to an eventual 6m BPD in the next century Iran, another founding member, has hoisted output by about 20% since 1990, from 3,15m BPD to 3,76m BPD in December 1997



*Former Soviet Union

SOURCE PETROLEUM ECONOMIST

Matters have not been helped by buoyancy in non-Opec output including the North Sea, Latin America and the west coast of Africa Only in the former Soviet Union has output dropped sharply — from 11,5m BPD in 1990 to 7,16m BPD in 1997

Saudi output has stagnated at around 8,2m BPD since 1991, despite possession of the world's biggest reserves Rumour has it that the Saudis have finally wearied of their endless sacrificial role as Opec's "swing producer" — the country which has to curtail its own output to sustain prices, despite chiselling by other members

Though oil demand had also risen strongly — at least until the Asian economic crisis — it was swamped by growth in supply, so the price dropped from a peak of about $24/barrel in late 1996 to a recent low of $12,5/barrel, measured on North Sea Brent

How do sharp movements in oil affect the SA economy? It would be too simplistic to suggest that low oil prices are good for SA and high prices bad SA too is a significant producer of petroleum products

SA still pays a price for a long-standing system of protection for synthetic fuels If the oil price falls below the level at which government guarantees a price floor for the local producers, protection is provided in the form of payments from the Equalisation Fund Sasol's formula provides for protection to be available at oil prices under $17 This floor is to reduce to $16 on July 1 1999, and to be reviewed by July 1 2000 These arrangements apply to the whole local synfuels industry including Mossgas Ultimately these costs are paid by SA motorists

Then there's the influence on gold The gold market reacted to the oil news by rising $5/ounce — to a price above $298 at the close in New York on Monday At an annual output of about 15m ounces, this gain would be worth an extra R375m annualised

If SA imports roughly 450 000 BPD of oil, or close to 157m barrels per year, at $15 average, the cost would be around $2,4bn a year (R12bn) A 13% gain on that is R150m, so the initial gain on gold is more than twice the loss on oil While these figures are purely illustrative, they show that SA arguably is often a direct net loser from distressed oil prices

But gold is only part of the story To the extent that the fall in the oil price is a spin-off from Asia's slump rather than the result of a market war between producers — it's bought at too high a price for SA, as falls in the prices of metals and minerals other than gold demonstrate With diamonds, the Asian impact falls on demand rather than price, but the outcome of a drop in earnings is the same

It's true that a sustained swing back in oil would undo the recent deflationary effect of a declining price, but this is only one of many factors causing the continued decline in inflation

All things considered, SA should rejoice in the latest news, but receive it cautiously, as so many production agreements in the past have proved to be worthless However, the sharpness of the recent price decline suggests that the incentive exists for major producers — whether in or out of Opec — to hold to the latest agreement

And maybe the Saudis' newfound determination not to bear the burden of cheating by others will make this one different from its predecessors

**Robin Friedland**

# CEF board fights for its life

(183)

M+G 27/3–2/4/98

**Mungo Soggot**

Don Mkhwanazi and his colleagues on the Central Energy Fund board stepped up their charm offensive this week in a bid to hang on to their jobs

The directors, who have demonstrated formidable staying power throughout the Emanuel Shaw II scandal, dispatched their recently hired lawyer, Christine Qunta, to a press conference where she tried to discredit the Bakker inquiry — a government probe which recommended Mkhwanazi, his board and Shaw be axed

There is still no clarity over what what will happen to the board when its contract expires next week. It would normally have been renewed, but the Department of Minerals and Energy advertised for new board members in the wake of the Bakker report

It is now possible the existing board will survive as Minister of Minerals and Energy Penuell Maduna has dismissed the probe Senior department officials were this week in the dark over the fate of the board

Qunta, who runs a law firm with truth commissioner Dumisa Ntsebeza, trotted out almost identical arguments to those offered by Mkhwanazi last November about the appointment of Shaw's fledgling company, International Advisory Services

She also gunned for the former deputy director general of minerals and energy, Gordon Sibiya, who gave the most damning testimony to the Bakker inquiry about Mkhwanazi

Qunta offered the conspiracy theory about Sibiya first floated by Mkhwanazi. that Sibiya was opposed to Mkhwanazi because the oil chief rejected a deal proposed by an energy consortium to which Sibiya was linked

Qunta also said there was no proof that Mkhwanazi received money from Shaw Documents in the posession of the *Mail & Guardian* show otherwise and the Office for Serious Economic Offences is currently screening Mkhwanazi's accounts

# Oil deal 'cost SA R50m'

M+G 27/3 – 2/4/98 (183)

**Mungo Soggot**

The government could have cost the taxpayer almost R50-million by ignoring normal oil trading practices and instead selling the bulk of South Africa's oil stockpile at a very low price.

South Africa's former top oil trader, Kobus van Zyl, is one of several oil gurus who are baffled by the government's decision to quietly offload most of its stocks stored at Saldanha Bay in one shot in January.

Van Zyl and others say the government could have made far more money if the state oil trading company had stuck to elementary, low-risk trading practices, which would have also allowed South Africa to retain its strategic stockpile

Questions have been raised about the motivation behind the massive deal, which was struck when oil prices, at about $15,30 a barrel, were at their lowest during the 1990s

The government has admitted it sold the oil to raise cash before the budget But only R800-million of the R2,5-billion proceeds have ended up in state coffers, the rest remaining with the state oil company

Oil experts are puzzled by the state oil company's failure to cash in on the gap between low, current oil prices and high, future oil prices

Oil prices are divided into current or spot prices, and future or forward prices

Oil traders like the Strategic Fuel Fund (SFF) can trade their stocks of oil — which in South Africa's case are housed in the massive storage tanks in Ogies and Saldanha Bay — by profiting on the difference between the two prices

When Maduna sold the oil, forward prices were more than $1 higher than current prices, but instead of cashing in on that margin, the state oil company simply sold off the oil

The company could have instead borrowed dollars — as it is understood to have done in the past — to give to Minister of Finance Trevor Manuel, and repaid the dollar loan and the interest on the loan with the profits from selling the oil forward at a higher price

Two traders worked through this simple procedure using prices that would have been available to the SFF in January 1998, and worked out it would have been R48,9-million more profitable

"I cannot think of a logical reason for an SFF trader not to recognise the opportunity offered by the future price movements in the market," Van Zyl said

The SSF's deputy general manager of crude oil, Brian Casey, says he was instructed to sell the oil, as the Cabinet had decided South Africa no longer needed it

Casey added a forward oil price deal was not an option He says there is "a serious element of risk" in the forward transaction as physical buyers had to be found

Casey also said it would have been inappropriate to borrow more money as a state-owned company

It has also emerged that the state oil company did not exercise its right to buy back the oil shortly after the sale when the price of crude oil fell further — effectively robbing the state of millions of rands. Casey said that would have been "speculating with taxpayers' money"

Tony Twine, an economist who focuses on the oil industry, said the timing of the sale "looks a little curious", adding that the argument that the state oil company should have profited from higher forward prices made sense

Humphrey Harrison, director of energy consultants Europe Energy Environment, said "If they didn't play the futures market, which is easily done without gambling, then people should be asking why not This oversight makes a mockery of Manuel's efforts to balance the budget"

The deputy executive director of the International Energy Agency, John Ferreter, said his organisation opposed selling off oil "for budgetary reasons", but declined to comment on the timing of the sale

He said a member country of the agency must have crude oil for at least 90 days' use, which would be 39-million barrels in South Africa's case

There are only 10-million barrels of oil left in a mineshaft in Mpumalanga

# New probes into Shaw 'kickbacks'

M+G 27/2 — 5/3/98 (183)

**Mungo Soggot**

The Office for Serious Economic Offences and the public protector are both probing a *Mail & Guardian* report that Central Energy Fund chief Don Mkhwanazi took "kickbacks" from state oil adviser Emanuel Shaw II

Both institutions said this week they will be co-operating in the investigation The Office for Serious Economic Offences' chief Jan Swanepoel said he will be exploring any possible criminal charges against Mkhwanazi after scanning bank statements he received this week

A representative from the office of the public protector — which is now running three separate investigations into Minister of Minerals and Energy Penuell Maduna's oil portfolio — said the watchdog will examine any other abuses of public office stemming from Mkhwanazi's actions

The *M&G* reported that Shaw — whom Mkhwanazi employed on a R3-million-a-year contract — fed money into the bank account Mkhwanazi uses to pay the bond on his R2,4-million home

A commission of inquiry into Shaw's appointment found that according to Mkhwanazi's own testimony it could only assume the oil chief had a "personal interest" in appointing Shaw

Maduna asked Public Protector Selby Baqwa to investigate after meeting Mkhwanazi Maduna has yet to endorse the commission's findings, delivered a month ago

Baqwa is also investigating Maduna's accusation in Parliament last year that the auditor general covered up financial impropriety in the state oil trading operation And his office is investigating Shaw's appointment to the Central Energy Fund.

# Zuma shuts down health watchdog

(183) MTG 27/3 – 2/4/98

The Ministry of Health moved with indecent haste this week to shut down the watchdog that had come to blows with the ANC over the controversial Aids drug Virodene **PAGE 2**

P.T.O.

# Zuma shuts down MCC

(183)

M+G 27/3/98

**Marion Edmunds**

**Indecent haste: Nkosazana Zuma has closed down South Africa's main health watchdog. PHOTOGRAPH: ANNA ZIEMINSKI**

The Ministry of Health moved with indecent haste this week to dismantle the Medicines Control Council (MCC), the main opponent to the government's drive to promote the controversial Aids drug Virodene

Senior officials in the Department of Health claim the MCC's top management have been forced to quit their jobs Professor Peter Folb, who has chaired the council for 18 years, said the current MCC had effectively ceased to function. "As far as has been explained to me, the operation of the MCC does cease forthwith."

Pharmaceutical companies have been told a new regulatory body called the Medicines Regulatory Authority will start operating on Monday Interviews for staff have been quietly taking place over the past few weeks.

Minister of Health Nkosazana Zuma is expected to make an announcement about the new body on Monday

Two senior officials of the MCC were barred from their offices this week and advised by the ministry to take retrenchment packages It is not clear whether the ministry's move to kill the MCC is legal, as it is a statutory body.

These moves came in the wake of the recommendations of a task team of local and international experts appointed by the ministry that the MCC be scrapped and replaced with a new drug regulatory authority Zuma said she would take a decision on the report next week

This follows months of strife between the MCC and senior government leaders over Virodene, which Zuma is eager to have tested through clinical trials Zuma has the support of the African National Congress and Deputy President Thabo Mbeki, who recently launched an extraordinary attack on the MCC for stalling clinical research into Virodene.

Earlier ANC secretary general Kgalema Motlhanthe charged that the MCC was "playing God" by hampering research into Virodene. He accused the council of having a vested financial interest in blocking the research — a charge that was rejected by Folb

The MCC opposed clinical trials on the grounds that Virodene was not sufficiently researched to warrant them. The MCC had also prompted a police investigation into the illegal use of Virodene by people who are HIV-positive The drug's main component is a harmful industrial solvent, DMF

The task team said the MCC had succeeded in regulating medicines in South Africa, but it was also sharply critical. "Weaknesses included significant problems with communication, determination of responsibility, large backlog of registrations and potential conflicts of interest," the department said in a statement.

The task team has recommended creating a new medicines regulatory authority which would include creating a channel for the assessment of unorthodox medicines.

The *Mail & Guardian* understands that Zuma is already forging ahead, that the MCC is no longer operating and that the head of the secretariat, Professor Johan Schlebusch, and his deputy, Chrystel Bruckner, have been ordered to vacate their positions.

According to well-placed sources, health department Director General Olive Shisana recently told Schlebusch and Bruckner to take retrenchment packages or face disciplinary charges for maladministration. They have been barred from their offices. Both were at home this week during office hours

Shisana had not responded to queries at the time of going to press. Her representative, Gonda Perez, said the MCC secretariat was still functioning and nobody had been locked out of MCC offices.

Schlebusch could not be contacted for comment. Bruckner said from her Pretoria home: "I cannot confirm or deny this I suggest you speak to the director general. You must understand that I do not want to speak to the press "

Folb, who returned to South Africa from Geneva late this week, said he supported the review of the MCC and had confidence in the experts who sat on the task team He would co-operate fully with the transitional team

Folb said there had been conflict between the MCC, the ministry and the department, but did not want to apportion blame "The MCC was a body of impeccable integrity," he said.

Folb said he would now dedicate his time to research into malaria cures.

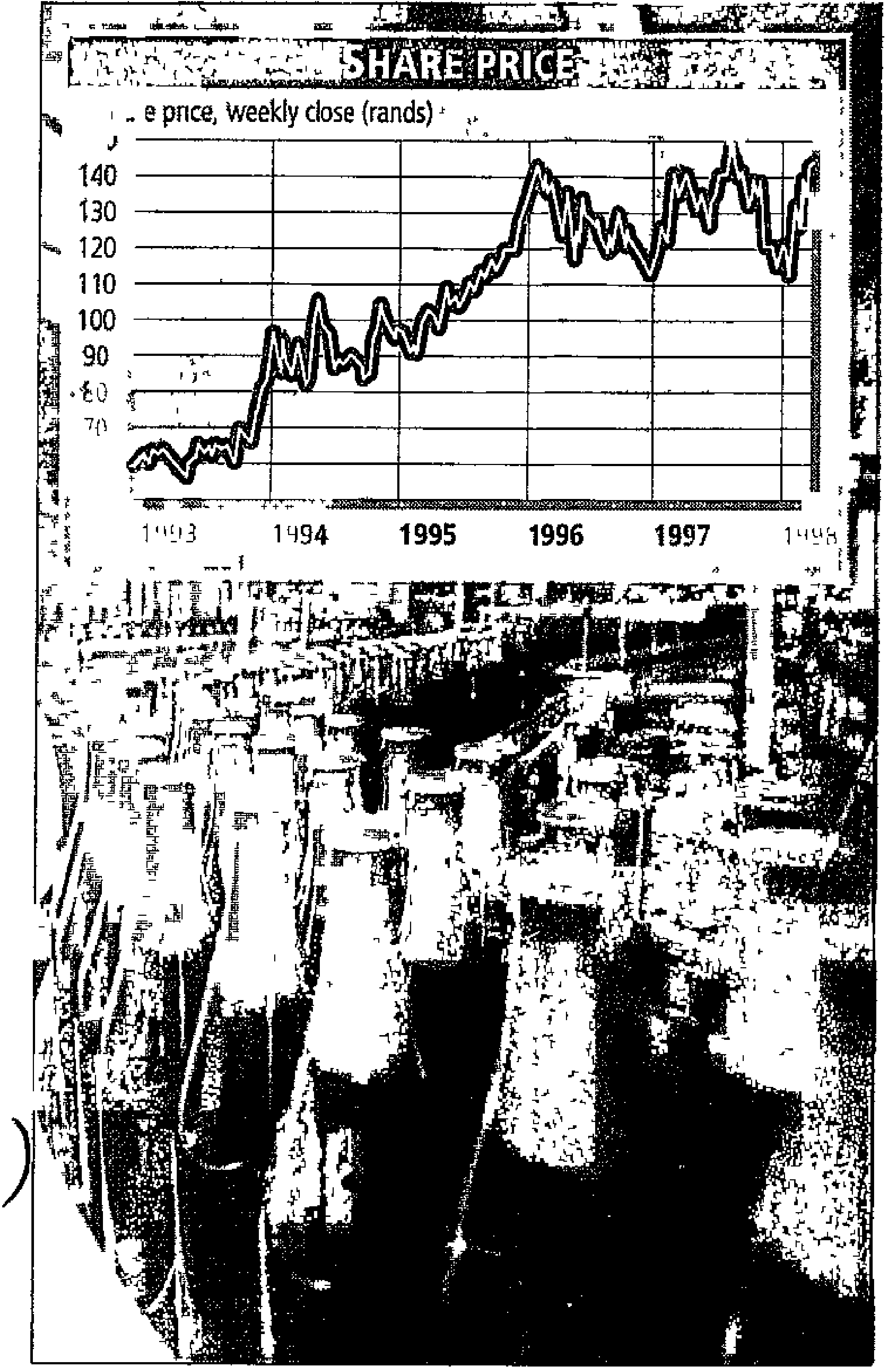
# Cagey SAB finally sees the writing on the wall on 'unbundling'

**MARCIA KLEIN**

Looks at the swing towards a focus on core business

(182)

ST (BT) 29/3/98

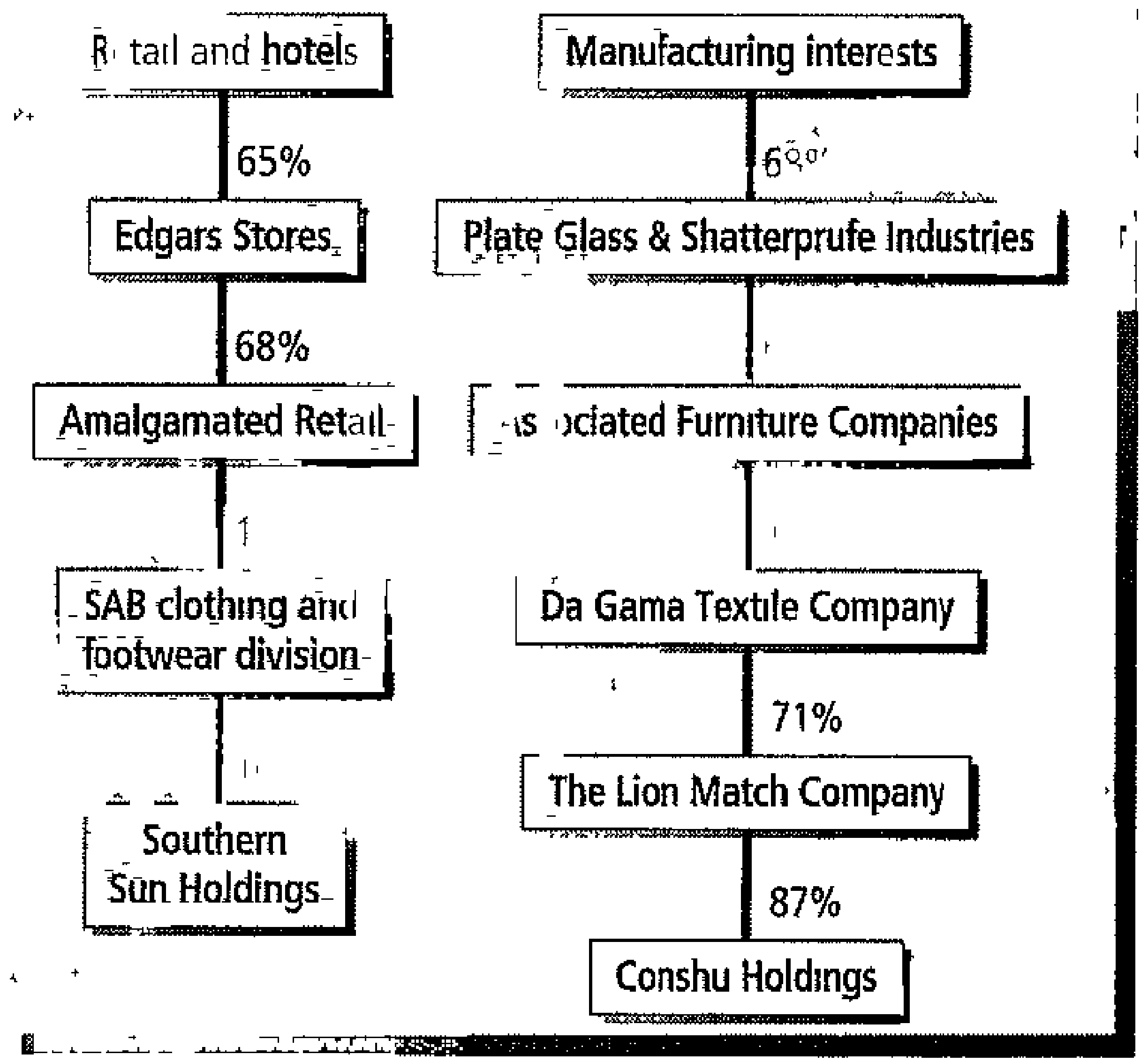


Picture RUSSELL ROBERTS

SAB EARNINGS BREAKDOWN

| YEAR TO MARCH 31 | 1996 million | 1997 R-million | % change |
|---|---|---|---|
| SA beer division | 1003 | 1166 | 16 |
| Complementary beverages | 154 | 200 | 30 |
| Manufacturing | 299 | 259 | (13) |
| [illegible] | 6 | | |
| TOTAL | 1663 | 1946 | 17 |

SA BREWERIES OTHER INTERESTS



Graphic FIONA KRISCH

Source SAB

SA BREWERIES, which recently ousted Anglo American as the largest group on the JSE, has always been wary of criticism that it should be unbundling, and equally suspicious of speculation that it is about to

Even when it finally sold OK Bazaars late last year, after years of extraordinary attachment to a no-hoper, directors refused to be drawn on whether this was the start of a large-scale unbundling or disposal operation, saying there were no concrete plans in this regard

But in line with persistent market speculation, SAB this week announced the disposal of furniture manufacturer Afcol and said it was considering proposals about its shareholding in Conshu, Da Gama Textiles and Lion Match

Directors' reluctance to talk about the group's strategic plans was evident again this week, when all of them were at board meetings overseas or simply unavailable

But SAB has been quite right in asserting it is not unbundling The deals are not likely to unlock value, as none of the businesses make any meaningful contributions to group earnings In the year to March 1997, SAB's earnings were R1 9-billion Beer interests (local and global) contributed R1 4-billion and complementary beverages R200-million The contribution from the companies identified for disposal were, in contrast, paltry SAB's share of Afcol's earnings was R21-million, Conshu R5-million, Da Gama R13-million and Lion Match R30-million The OK was a drain on the group, with losses of R74-million When it was bought by Shoprite, it was estimated it would lose R250-million in financial 1998 Not to mention that SAB has pumped over R1-billion into the OK in the last year or two

OK was indeed the first in a series of disposals, but this is not an unbundling An analyst points out that "it is not an unbundling in the sense that it is selling off the crown jewels or unlocking value"

But what these disposals will unlock is the ability of management to focus on core businesses (beer and beverages) instead of spending time and money on companies which add little, if anything, to the bottom line

This week's move by SAB sees it sell its 64 1% holding in Afcol to financial institutions The businesses of Pat Cornick and Afcol will be merged to create a R1 5-billion furniture manufacturing business, the biggest in SA SAB sells its Afcol stake at R19 25 a share, a premium to market value Analysts say this shows SAB is not doing a fire sale, but waiting for its price

At the same time, SAB announced it was "considering proposals regarding its shareholding" in Conshu, Da Gama Textiles and Lion Match Analysts believe that after the OK, these form phase two of SAB's "unbundling" to form a focused beverages group

SAB's plan is to increase its focus on core beer and beverage interests Analysts speculate that it will be left with the beer division, as well as international beer interests (SAB International), Coke bottler ABI and other complementary beverage companies like Appletiser

SAB is expected to dispose of its 30% interest in Distillers and in Stellenbosch Farmers' Winery Apart from the fact that its holdings fly in the face of the new Liquor Act, the two are also portfolio investments which offer no real value to the group It is believed SAB has been in discussion with a black group regarding its holding in SFW

The focus on beverages does not necessarily mean it will dispose of all its non-beverage interests It could retain certain other interests like Plate Glass & Shatterprufe Industries, Southern Sun and maybe Edgars

Most analysts believe retail groups Amrel and Edgars will go, although it may take some time to dispose of Edgars, a multibillion rand retail company whose recent performance has been disappointing It will be difficult to find a buyer for such a large company, but an analyst says Edgars could be sold to an overseas investor like Sears of the US, with which it has had a long-term association There is also the possibility that a smaller player could make a bid, like LA Retail and Vestacor, which recently launched an unsuccessful attempt to take control of Foschini The other choice is a distribution in specie to existing shareholders

While there is no obvious reason why PGSI will stay in the group, analysts believe SAB intends to hold on to it Former executive chairman Meyer Kahn said some time ago that if one looked internationally, beer was spearheading the group's expansion into developing countries while PGSI did the same in developed countries

Most analysts believe SAB will also retain Southern Sun One says "It is complementary to some extent and some of the big international beverage companies do have hotel interests "

Its asset disposal programme follows international and local pressure to slim down and focus on core businesses

SAB brewed almost 40-million hectolitres in 1997 (local and international), making it the world's fourth-largest brewer It is also, according to a survey, the lowest-cost producer

In financial 1997, beer interests contributed 30% to turnover and 57% to earnings, while complementary beverages were 6% of turnover and 10% of earnings Foreign beverage interests are now 13% of group earnings SAB International gets 65% of its earnings from Africa, 30% from Europe and 5% from China

Research by Merrill Lynch shows that SAB's beer, beverages and hotel interests make up 78% of earnings, derived from only 22% of employees Da Gama, Lion Match, Conshu, Amrel and Afcol contribute only 5% of earnings, yet they employ 22% of SAB's staff, thus requiring a substantial amount of management time and funds

The sale of these businesses will allow for better management focus Foreign investors will be better able to value it as a beverage company

SAB shares moved up to around R147 on the announcements Analysts differ on whether it is fully priced One says it is a good operation, whose profit outlook versus rating is not high One big stumbling block, however, is beer volume growth, which is currently less than 1% This is countered to some extent by improvements in operations offshore and expansion of market share offshore

Another says core assets have been fully priced "R147 is a bit rich as the non-core are small in the scheme of things I would say the price should be at a maximum of R143 "

The disposals will have no effect on group earnings, but a marked effect on management time and effort

The biggest criticism of SAB is why it took so many years to acknowledge that the OK was a dead-loss, almost giving it away in the end Diversification was good news some three decades ago, but SAB failed to see the writing on the wall until it was too late for some companies

The sale of assets reverses a diversification process which began in the 1960s as SAB did not want to rely on one product only and because it was unable to invest offshore

It has been difficult for most SA groups to unbundle because of what to do with the cash In the normal course of business, SAB generates a lot of cash

*'This is not an unbundling in the sense that it is selling off the crown jewels or unlocking value'*

Exchange controls were, and remain, a major stumbling block for unbundling SAB's future relies heavily on expansion into Africa and Europe, but expansion needs to be financed On a medium-term view, exchange controls will probably be lifted sufficiently to enable proceeds to be invested overseas

SAB's announcement also sends out a strong signal to fellow conglomerates, like Rembrandt and Anglo, that they should be giving the same sort of scrutiny to their portfolios

They have clearly realised the need for focus and have made some tentative steps in this direction The Rupert family has merged its local and international tobacco interests, while Anglo's industrial arm Amic has alluded to possible disposals But neither group has announced large-scale unbundling plans

Unbundling, like empowerment and demutualisation, has become a buzzword in SA, although a focus on core business is an international trend

Recently, Murray & Roberts, Amic and Safren said they were looking at unbundling or selling non-core assets This follow various completed unbundlings, notably Barlows, Gencor, Malbak and Servgro

Black empowerment groups, however, are swimming against the tide and building up diversified conglomerates Analysts believe this is part of a cycle Once they have built up sufficient black ownership and control, they too will probably look at unbundling

# Experts query whether Zuma can disband medicines council

(BD) (189) BD 20/9/98

**Josey Ballenger**

LEGAL questions loom over the expected implementation of a proposal to replace the Medicines Control Council with a new drug regulatory authority and suspend the processing of new applications

Council members, legal experts, pharmaceutical industry and other sources said at the weekend that the health ministry did not have the legal authority to scrap the council, and that pharmaceutical companies could argue they were being discriminated against if drug approval came to a standstill

The criticism comes in the wake of recommendations made by an independent task committee, appointed by Health Minister Nkosazana Zuma, to overhaul SA's drug regulatory system

The sources also said members of the council secretariat, who are employees of the health department and are responsible for the council's administration, could not be discharged without abiding by the Public Service Act — and that the forced closure last week of the top secretariat offices was "wholly illegal".

Attorney Zenwill Lacob, a specialist in labour law, said there was "nothing" in the Medicines and Related Substances Control Act, or the recently passed amendments not yet promulgated, that entitled Zuma to disband the council

However, the new amendments — which are being contested in court and whose accompanying regulations have not yet been drawn up — would allow for the establishment of a new council

Whether that means the current one could be dematerialised seemed to be a matter of interpretation

"It seems that Zuma is trying to shut down the council by getting rid of its people and functionaries, she can't (formally) get rid of it other than by an act of Parliament," Lacob said

"She's trying to make the council's life as miserable as possible, waiting for them to resign," said one pharmaceutical industry source who did not want to be named

Lacob said if the department wanted to dismiss registrar Johan Schlebusch and his deputy, Chrystel Bruckner, it would first have to conduct an inquiry in compliance with public service legislation

Council members confirmed yesterday that Schlebusch and Bruckner were told to accept severance packages — or face disciplinary action on grounds of maladministration They said the health department had locked and guarded the two offices since Tuesday, when the task force released its report

Sources said that the council secretariat offices, which house between 60 and 70 staff members, were virtually vacant last week due to the "unpleasant, uncertain" atmosphere.

Speculation is that Schlebusch and Bruckner have not yet decided what course of action to take, but that they would likely opt for a "quite exit" rather than fight for their jobs.

Schlebusch did not return calls seeking comment, and Bruckner refused to speak to the media

Zuma's spokesman Vincent Hlongwane denied the secret expulsion, saying "I do not know anything about those two people

No walking papers have been served from the minister's office, nor has she authorised anyone to be fired "

Insiders said the removal of Schlebusch effectively brought the council's work to a standstill, as he was the only person authorised to sign certain documents

"The council has lost its communication, in the short-term, it is an absolute shutdown without the registrar," said council member Prof Antoine van Gelder

Mirryena Deeb, executive director of the Pharmaceutical Manufacturing Association, said the task team's proposed timetable for suspending the processing of applications for new drugs or modifications during the transition phase between the council and the new regulatory body, could spark a legal battle

Council chairman Peter Folb said yesterday he "did not understand the present situation", but urged there be "no compromise on public health in the transition period". Folb, like others, said he was waiting for clarity in Zuma's announcement in Pretoria today She is expected to endorse the implementation of most, if not all, of the task team's recommendations.

# Medicines chief mum on sacking

CT 30/3/98 (183) ([illegible])

**CLAUDIA CAVANAGH**

ON political hot potatoes in the 70s and 80s Professor Peter Folb was seldom silent But on controversial plans by Health Minister Dr Nkosazana Zuma to scrap South Africa's independent Medicines Control Council (MCC) today, he is keeping mum

"I'm not in a position to say anything at the moment," he said on Friday, despite reports that he had been removed from his post

The move to close the statutory body and replace it with a new regulatory body today comes after mounting disagreement between the MCC and Zuma

Central to the bad feelings is the MCC's failure to approve the controversial Aids drug Virodene for human trials, but other recent clashes include

- The MCC's refusal to register an anti-ulcer drug for use as a cheap abortion agent Zuma said it was safe and should be on the market The MCC disagreed
- A fight over plans for the parallel importation of drugs The MCC wanted the final say over which drugs should be used, but Zuma insisted that she should have the power to override the council
- A clash over new drug legislation last year which the MCC felt gave the minister too much power and failed to provide adequate safeguards

During his 18 years as chairman of the MCC, Folb spoke out on many issues In 1982, for instance, he launched a scathing attack on the South African Medical and Dental Council and the Medical Association of South Africa after the deaths of Neil Aggett and Steve Biko in detention

But today Folb, also head of UCT's Department of Pharmacology, has chosen not to comment

Disagreement between the MCC and Zuma peaked last week when the head of the MCC secretariat in Pretoria, Professor Johan Schlebusch, and his deputy, Ms Chrystel Bruckner, were locked out of their offices and told to vacate their jobs Both are Department of Health employees

Democratic Party spokesperson on health Mr Mike Ellis said yesterday "Minister Zuma intends to close down the MCC without making clear what will replace it or how medicine regulation and control will be conducted in future This is grossly irresponsible and terribly dangerous

"The job of the MCC is to ensure that drugs sold in South Africa do what they promise to do prevent and fight illness The MCC has done this job with distinction and international credit

"Instead of leaving this job to the experts, Minister Zuma is determined to centralise all control over health care in her own office, which means that political considerations — not scientific rigour — will determine which drugs get sold and which do not

"There is no guarantee that she will maintain the standards of quality, safety and efficacy that are now used in South Africa," he said

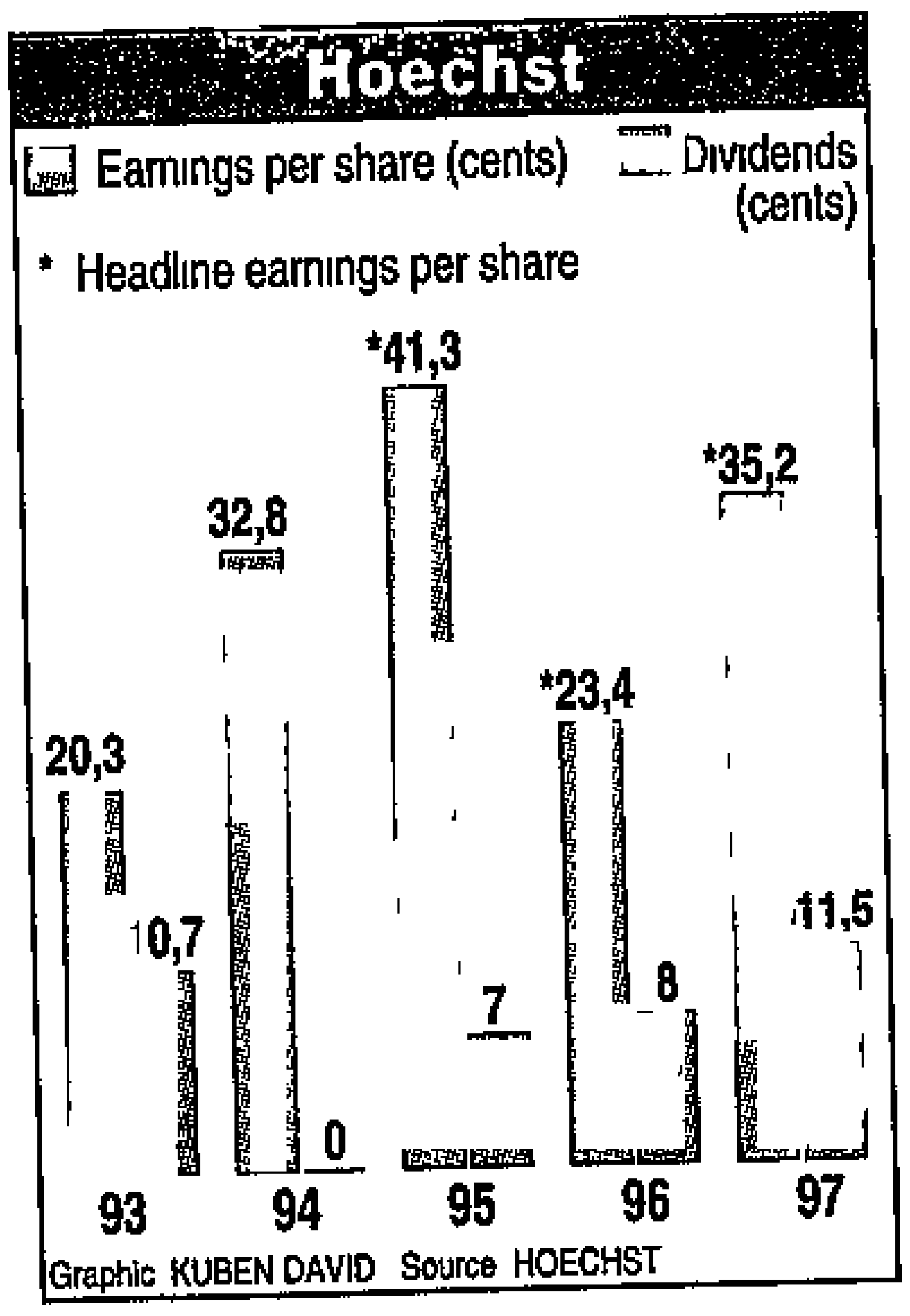
# Battle for Safripol goes to arbitration

**Amanda Vermeulen**

THE battle between chemical companies Hoechst and Dow Chemicals over their joint venture company, Safripol, has gone into dispute and has been referred to arbitration

Hoechst MD Steffen Beuthner said yesterday at the announcement of the group's 1997 results that it had exercised its right — in terms of its shareholding agreement with Sentrachem — to buy the 50% of Safripol held by Sentrachem, recently taken over by US group Dow Chemicals

However, its claim to this stake was being disputed, and the matter had been referred to arbiters Sentrachem spokesman John Counihan said yesterday the group believed it too had certain rights to acquire Hoechst's stake.



Graphic KUBEN DAVID Source HOECHST

Referring to Hoechst's performance in the year to December 1997, Beuthner said the results had been very pleasing Taxed profit surged 120% to just more than R100m, with attributable earnings up 88% to R77m Headline earnings a share were 35,2c (1996 23,4c) with the dividend for the year declared at 11,5c — a 44% increase on 1996 Beuthner said that the results were due to significant improvements in all businesses except for the fibres division, which was undermined by depressed conditions in the international polyester-staple fibres market (183)

The health-care operation saw the benefits of a refocus on its pharmaceutical business following the formation of Hoechst Marion Roussel Restructuring of the speciality chemicals division led to improved efficiencies, higher volumes and better margins and profits

Looking ahead to the 1998 financial year, Beuthner said prospects were positive "However economic conditions in the Far East militate against a recovery in global price levels in the polyester staple fibre markets for the forseeable future, which will continue to hamper the performance of the fibres operation" He said various options to deal with this drain on profits were being considered

BD 31/3/98

with a new drug regulatory authority.

Picture TREVOR SAMSON

# Zuma supports team's recommendations

**Josey Ballenger** (183)

BD 31/3/98

PRETORIA — Health Minister Nkosazana Zuma acknowledged yesterday that she supported the broad recommendations made by a task force to set up a new drug regulatory authority, but denied allegations the move was politically motivated.

Zuma also confirmed media reports that the Medicines Control Council's (MCC's) registrar, Johan Schlebusch, and his deputy, Chrystel Bruckner, had been "on leave" and their jobs "under negotiation" since last Tuesday, despite weekend denials that any action had taken place regarding the MCC's top two secretariat officers.

The minister also said that, after a meeting on Thursday with the MCC, "appropriate measures" would be taken to implement the task team's report

She hoped to have the structure in place by October, and said a freeze on new drug-application processing during the transition would make an exception for medicines that were "critical" for public health.

The Pharmaceutical Manufacturing Association has said that an unreasonable delay of several months could cause companies to take legal action on grounds of "discriminatory practice"

The task force — appointed by Zuma in January and consisting of two international experts on drug regulatory law, a World Health Organisation advisor to the health department and a local academic — revealed last Tuesday its assessment of the MCC's shortcomings and suggested the establishment of a new authority

Speculation has been rife that the task team was biased and that Zuma's motivation to scrap the MCC, a statutory body, was linked to battles with it for not approving anti-AIDS drug Virodene.

But Zuma dashed those allegations, telling one journalist: "You don't expect me to dignify that question with a response, do you? It's absurd The team are internationally accepted and are people whom the MCC respects." Its chairman, Graham Dukes, was suggested by MCC chairman Peter Folb, who has publicly clashed with Zuma over Virodene

"We had enough reason to study the MCC — and now act," she said.

The Inkatha Freedom Party's health spokesman, Ruth Rabinowitz, said the "overhasty" dismissal of the MCC would "cripple medicine control and endanger the public" and that Zuma would be acting in an "irresponsible and misleading way if she uses the report .. as an excuse to disband the present MCC".

Democratic Party health spokesman Mike Ellis said Zuma had "no legal right to unilaterally close down the MCC (which) is established in terms of an act of Parliament" He also alleged Schlebusch and Bruckner were treated "appallingly" and that "unforgivably, Minister Zuma has not spelt out clearly what these officials have done wrong".

Zuma said the task team had recommended the two officials "be shifted" and that "other people will continue with their work until the new structure is in place".

However, she would not confirm or deny media reports that they had been told to take severance packages or face maladministration charges She did not know if the individuals had been locked out of their offices, as has been reported

MEDICINE CONTROL 'WILL BE CRIPPLED'

# Zuma suspends MCC officials

CT 31/3/98 (183)

**JOHANNESBURG:** A call to fire the health minister and claims that she was acting illegally greeted the announcement that the Medicines Control Council was to be replaced.

HEALTH MINISTER Dr Nkosazana Zuma announced the suspension of two senior officials of the Medicines Control Council (MCC) yesterday "for the purpose of effective transformation and restructuring"

Zuma said the MCC should be evaluated in terms of the new political and social dynamics of the country and transformed appropriately If Parliament found it necessary, it would be replaced with a new structure

MCC registrar Mr Johan Schlebusch and his deputy Ms Chrystel Bruckner had been "on leave" from Tuesday last week, she said, and would "not be back to their jobs again when the new body is established"

Negotiations on their removal were under way, Zuma said

A task team set up by Zuma in July last year — which submitted its report to the ministry last week — recommended that the work of the MCC be suspended immediately to pave the way for a new regulatory authority

Among its recommendations was the suspension of the two officials and that one of their positions be done away with in the new structure

Zuma said she had accepted the broad recommendations and hoped to have the new body installed by October The issue would be discussed with the MCC on Thursday

Opposition parties sharply condemned moves to disband the Medicines Control Council

The Democratic Party accused Zuma of handling the matter in an abysmal fashion, while the Inkatha Freedom Party and the Conservative Party said the demise of the MCC would cripple medicine control

DP spokesperson Mr Mike Ellis said Zuma was acting illegally The MCC was set up under an Act of Parliament, and the minister could not simply issue a proclamation to end its existence "The minister clearly does not wish to be bound by law, and was obviously hoping she could act unilaterally to close the MCC "

Ellis said Zuma had not even made an attempt to consult the MCC

**UNILATERAL ACTION:** Nkosazana Zuma

The registrar and his deputy had been treated appallingly, Ellis said

"On Thursday they arrived at work to find they had been locked out of their offices, and that data had been lifted from their computers "

IFP spokesperson Ms Ruth Rabinowitz said it would be irresponsible of Zuma to use the task team recommendations as an excuse to disband the MCC "The minister's over-hasty dismissal of the MCC will cripple medicine control and endanger the public "

CP spokesperson Mr Willie Snyman said the MCC was widely regarded as a competent watchdog over the quality and safety of medicines Zuma should be fired — Own Correspondent, Sapa

# ancis draws uid catches

the fleet immediately into the fishing grounds This was cost-efficient and would result in improved profitability

The developers of the R350 million Port St Francis leisure project, which is scheduled for completion in 2000, said the project was attracting investor interest

Bryan Knox, the director of Port St Francis, said the squid industry was a key catalyst in bringing this development to life

Commenting on industry conditions, Christy said on average about 6 500 tons of squid were caught and processed annually

But the industry still had the reputation of being fairly unstable. There were variations in yearly catches, and environmental conditions like El Niño sometimes wreaked havoc on breeding stock. The cost of entering the industry was also expensive

But Christy was upbeat He said one of association's aims was to see more entrants to the industry, a move that had been encouraged by the proposed Sea Fisheries Bill

The association would also favour industry restructuring, with a close scrutiny of the resource to conserve it and avoid any collapse of the industry

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# ted in euros'

Analysts said European Monetary nion (EMU) now looked assured, with n initial 11 European Union (EU) tates giving up monetary sovereignty favour of the euro

The final decisions on EMU membership and the bilateral exchange ates within the euro are due to be ken in Birmingham, England durg the first weekend in May

The majority of the EU's single arket would therefore operate with single currency, one interest rate nd one common monetary policy, id one analyst.

The financial markets were 00 percent confident that EMU ould start on time, according to another analyst

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# Zuma says medicine panel to go

CT(BR) 31/3/98

**From AFP** 183

Pretoria — Nkosazana Zuma, the health minister, gave her blessing yesterday to plans to scrap the mostly white Medicines Control Council (MCC) and replace it with a new regulatory body

Responding to the proposals of a task force set up in July last year to evaluate the council's work, Zuma said she accepted the report and hoped to set up a new regulatory authority by the end of the year.

Zuma rejected as "absurd" the idea that the calls for the MCC's disbandment were related to a stand-off between the state and the MCC over an anti-AIDS drug

The MCC has repeatedly refused the developers of Virodene permission to conduct human trials of the drug, which contains dimethylformamide, the industrial solvent, and may have severe side effects. Virodene has been touted as a cheap and effective cure for Aids and HIV.

The ANC has suggested that the MCC was acting in the interests of major pharmaceutical companies by refusing permission to test the drug

Zuma said yesterday health authorities were "indeed transforming the health services of the country We need to bring the MCC in line with that."

She welcomed the team's proposal that the new body, to be called the Medicines Regulatory Authority, should be responsible for technical issues while policy matters involving drugs should lie exclusively with the minister

Zuma stressed it had never been her intention to override the decisions of the drugs body, but she was previously quoted as saying she wanted "an enabling law that will allow me to overrule" the MCC

Zuma listed the issue of parallel imports as a policy matter that would lie with her ministry instead of the council.

Zuma will meet members of the MCC on Thursday to discuss the task force's proposals The establishment of a new drugs body would require an amendment to health legislation

# Zuma suspends Medicines Control Council hair

(183) Star 31/7/98

## he's under fire, but health minister digs her heels in and says regulatory body should be transformed

y **Hopewell Radebe**
›litical Reporter

Health Minister Nkosazana Zuma yesterday announced the suspenon of two senior officials of ıe Medicines Control Council or the purpose of transforıation and restructuring".

She said the MCC should be ʼaluated in terms of the new ›litical and social dynamics ˋ the country and transformed ɔpropriately. If Parliament ıund it necessary, the law ould be amended and the ICC would be replaced by a ɜw structure

"Its formation in the 1960s was not meant to be for eternity," Zuma said.

She said MCC registrar Johan Schlebusch and his deputy Chrystel Bruckner were "on leave" from Tuesday last week and "they will not be back to their jobs again when the new body is established".

She said the conditions of shifting the officials according to the recommendations of a task team were still being negotiated and they would remain on leave pending the negotiation process.

Zuma in July set up a task team that began evaluating the MCC in January and submitted a report to the ministry last week.

The task team had also recommended that one of the positions affecting the suspended officials be done away with.

However, opposition parties have blamed Zuma for her move to disband the council and vowed to block her legislation calling for the establishment of a new body.

The Democratic Party said the "demolition" of the MCC was yet another ruthless progression by the minister towards the creation of a medicines control system under her own command.

DP spokesman on Health Mike Ellis accused Zuma of wanting to change legislation to abolish the MCC because it had refused to approve clinical trials on the anti-Aids drug Virodene.

"The legality of replacing this body without amending the legislation is highly questionable. The time has come for President Mandela's ANC Government to choose between hope for a healthcare system that works and the minister of health," Ellis said.

Zuma denied the accusations about Virodene, saying the ministry would discuss the proposals of the task team to transform the MCC on Thursday in consultation with members of the MCC.

She said the ministry would ensure that appropriate measures were taken to "ensure continuity and retention of skills in the work of the MCC".

"After all the processes, we will amend the legislation to provide for the new approach."

She hoped that the new drug regulatory authority to overhaul the system would be in place by October.

Sapa reports that Inkatha Freedom Party spokeswoman Ruth Rabinowitz said the IFP would oppose legislation to enable the establishment of a new regulatory body as this would expose the public to unsafe medicines.

"The minister's overhasty dismissal of the MCC will cripple medicine control and endanger the public," Rabinowitz said.

Conservative Party spokesman Willie Snyman said Zuma should be fired without delay because "scrapping the MCC would have disastrous consequences for the high standards of medical treatment in the country". He said the MCC was widely regarded as a competent watchdog over the quality and safety of medicines.

MCC chairman Peter Folb's office in Cape Town said he was likely to issue a statement today.

DEBBIE YAZBEK

**SOWETAN** Tuesday March 31 1998

# End of the road for MCC – Zuma

(183) Sowetan 31/3/98

**By Mokgadi Pela**

HEALTH Minister Nkosazana Zuma has given her full backing to recommendations by a task team that has called for the establishment of a new Medicines Control Council (MCC) by the end of the year.

Addressing the media in Pretoria yesterday, Zuma said "I have also studied the report and indeed accept their broad recommendations "

She said, however, the recommendation on the MCC would be discussed at a meeting between herself and members of the MCC on Thursday

"Only after that meeting will we be able to take the appropriate measures in this regard Whatever action will be decided upon will ensure continuity and retention of skills in the work of the MCC," Zuma said

The decision would also be a recommendation to the Cabinet

So far, the team has briefed the media and the health portfolio committee of the National Assembly on the contents of the report The team recommended that the present MCC should cease to exist and that "by the end of 1998, an entirely new medicines regulatory authority should be brought into operation, having a simplified structure based on successful models used abroad"

The team, composed of international and local experts supported by senior officials of the Department of Health, started work in January to review the existing process for the regulation of medicines in South Africa and to make recommendations on this and a number of closely related issues

She said the team had also recommended that for purposes of "effective transformation and restructuring, two departmental officials be shifted This is presently being negotiated by the department".

Zuma would not be drawn into further discussions, except to say that both officials were on leave pending the outcome of the negotiations

The officials are director of medicines administration Professor Johan Schlebusch and his deputy Chrystel Bruckner

# Essential questions remain unanswered

## Our country's new order has embraced some some strange attitudes to taxpayers' money as shown by the Emanuel Shaw story, writes **Reinie Booysen**

BD 1/4/98 (183)

CENTRAL Energy Fund (CEF) chairman Don Mkhwanazi's defence, in a nutshell there is nothing wrong with one of the energy sector's most senior public servants paying a pal, who has no track record for the job, R125 000 a month to be a personal adviser, using taxpayers' money — and without the prior approval of the minister concerned

In support of his defence, Mkhwanazi has offered a legal opinion by a senior Durban advocate, Peter Olsen This opinion amplified parts of a document released last week by the CEF's attorneys Qunta Ntsebenza in defence of Mkhwanazi

Among Olsen's reasons for saying that Mkhwanazi has been unfairly criticised are that the old regime used to operate this way, so there is no reason to expect anything different from the new one

Mkhwanazi was found guilty by an internal inquiry, appointed by Mineral and Energy Minister Penuell Maduna, of improperly appointing a Liberian, Emanuel Shaw — with whom he had personal business dealings — as his personal consultant

One of the conclusions reached by the panel conducting the inquiry and chaired by Dick Bakker, the former acting director-general of mineral and energy affairs, was that it was irregular to appoint Shaw on the basis of a budget which, contrary to the Central Energy Fund Act, had not — and to this day, almost a year later, has not — been approved by Maduna.

Not so, said Olsen He noted that subsection 1 (2) of the CEF Act stated that monies paid into the CEF shall be "utilised in accordance with directions of the mineral and energy minister for the financing or promotion" of a list of matters connected with energy affairs

In terms of another subsection, the fund may also be applied to any other object "which has been designated or approved by the said minister with the concurrence of the finance minister"

The Bakker panel recommended that Maduna should declare that the budget item in respect of the Shaw contract was "unauthorised due to the absence of a supporting ministerial directive" and that Maduna should require the CEF "to desist from making further payments on the unauthorised contract"

Olsen challenged this conclusion, saying "It would seem that a practice has developed over time, pursuant to which there is a stream of requests to the minister for directives and a somewhat delayed stream of returned written directives from the minister's office to the CEF, in relation to all manner of matters, including the budget "

Intriguingly, Olsen said: "As far as I can judge from the evidence, this was an inherited practice dating from the period which preceded the new order in SA. The practice may or may not have been derived from an interpretation of the CEF Act "

Olsen argued that because the act also provided that CEF (Pty) Ltd, the company created by the act, "shall be managed and controlled by a board of directors", the act "would certainly not be contradicted if the minister were to give directions as to the projects to which the fund would be applied and leave it to the chairman and the board to carry out those instructions, budgeting as the board deems fit That would be in keeping with the notion that the company is managed by and under the control of the board"

Whether or not this contention is correct is irrelevant

Although it is clear that in Olsen's opinion the Bakker inquiry was procedurally inept and unfair, the central questions in this debacle remain unanswered

☐ Is it right, in the light of the African National Congress's insistence that it stands for transparency in government, that consultants should ever be appointed by ANC politicians and public servants at the whim of the mandarin or politician concerned, without the absolute necessity for open competition? In particular, is it right that a mandarin should ever appoint a personal friend and business associate without any prior competition?

☐ Is R125 000 a month an appropriate reward for such a consultant, particularly in the light of the fact that, in the present matter, it is clear that Shaw has never before done any consulting of note for any substantial, credible oil company — or country, for that matter?

The Bakker panel concluded that the Shaw appointment was improper because it was made by the CEF's acting GM Howard Roberts upon an instruction from Mkhwanazi, who had failed to disclose a personal interest in Shaw's appointment

Olsen challenged this finding. He said Mkhwanazi, in a letter to Roberts, wrote that he would be "grateful" if Roberts could contact Shaw's firm, International Advisory Services (IAS), to arrange a meeting with them

Mkhwanazi said in the letter "the purpose of the meeting would be to invite a proposal from and negotiate a consultancy contract with this firm based on the requirements of this (Mkhwanazi's) office as set out below"

In his evidence to the Bakker panel, Roberts said the letter was "a very significant message from the chairman that I should act in a certain way"

Roberts also said "in looking back", he had the impression "that it was an instruction and what I needed to do was to make sure that it was executed in a procedurally correct manner but that the selection was his prerogative and the way the letter was written, I didn't have discretion except to make sure I advised him correctly with regard to procedure"

Despite Roberts's comments, Olsen stated "in my opinion a proper analysis of what Roberts said leads to a suspicion that, properly investigated, he would not be found to have been overwhelmed by the chairman's request" and he would have been in a position to exercise independent discretion

In another legal opinion — no doubt also bought at taxpayers' expense — from attorneys Qunta Ntsebenza, Mkhwanazi raises the technical defence that there was no need for competitive tendering on the Shaw contract because "being a private company (CEF's) procurement policies are not governed by those of the public service or parastatals"

The Qunta Ntsebenza opinion makes the startling claim that in terms of the CEF's procedures, provided that a contract is within budget and is awarded to a so-called "preferred supplier", there is no need to involve the CEF board in the contract

All that is needed is a written motivation addressed to the CEF general manager

One small concession is made in favour of the board It is normally kept informed once contracts are concluded by means of inclusion in the reports of the general manager

So, in the Shaw matter, Mkhwanazi determined that Shaw would be characterised as a "preferred supplier"

Upon that happening, there was no further need for competitive tendering and furthermore, there was no great need for either the CEF board, or the minister for that matter, to become involved, until very much later, when the general manager made his report to the board, ex post facto and the minister, ex post facto, got around, a year or so later, to approving the budget

Olsen's main finding, however, is merely that the Bakker panel's inquiry was procedurally unfair, and lacking in sufficient evidence

It is worth quoting from his conclusion "I express the view that it would be objectionable to impugn the integrity of Mkhwanazi and the rest of the members of the (CEF) board, not because the proceedings before the panel exonerated (them) from all the charges which have been brought against them in the press and from all the complaints of impropriety mentioned in (ministerial special adviser Gordon) Sibiya's evidence, but because the proceedings before the panel did not establish the truth of any of these allegations."

We are back to square one It is time for a proper inquiry, despite the unseemly length of the inquiry gravy train in this country president has been called to ecutive decision.

spondents — Mandela, Sports Minister Steve Trengove said arg

# MCC payouts may cost millions

(183) BD 1/4/98

**Josey Ballenger**

PAYOUTS for Medicines Control Council (MCC) registrar Johan Schlebusch and his deputy Chrystel Brückner — the council's top two officials who were reportedly told last week to take severance packages or face disciplinary action — could cost the government millions, sources said.

The two officials have apparently not yet taken a decision and have been temporarily replaced by Precious Matsoso, the health department's director of medical schemes, supplies and pharmaceutical services, who is also an MCC member.

Attorney Zenwill Lacob, who specialises in labour law, said that, under the Public Service and Labour Relations Acts, an employee could be dismissed only if he was retrenched, found incompetent or found guilty after going through a disciplinary process

He said if Schlebusch and Brückner were "genuinely retrenched" they would receive compensation for a minimum of one week per year of completed service, plus their pension funds. Alternatively, if they were under contract, they would receive their pension funds and the full balance of the unserved portion of their service agreements.

Schlebusch is said to have been in the public service for more than 20 years, and Brückner for about 18 years.

An informed source in the public service said it was "common practice" for retrenched senior officials to receive their pension funds and the equivalent of five years' worth of future contributions, which would amount to R1m for Schlebusch, 60% to 70% of that for Brückner.

Despite denials at the weekend by the health department, Health Minister Nkosazana Zuma confirmed on Monday the two officials were "on leave" and the circumstances surrounding their jobs "under negotiation".

Zuma said the two individuals would not be re-employed under a proposed new drug regulatory authority and that one of the positions currently occupied by one of the two would be absent from the new structure, which she aims to put in place by October.

Meanwhile, Sapa reports a member of the review team which recommended the scrapping of the MCC, Rob Summers, said yesterday the team was not given the "inside story" on the AIDS drug Virodene.

Briefing the National Council of Provinces' health committee, he said the team had been asked to deal with issues of principle related to the registration and regulation of medicine.

A lot of information had been given to it "inadvertently or indiscriminately" about Virodene, but had not been verified. The team had not tried to explain to the media that its recommendations on the MCC had nothing to do with the recent controversy over Virodene and the MCC's role in dealing with the drug.

Summers said he believed the media was not concerned about the long-term interests of the drug regulatory process in SA.

# Drug council and Zuma to discuss future

(183)

**Josey Ballenger**

BD 2/4/98

THE Medicines Control Council and the health department confirmed yesterday that a meeting would take place in Pretoria today between health minister Nkosazana Zuma, department officials and the council to discuss the recommendations of a task team set up to look at the council's future.

The task team recommended last week that the council be scrapped and a new regulatory body set up in its place.

Council deputy chairman Prof Peter Eagles said Zuma's invitation to the meeting did not include an agenda and that the proceedings were open to speculation

He said the task team's report made a number of suggestions, and the council did not know which ones would be implemented, or how.

Sapa reports a lawyer for senior council officials said they were locked in "serious negotiations" with the health department yesterday.

Rod Harper said his clients — council registrar Johan Schlebusch and deputy Chrystel Bruckner — rejected any suggestion they were guilty of "malperformance" and were ready to take steps to protect their rights.

He gave no details of the talks, but it seems likely they focused on a retrenchment deal for the two officials after their abrupt suspension from their jobs last week.

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# Mkhwanazi quits as CEF chairman, citing 'innuendo and malice'

BD 2/4/98 (183)

**Linda Ensor**

CAPE TOWN — Minerals and Energy Affairs Penuell Maduna has expressed confidence in the board of the Central Energy Fund (CEF) by reappointing all its member for another three-year term — with the exception of chairman Don Mkhwanazi who turned down his nomination.

Three CEF board members — Keith Kunene, Seth Phalatse and Renosi Mokate — were named chairmen of Mossgas, the Strategic Fuel Fund Association and Soekor respectively. The three CEF subsidiaries were given their own boards to enable them to function more effectively.

Nearly 100 nominations for the CEF board were received in response to newspaper advertisements, said director-general Sandile Nogxina.

The appointments, approved by the cabinet yesterday, flew in the face of the findings of an internal panel of inquiry headed by then acting director-general Dick Bakker. The inquiry recommended that the board members not be reappointed when their term of office expired on Tuesday.

The Bakker panel found the board had contravened the precepts of good corporate governance in post facto confirming the appointment of Liberian consultant Emanuel Shaw's company, International Advisory Services, on a R3m-a-year contract. Maduna rejected the Bakker recommendations, arguing the report was contradictory and based on unsubstantiated, subjective views.

At a media briefing on yesterday's cabinet decisions, presidential spokesman Joel Netshitenzhe said the cabinet noted that Maduna had accepted Mkhwanazi's request to decline his nomination for another term of office as chairman. Maduna had offered him the CEF chair again.

In his letter to Maduna, Mkhwanazi said his decision not to seek renomination was in the best interests of the CEF group of companies. "Since November last year the group has been unable to function effectively because of negative publicity and unfounded, but malicious, allegations against me, particularly as chairman."

"I believe that the new board mus pursue its noble task without any bur den of this innuendo and malice Mkhwanazi thanked the cabinet for al lowing him to serve his term of office.

Two new members were appointec to the board — advocate Kathy Naidoo and Simunda Mokwena, chief directo. of energy in the department. Other ex isting members reappointed were Coer Kruger from the finance department and Gordon Sibiya, deputy director general of mineral and energy affairs.

# Future of CEF board remains uncertain

(187)

CT (MR) 2/4/98

**NCABA HLOPHE**

Johannesburg — A cloud of uncertainty hung over the fate of the Central Energy Fund (CEF) board of directors yesterday as Penuell Maduna, the minerals and energy minister, had still not indicated whether he would retain or dissolve the board.

The minister had been expected to announce whether he would dismiss the board or renew its term, which expired on Tuesday, with the same members

The cabinet reportedly took all of yesterday to deliberate on Maduna's proposals about the fate of the CEF board. Meanwhile, individual members issued conflicting versions of the discussions

One member said the board had ceased operating with the expiry of the term on Tuesday while another said the board members had been retained

Another said Don Mkhwanazi, the CEF chairman, had been asked to stand down pending the investigation by Selby Baqwa, the public protector, of allegations that he had received kickbacks from International Advisory Services (IAS) and that another member had been seconded to act in the interim.

However, none of these versions could be confirmed by the minister's office before going to press

The board had come under the spotlight after an internal investigation headed by Dick Bakker had recommended that it should be dissolved because it had failed to regulate the operations of the CEF effectively.

The investigation blamed the board for the award of a R3 million contract to IAS to advise on the restructuring of the CEF, which it found to have been in breach of CEF procedures

However, both the minister and CEF attorney had rejected the findings of the investigation for being a "miscarriage of justice" because they were partial

# CEF contract faces further scrutiny

BD 3/4/98 (183)

**Linda Ensor**

CAPE TOWN — The Office for Serious Economic Offences (OSEO) was investigating a possible criminal aspect to the R3m-a-year contract signed by the Central Energy Fund (CEF) and Emmanuel Shaw's consulting firm International Advisory Services, office director Jan Swanepoel said yesterday.

The bank accounts of former fund chairman Don Mkhwanazi — who this week turned down an invitation to chair the state fuel company for a further three-year term — would be subpoenaed as part of the probe into why the contract was awarded to Shaw's firm.

Confusion reigned yesterday about whether Mkhwanazi was still an ordinary member of the fund board Mineral and energy affairs director-general Sandile Nogxina was emphatic that he was "definitely not on the board", having declined both membership and the chairmanship.

The OSEO was asked by public protector Selby Baqwa to examine possible criminal and irregular aspects to the contract, including whether Mkhwanazi was paid "kickbacks" by Shaw.

The investigation was at an early stage and would involve accountants examining the contract in detail. Baqwa's assistant Tinus Schutte said that it would take several months.

Meanwhile, unsubstantiated rumours of a behind-the-scenes deal between Maduna and Mkhwanazi to allow the latter to leave the fund with his name unblemished circulated with intensity yesterday

Sources in the industry thought it "strange" that about a week before Maduna's announcement of the names of the new board members, Mkhwanazi employed the services of a lawyer who threatened action if the old board members were not reappointed.

Mkhwanazi was reported as saying he would await the report's release before deciding what action to take. He claimed the campaign of vilification against him reflected Maduna's resistance to transformation of the oil industry.

# Medicines council in place for transition

(183) BD 7/4/98

**Josey Ballenger**

HEALTH Minister Nkosazana Zuma and the Medicines Control Council yesterday decided against setting up a transitional body to replace the council but agreed to create a new medicines regulatory authority, even if it meant council members' own positions were in jeopardy in the long term.

However Zuma's spokesman, Vincent Hlongwane, reportedly said last night the fate of council chairman Peter Folb would be decided at a meeting next week. Neither he nor Folb could be reached for comment. Earlier, however, Hlongwane said "Everybody (on the council) remains in place."

The proposal to scrap the interim body, made by a review team last week, means not only that the present council's composition is unchanged until the final authority is in place (aimed for October), but also that SA's drug regulatory system will not be adversely affected in the transition process

Hlongwane said that "concern" about an interruption in drug application processing was the cause for the two sides' agreement.

Opposition parties, the pharmaceutical industry and legal experts had questioned whether existing legislation granted the minister the right to collapse the council and appoint a new body.

They also said a crisis could emerge if drug approval came to a standstill, which the task team had recommended happen for a few months during the transition.

The review team was made up of two international drug regulation experts, a World Health Organisation adviser to the health department and an SA academic.

After a two-hour meeting in Pretoria, the health department said the two parties accepted the "broad recommendations" of the task team's report, which pinpointed council flaws — like poor administration and communication and potential conflicts of interest — and advised creation of a new body, rather than alteration

Hlongwane said the next move would be for Zuma to create "a small transitional task team to look at technical aspects of (implementation)" and to seek cabinet approval. Parliament may need to amend legislation for the change.

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MEC rails over 'abuse'

**FUEL IMPORTS**

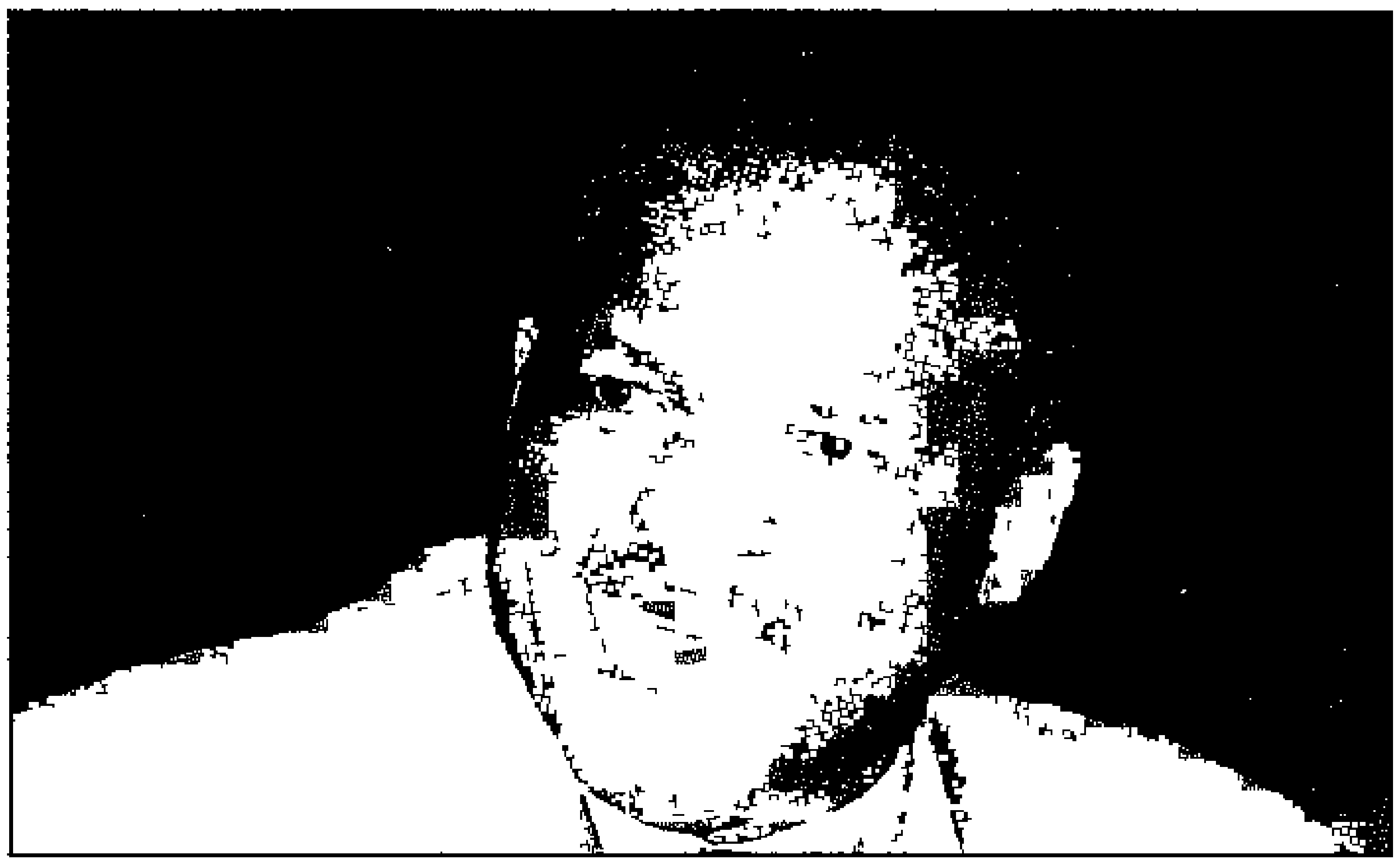
# Maduna grounds cut price jet fuel

## But it's not our fault, says Sasol

(183) FM 3/4/98

The battle to bring down Johannesburg International airport's jet fuel costs — among the highest in the world — has suffered a setback This follows a decision by government that Sasol should continue to have the sole right to act as wholesaler to petrol companies

The campaign to end Sasol's monopoly has been spearheaded by an unlikely coalition of oil companies and airlines And so far they have enjoyed little, if any, success



**Penuell** *Maduna keeping cosy arrangement intact*

The most recent setback came last month when Mineral & Energy Affairs Minister Penuell Maduna turned down an application from the Airline Association of Southern Africa to import its own jet fuel

Maduna's decision ensures that the cosy arrangement responsible for the high cost of jet fuel at Johannesburg International airport (JIA) remains intact

Sasol may not market fuel at JIA but holds the sole right to sell to petrol companies such as Shell, BP, Total, Engen and Caltex, which sell to airlines

The contracted March price at JIA is US$0,62/US gallon, substantially more than $0,48/gallon in London, $0,49 at J F Kennedy airport in New York, and $0,51 in Frankfurt

AASA CE John Morrison, one of the prime movers behind the campaign to reduce prices, says that for the past three years jet fuel prices at JIA have been 25% more expensive than at nearly all airports served by airlines belonging to the International Air Transport Association (Iata)

SA Airways (SAA) which takes 40% of the 264,5m US gallons sold at JIA a year, at a cost of R450m, suffers more than any other airline Andrew Banks, head of its petroleum affairs division, says 12,8 SA cents of every litre goes to Spoornet and Petronet

"If everything was fair and equitable we could save (SA) 7,2c/*l* on transport costs, which translates into R120m/year, at all SA's airports "

Most of the fuel, 80%, used at JIA comes from the Natref refinery in Sasolburg, Free State, which is 64% owned by Sasol and 36% by Total The crude is pumped from Durban by Petronet, the State-owned pipeline distribution network The remaining 20% of jet fuel is refined by Sapref in Durban which is jointly owned by BP and Shell

The cost of transporting fuel to JIA is not based on the relatively reasonable cost of piping it to the airport from Sasolburg, but on the much higher cost of railing it from Durban

Morrison estimates that airlines using JIA are spending R200m-R300m/year more than they should He contends that both Sasol — through its stake in Natref — and Spoornet are "creaming" 20c off every litre

Sasol spokesman Alfonso Niemand says Sasol cannot be held responsible for the price oil companies charge airlines

"We don't market it directly and have no control over the prices or discounts they negotiate," he says

**David Pincus**

# Zuma gives MCC 'new life'

(183)

**JOVIAL RANTAO**

CT 3/4/98

HEALTH MINISTER Dr Nkosazana Zuma has given the Medicines Control Council (MCC) a new lease on life by ignoring recommendations from a ministerial review team that the body should be immediately suspended and replaced by an interim structure

After a meeting with the MCC in Pretoria yesterday, Zuma announced that instead of the MCC being scrapped, a task team would be established to develop guidelines on the structure and the functions of the proposed Medicines Regulatory Authority

# SA's hire and fire practices 'will prevent competitiveness'

(183)([illegible])

**FRANK NXUMALO**
LABOUR EDITOR

CT(MR) 7/4/98

Johannesburg — South Africa's tendency to hire and fire according to the state of the economic cycle would prevent the country from becoming a world-class competitor, FSA-Contact, the human resources consultancy, said yesterday

Hennie Steenkamp, FSA-Contact's senior consultant, said management and the trade unions had to be proactive and creative to "find alternatives to retrenchments, although this may be a difficult task"

He said: "A lack of proper manpower planning, incomplete strategic planning and inaccurate anticipation of economic cycles contribute to the high rate of retrenchments in South Africa.

"It's pointless urging employees to be competitive and world-class, and to give employers their dedication, loyalty and support, if they don't know whether they will have a job in six months.

"Organisations have to look at how to deal strategically with growth. All business processes — including human resources processes — must be managed proactively"

Steenkamp said business had a social responsibility to ensure that ability was not wasted. Despite complaints of skills shortages, highly skilled people, including engineers and technical personnel, were being retrenched.

"Business should not continue to simply do a headcount and retrench people after negotiating a retrenchment package with the appropriate union," he said. "Management and unions have to co-operate and adopt flexible and creative options when dealing with the issue of retrenchment."

Gerrie Bezuidenhout, the Sacob labour spokesman, said the rights of employees had to be balanced against those of employers. He said the hire-and-fire philosophy was no longer realisable in the new South Africa, as retrenchments were now regulated by the new Labour Relations Act.

sREPORT
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NAL FINANCIAL DAILY

Alec Erwin wraps up historic visit but fails to sign general trade deal

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**STRIKING BACK** *Don Mkhwanazi, the former chairman of the Central Energy Fund, speaks of a campaign resisting the effective transformation of the liquid fuels industry*

PHOTO JOHN WOODROOF

# ‘Oil industry an enemy of change’

(183) CT(BR) 3/4/98

**NCABA HLOPHE**

Johannesburg — Don Mkhwanazi, the former chairman of the Central Energy Fund (CEF), announced yesterday that he had been a victim of a campaign that was aimed at diverting attention from the transformation of the liquid fuels industry.

He said that his hardline approach to transformation had earned him a bad reputation among people with vested interests in the industry

“This campaign is part of a broader pattern of resistance to effective transformation of the oil industry, which had remained untransformed until the minister stepped in,” said Mkhwanazi.

He declined to serve as chairman of the fund for another three years after Penuell Maduna, the minerals and energy minister, passed a vote of confidence by reappointing him and his board.

Sandile Nogxina, the director-general of the department, said the cabinet had appointed Keith Kunene, one of the board members, to act as interim chairman

Kunene would become the chairman of Mossgas, while Seth Phalatse would chair the Strategic Fuel Fund and Renosi Mokate would head Soekor

The reappointment of the board ran counter to the findings of an internal inquiry headed by Dick Bakker, then acting director-general of the minerals and energy affairs department, which had recommended that the board be dissolved when its term expired on Tuesday

Mkhwanazi said he stepped down to allow the CEF board to carry on its operations without being dogged by the controversy attached to him as the chairman

“I had to swallow my pride and act in the interests of the board and the country, despite the vindication by cabinet I knew that the controversy would stick and paralyse whatever we did ”

The controversy had hampered progress on the formation of an integrated and state-owned energy company to be listed on the JSE.

Mkhwanazi stood by his position that there was nothing irregular about the appointment of the International Advisory Service to advise on the restructuring of the CEF, and said the Bakker inquiry was a mistake because it was not independent

Bakker could not be reached for comment because he was not answering press queries at the moment, his assistant said

☐ Business Watch, Page 2

# Cabinet finally ends Mkhwanazi's reign

M+G 3-8/4/98 (183)

**Mungo Soggot**

The downfall of state oil chief Don Mkhwanazi this week came after the Cabinet blocked an earlier attempt by the Minister of Minerals and Energy, Penuell Maduna, to keep him at the helm of the Central Energy Fund (CEF)

Maduna tried to persuade the Cabinet that Mkhwanazi, the fund's chair, and his board should be retained when their contracts expired this week, despite the scandal surrounding Mkhwanazi that has rocked the state oil industry Mkhwanazi resigned only after a Cabinet committee ordered Maduna to compile a new list of nominees for the CEF board.

Mkhwanazi's appointment of his close friend, Liberian politician Emanuel Shaw II, as a highly paid CEF consultant, triggered a damning government commission of inquiry which recommended the oil company's board be sacked The public protector and the Office for Serious Economic Offences are also investigating

Mkhwanazi threatened to sue the government if he was sacked. But he resigned just before Maduna asked the Cabinet to endorse him again On Tuesday, the day before the Cabinet met and the day after his last CEF board meeting, he officially rejected his nomination. A Cabinet statement suggested Mkhwanazi had resigned, but his departure was not a prejudgment of the public protector's findings

Maduna — who has consistently backed Mkhwanazi, despite the advice of his top officials — was unavailable for comment this week

The minister did not interview any new applicants for the CEF board Instead, he retained most of the former board members, and appointed his advocate as a new addition

All but one of the old CEF board had stood by Mkhwanazi throughout the turmoil, following the exposure of Shaw's unusual appointment.

Shaw's R3-million CEF contract remains in place until it expires in June, and is unlikely to be renewed

The Director General of Minerals and Energy, Sandile Nogxina, confirmed that the Cabinet committee "referred back the first list because it did not include enough women". Nogxina said the department had not interviewed any of the 100 applicants who responded to an advertisement calling for nominations for a new CEF board He said the CEF Act made it the prerogative of the minister to pick the board

Those who have stayed on include Mkhwanazi's close associate and friend Keith Kunene, who will become acting CEF chair until a permanent replacement is found Kunene has also been made chair of the state fuel-from-gas operation Mossgas which, like the other CEF companies, will get its own board

Mkhwanazi's departure closes the door on a disastrous 12 months for the CEF, which last year appointed its first board since 1994 The scandal over Shaw's appointment came months after a messy squabble over the suspension of the CEF's top oil trader, Kobus van Zyl.

Maduna has spent R2,5-million on a team of accountants, dispatched to find evidence to justify the suspension Van Zyl, who has been suspended on full pay for the past year, has still to be formally disciplined

The investigators have compiled several weighty tomes — including an affidavit from Van Zyl's secretary saying he asked her to remove documents from his safe — after their initial findings threw up insufficient evidence to hang him

Time for a long holiday, PAGE 18

# Suspended council officials in talks with Zuma

(183) BD 8/4/98

**Josey Ballenger**

"VERY sensitive" negotiations were continuing between legal counsel and the health department and lawyers acting for suspended Medicines Control Council registrar Johan Schlebusch and deputy director of medicines registration Chrystel Bruckner, it emerged yesterday

However, neither side could predict when an agreement would be reached.

Webber Wentzel Bowens labour lawyer Rod Harper, who represents the MCC officials, said "some progress" had been made during talks yesterday, but there was "nothing further to report at this stage If the negotiations are not successful, then we will be instituting legal proceedings "

Harper confirmed — for the first time from a source directly involved in the matter — a media report that Bruckner and Schlebusch were told by health director-general Dr Olive Shisana to take severance packages or face maladministration charges.

"There was a threat of a disciplinary inquiry It was absolute nonsense Both Schlebusch and Bruckner contend emphatically that there is no basis for charging them," Harper said "They are seeking industrial justice and they will achieve (that) either through an appropriate settlement or through the courts."

He said talks were "at a very sensitive point".

The health department put the two department employees, who are also the council secretariat's highest-ranking members, "on leave" two weeks ago. To date, the department and Health Minister Nkosazana Zuma have not given a public explanation other than to say they acted on the recommendations of an independent task team to "shift" the two individuals "for the purposes of effective transformation and restructuring".

The task team also called for a new medicines regulatory authority, which Zuma aims to have in place by October After speculation and "concern" among a number of interest groups that the council would be scrapped overnight, Zuma announced last week that current council members would remain on board throughout the transition.

With the exceptions of Schlebusch and Bruckner, the council secretariat has also remained untouched The two officials were temporarily replaced by Patience Matsoso.

# Govt delays response to civil case

**Josey Ballenger**

HEALTH Minister Nkosazana Zuma and four other government officials have delayed filing until June their responses to a civil case brought by the Pharmaceutical Manufacturing Association (PMA) and 41 co-applicants in the Pretoria High Court regarding recent amendments to the Medicines and Related Substances Control Act (183)

Nico Vermaak, the applicants legal representative, said yesterday the two sides had agreed to a time extension for the respondents to file their reply because "it takes time with legislation of this scale, and also because of the number of parties involved".

The other respondents are National Assembly Speaker Frene Ginwala, parliamentary health committee chairman Abe Nkomo, National Council of Provinces chairman Patrick Lekota and Siyabonga Cwele, chairman of the council's health committee

The PMA represents multinational pharmaceutical firms present in SA The co-applicants include some members and their parent companies and one pharmacist in a private practice

Their grievances include clauses empowering the minister to import "parallel" drugs — patented drugs priced differently overseas

BD 8/4/98

(183)

# Ramphele slams ANC's attack on MCC

M+G 9-16/4/98

**Mail & Guardian reporter**

One of South Africa's top academics, University of Cape Town (UCT) vice-chancellor Mamphela Ramphele, has climbed into the African National Congress over its attempts to smear the Medicines Control Council (MCC).

In a startling outburst this week, Ramphele says attacks such as the ANC's campaign against the council — spearheaded by Deputy President Thabo Mbeki and ANC secretary general Kgalema Motlanthe — threaten the country's fledgling democracy "Derogatory labels are becoming a way of silencing criticism "

The MCC has been the target of a string of ANC volleys in recent months, triggered by the council's staunch opposition to the government's attempt to promote the Aids drug Virodene Minister of Health Nkosazana Zuma has been a firm supporter of Virodene, even arranging for its scientists to get a private hearing with Cabinet early last year

But the MCC has stymied her efforts to fast-track its development, insisting Virodene scientists stick to accepted research rules before moving to trials on human guinea pigs

Virodene's main ingredient is a harmful industrial solvent, DMF Recently Mbeki publicly threw his weight behind Virodene, and against the MCC

In lengthy articles syndicated across the weekend press last month, the deputy president accused the MCC of stubbornly ignoring international opinion on the Virodene protocol "The council has, with powers to decide who shall live or die, also denied dying Aids sufferers the possibility of mercy treatment to which they are morally entitled .. The cruel games of those who do not care should not be allowed to set the national agenda "

Motlanthe claimed the council was "playing God" by blocking clinical trials on Virodene. He also accused MCC chair Profesor Peter Folb and his council of having a vested financial interest in obstructing at attempts to get Virodene to the masses

"I utterly reject such insinuations," Ramphele told the latest edition of UCT's campus newspaper, the *Monday Paper* "They are not only defamatory, but dangerous in a country trying to establish itself as a young democracy."

*Monday Paper* also comments that other accusations from "official quarters . ranging from racism to being motivated by commercial interest" have been levelled against Folb and the rest of the council

The council, set up in 1965, is to be replaced later this year with a new regulatory authority, following a review ordered by Zuma. Ramphele stresses that she has no problem with moves to transform the MCC, but that the most successful elements of the council should be retained "The key role of an independent, statutory watchdog such as the MCC is to protect the interests of the poor," Ramphele says "Professor Folb and his colleagues have taken this role very seriously "

Zuma's office responds that the minister has "confidence in all the members of the MCC" The minister also has no evidence to suggest "that they've got any commercial interest or that they're racist", her representative, Vincent Hlongwane, says

He adds that he does not think anyone in the government, including Mbeki, has ever levelled such accusations against the MCC But anyone within the ANC that has made such claims "is entitled to their opinion."

Ramphele and Folb were unavailable for comment

# Folb ‘reassessing’ his future on medicines control council

**Josey Ballenger** (183)

BD 14/4/98

MEDICINES Control Council chairman Peter Folb was evaluating whether he should go on serving on the council as a “matter of public concern”, sources said last week

Sources close to the council said they were concerned the public had lost its confidence in the body and particularly in Folb, whose name has been constantly dragged into the public arena as the council’s only designated spokesman

They said Folb was in talks with Health Minister Nkosazana Zuma last week and was seeking resolution on a number of issues.

Zuma’s spokesman Vincent Hlongwane said Folb and Zuma would meet next week, when the minister returned from Japan, to discuss issues relating to the council’s and the ministry’s work

Hlongwane said a member’s decision to remain on the council “is voluntary” He declined to comment further, saying he would “not talk about an individual within a structure I am not going to reduce this debate to that level ”

The uncertainty of Folb’s future comes despite assurances by Zuma two weeks ago that all council members would remain on board until a new medicines regulatory authority was established, aimed for October, and that they were “trusted”

The members’ fate on the new authority, however, is not known at this point and will be determined by the minister

Sources say council members, especially Folb, already feel uncomfortable after insinuations and accusations by the health department and the African National Congress, including Deputy President Thabo Mbeki, that the council opposed purported AIDS drug Virodene as its members had links to rival pharmaceutical companies or a racist agenda

**PETROLEUM INDUSTRY** *New association plans to drive 'a radical empowerment programme'*

# Black oil firms quit Sapia

(183)

CT (BR) 14/4/98

**NCABA HLOPHE**

Johannesburg — Emerging oil companies and retail operators, which have slammed multinational oil companies for resisting transformation, would launch a new association to drive a radical empowerment programme, said Moses Molele, the chairman of the new association

Molele said black groups had rejected restructuring programmes run by the South African Petroleum Industry Association (Sapia), a representative body of the multinationals, and would form the African Minerals and Energy Forum (Amef)

Amef has yet to be officially launched, but it will consist of three black oil companies, 450 service station operators belonging to the National African Black Fuel Retailers' Association, small and medium mine operators and electricity companies

"Sapia is an exclusive organisation dominated by the multinationals and fails to address our needs We question its commitment to transformation," Molele said

**EQUAL TERMS** *Moses Molele, the chairman of the newly formed African Minerals and Energy Forum, said Sapia's empowerment commitment was 'mere talk show'* PHOTO JOHN WOODROOF

He said it was disappointing that multinationals had not listed on the JSE to give the majority of South Africans the opportunity to buy and own shares

"Our country is just being used, raped of its resources by these multinationals who have the right to repatriate their profits to their respective countries," Molele said

He said participation, with an entry fee of R1,5 million, was still expensive for blacks He rejected the recent amendment of the Sapia constitution to facilitate the entry of blacks as "mere talk show"

Molele said Amef would lobby and put pressure on the government and the industry to give blacks participation not only in retail operation but in ownership, distribution and refinery operations

He said emerging groups were opposed to deregulation because it was likely to wipe them out Instead, they would call for re-regulation to "level the playing field"

Molele accused the multinational companies of abusing the constitutional protection of assets by claiming quotas, property and market share that had been wrongfully acquired during the apartheid era

"The industry is refusing to share with us," Molele said "Show me a service station in Midrand and Houghton that is owned by a black person Their agenda today is still to condemn us to poor rural areas where volumes are low"

He said the government would also be lobbied to consider using state energy assets to accelerate the empowerment of black people

# Petrol industry players to meet on transformation

(183) BD 15/4/98

**Amanda Vermeulen**

THE SA Petroleum Industry Association (Sapia) and its black business counterpart, the African Minerals and Energy Forum, plan to meet to find ways to achieve common goals in the oil industry

This follows allegations by the forum — formed earlier this year to represent the interests of black oil companies and operators — that Sapia was not doing enough to promote transformation in the oil industry and the wider participation of black business

Sapia executive director Colin McClelland said yesterday the two organisations agreed to meet to discuss the issues facing the industry

Media reports said black oil companies had withdrawn from Sapia, but McClelland said this was inaccurate as they had never been members in the first place. The forum's chairman Moses Molele could not be reached for comment yesterday.

Sapia lowered the barrier of entry to membership to the organisation late last year by changing its constitution, making membership fees for small and emerging oil companies R16 500 annually

Established oil groups pay R300 000 to R400 000 in membership fees each year, and not R1,5m as reported this week

Sapia has been in discussions with black oil companies for about a year to look at ways of resolving the empowerment issues besetting the industry.

Black oil companies account for only 3% of industry turnover, with the biggest player being Zenex Oil

McClelland said Sapia members agreed not to bid for the quota of new petrol stations in the next two years, amounting to about 78 sites. This would be done to allow only black businesses to bid for the sites.

In return, the big oil companies requested to be allowed to continue to relocate those outlets already allocated to them in case of road closures or other unforeseen events.

Sapia agreed to assist emerging black companies in their distribution by providing certain services to them which otherwise would have been too costly to establish themselves

A new refinery, for example, would cost in the region of R10bn, McClelland said These proposals had not been agreed upon yet by the black companies in talks with Sapia

He said Amef's allegations that Sapia had failed to address its needs were "unfair" in the light of the progress already made and the nature of the industry

"The oil industry world wide is dominated by a few large players, who have not shown themselves to be willing sellers in SA. They want to help black companies, but doing so will mean they are helping the competition "

# US bids to soften terms of its Africa trade bill

CT(MR) 15/4/98 ([illegible]) (187)

**Peter Fabricius**

Johannesburg — Some of the congressional sponsors of the US's controversial Africa trade bill were discussing ways to soften the language of the bill to make it more palatable to African countries, said Rosa Whitaker, the assistant US trade representative for Africa, in Johannesburg yesterday.

Whitaker is visiting South Africa to try to win greater support for the bill and for the Clinton administration's parallel initiative to boost trade and investment between the US and Africa.

She recently attended the Organisation of African Unity's (OAU) ministerial meeting in Harare, and said OAU members had expressed reservations about the conditionalities of the Africa Growth and Opportunity Act.

But she said that once she had explained some of the "misconceptions" about the bill, they had confirmed the OAU secretariat's endorsement of its principles.

The bill aims to promote trade and investment with Africa by measures including the lowering or elimination of US tariffs for a wide range of African products

It offers unique duty-free access to the US market for African textile and clothing exports from countries that meet specified conditions — essentially to do with liberalising their economies and protecting foreign trade and investment.

During Clinton's recent visit to South Africa, President Nelson Mandela bluntly told the US president that the bill was "unacceptable".

Whitaker said yesterday: "We really don't have conditionalities as such. What we have are general eligibility requirements which represent the global best practices for attracting trade and investment."

**UNDER FIRE** *Health Minister Nkosazana Zuma's new laws are worrying US drug makers*

She said there was discussion among some of the sponsors of the bill "to rephrase it in a way that does not raise the ire of African countries"

She pointed out this was a unique trade bill because the US was offering African countries enhanced tariff reductions without demanding reduced tariffs for entry of US goods into Africa.

Whitaker said she had held "extensive" discussions with Health Minister Nkosazana Zuma this week about the row between the US and South Africa over Zuma's new legislation which permits the import and use of generic medicines.

US pharmaceutical companies have complained that the bill violates their patent rights

Whitaker said the discussion was "constructive", but could not say any progress had been made towards a compromise She said the US agreed with Zuma's goal of providing affordable healthcare and to equalise access to it, but did not believe it was necessary to impinge on intellectual property rights of medical manufacturers to achieve these goals — Independent Foreign Service

# Petroleum companies offer olive branch

(187)

ET(DR) 15/4/98

**JONATHAN ROSENTHAL**

INDUSTRIAL EDITOR

Johannesburg — South Africa's established petroleum companies had offered to give emerging black-owned petroleum companies all the 78 new service station licences to be issued over the next two years, the industry association said yesterday.

The South African Petroleum Industry Association (Sapia), representing most large oil companies operating in South Africa, made the offer public yesterday. The announcement follows an attack by black-owned oil companies on multinational oil groups for resisting transformation and their announcement of plans to establish a rival association.

Colin McClelland, the director of Sapia, said it was understandable that black and emerging companies wanted their own voice, as there were still substantial differences over the pace of change.

But he said Sapia's members shared a vision of greater black involvement in the industry. The body had proposed several initiatives in line with this vision. These included an offer to provide refined petroleum products to any emerging company anywhere in the country.

McClelland denied the allegation that established companies were resisting transformation. Sapia had been negotiating with black-owned companies for nearly a year on mechanisms for empowerment, as well as facilitating black membership of Sapia.

He said Sapia had revised its constitution and reduced its membership fees to a minimum of R16 500 a year for small petroleum retail companies.

McClelland said Sapia's members had also offered to forego all new service station licences in favour of black emerging companies, provided the established companies could retain flexibility over existing service stations.

# Sasol plans Nigerian plant

CT (BR) 16/4/98 (183)

**Staff Reporters**

Johannesburg — Sasol, the fuel-from-coal producer, would begin design and engineering work on a diesel-from-gas plant to be located in Nigeria, the group said yesterday

Alfonso Niemand, Sasol's communications manager, said it was too early to put a value on the planned plant, but that a similar sized fuel-from-gas plant in Qatar was expected to cost about $500 million

Sasol said it had reached an agreement with Chevron, the US petroleum group, to pool resources on the 20 000 barrels-a-day Nigerian venture

Niemand said both parties had found the results of a technical and economic evaluation promising but added that a decision on whether they would build the plant could still be a year away

He said the plant would make use of Nigeria's extensive gas reserves, which are located with its oil reserves and are largely flared or injected back into the oil wells. The plant would be located about 240km southeast of Lagos

# Massive merger could see AECI up in smoke

(183) ST(BT) 19/4/98

## A mega-deal in the chemicals sector is in the offing, writes MARCIA KLEIN

A MASSIVE merger of the chemical and oil interests of Sasol and Anglo American Industrial Corporation, which could lead to the dissolution of Amic's explosives and chemicals subsidiary AECI, is on the cards

Sasol, Amic, AECI, Chemical Services and Polifin issued a joint cautionary announcement on Friday, saying they were in talks, but gave no further details

Amic holds 52 6% of AECI, which in turn holds 65 9% of Chemserve and 40% of Polifin Polifin is also 42% held by Sasol, the R16-billion synthetic oil giant

Analysts believe the cautionary relates to a merger along the same lines as the recent merger of the financial services interests of RMB Holdings and Anglo, which included RMB, Momentum, Southern Life and FNB

Sasol has a market capitalisation of almost R29-billion, AECI R3-billion, Polifin R4-billion and Chemserve R1 2-billion A merger would leave only a few other small chemical and oil companies, like Hoechst, Dow Chemicals and Omnia, outside of the Sasol/Amic net The deal has been lodged with the Competition Board

It is believed Amic will sell its interests in AECI, Polifin and Chemserve to Sasol in exchange for a stake in Sasol This is in line with Amic's stated intention of disposing of non-core assets It is not clear what will happen to the listings of AECI, Polifin and Chemserve or whether there will be an offer to minorities in these companies, but there are strong rumours that AECI will be unbundled and disappear

AECI rose 200c on Friday to close at R26 Analysts say the deal could be struck at around R28, placing a relatively high value on the underperforming company

Amic finished Friday unchanged at R159, and Chemserve was also unchanged at R17 50. But Polifin gained 140c to close at 910c and Sasol closed 60c higher at R50 60

It is not clear what benefits Sasol would derive from such a deal, other than AECI's fertiliser and explosives interests In addition, it would end up with a larger stake of the highly-regarded Polifin

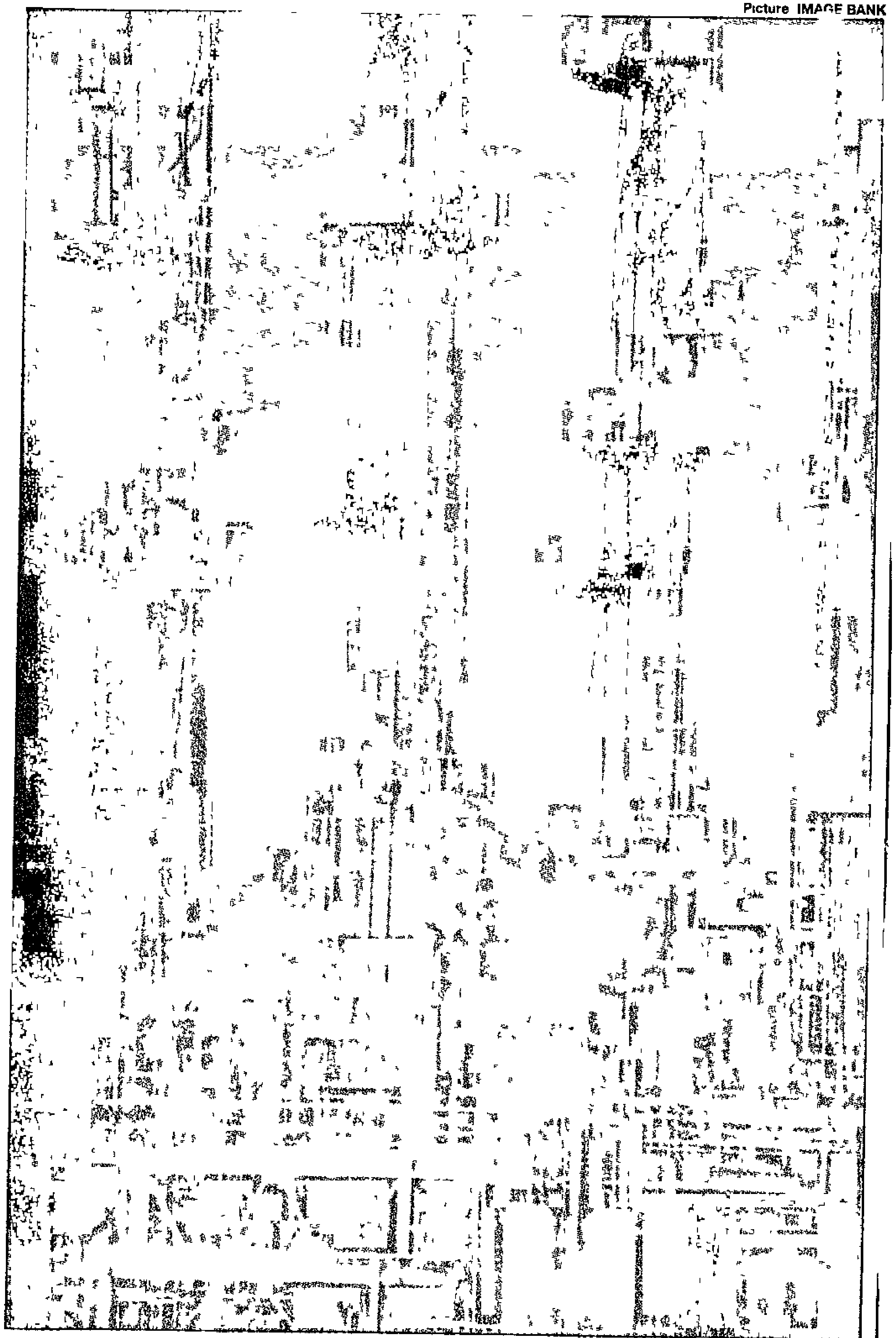
One analyst says Sasol is looking to expand its chemicals interests and has the cash to do so At the June year-end, Sasol had R2 4-billion cash on hand Cash balances were R1 2-billion at the December interim.

An analyst estimates it will cost Sasol an estimated R4-billion to buy out AECI, including minority interests

In the year to December, AECI reported 14% lower earnings of 237c as subsidiary Kynoch's operating profit dropped by almost R190-million About 70% of AECI's operating profit is derived from Chemserve and Polifin One analyst says "This is very much the case of the tail wagging the dog The rump of AECI is not performing "

When the AECI results were published in March, Amic said it may sell off non-core assets Polifin, reporting interim earnings to end-December, lifted attributable earnings 6% to R278-million on 12% higher turnover of R2-billion Chemserve reported 24% higher earnings of 101 2c a share on 28% higher turnover of R1 4-billion

Picture IMAGE BANK



**TOWERING SYNERGIES** Sasol, Amic, AECI, Chemserve, and Polifin set to tie up

# Major chemicals merger expected

BD 20/4/98 (181)

**Amanda Vermeulen**

A CAUTIONARY notice published last week, signalling talks between Sasol and Anglo American Industrial Corporation (Amic), has sparked speculation that Sasol will buy Amic's 52,6% stake in AECI as a first step to merging Sasol and AECI's chemical interests.

Sharp share price movements and large volumes traded in AECI on Thursday ahead of the cautionary notice have prompted the Johannesburg Stock Exchange to launch an inquiry into possible insider trading Double the normal volume of AECI shares traded on Thursday, with the share gaining R4 to close at R24

Analysts said Sasol would acquire Amic's stake in AECI to offset the effects of the changes in tariff protection, and to expand its interests in the chemical business — a move in line with its previously stated intentions In return, Amic might take a stake in Sasol.

AECI contributes about 10% of Amic's earnings. One analyst said a decision to dispose of it could be prompted by Amic's plan to hive off noncore businesses. This was in line with parent Anglo American's strategy to focus only on core businesses

A recent example was the merger of Anglo's interests in Southern Life and First National Bank with those of the Rand Merchant Bank group

While some analysts said the Sasol-AECI deal could be similar, with Amic and Sasol forming a joint chemicals venture, others said it was likely to be outright disposal of AECI to Sasol

AECI's chemical interests are a 40% stake in Polifin (in which Sasol also has a 42% stake) and 65,9% of Chemserve Both counters are tightly held, giving them a low liquidity

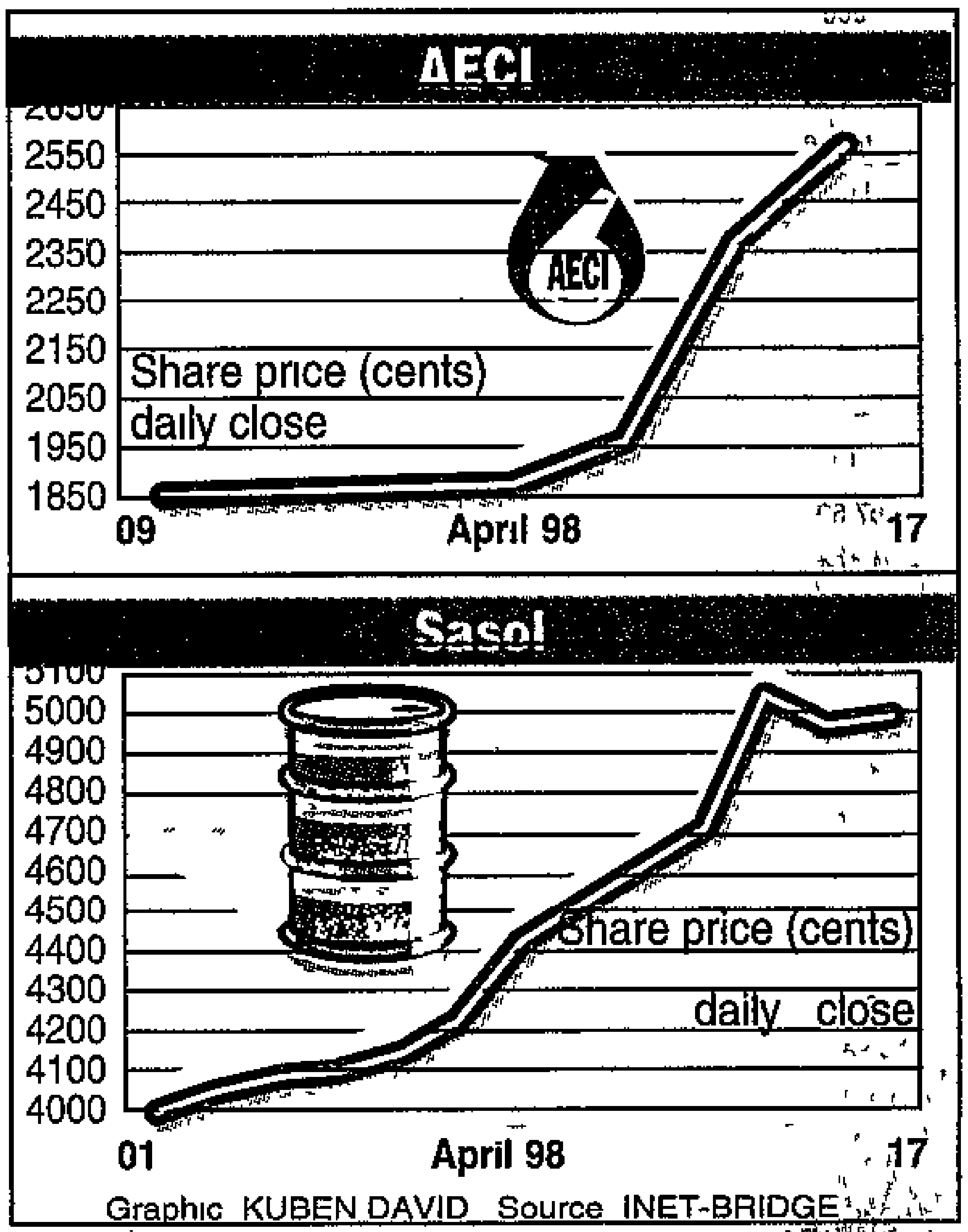
One analyst said Sasol could buy AECI, make an offer to its minorities and then delist the group and unbundle it to shareholders This would flatten the ownership structure, and could improve the liquidity of both Chemserve and Polifin — which would remain listed

AECI's chemical operations would be rationalised with those of Chemserve and Polifin, giving Sasol about 70% of this market The explosives operations would also be rationalised.

The Competition Board confirmed on Friday that it had been approached by the negotiating parties about the dominant position a merger or acquisition would give Sasol

A deal would have significant benefits for Sasol The R16bn-a-year synthetic oil group is keen to increase its share of the ammonia market

AECI had an ammonia plant at its Modderfontein site, which would be a big drawcard for Sasol, one analyst commented SA is a net importer of the chemical



Graphic KUBEN DAVID Source INET-BRIDGE

# Panelist recuses herself at start of Kluever probe

(183)

**Louise Cook**

BD 21/4/98

PRETORIA — A member of Public Protector Selby Baqwa's panel probing alleged irregularities by Auditor-General Henry Kluever recused herself on the first day of hearings yesterday

Zodwa Manase of the auditing firm Manase & Associates left the panel following an application by Kluever that she be let off as Mineral and Energy Minister Penuell Maduna had appointed her to Soekor's board of directors earlier this year

Eberhard Bertelsmann, counsel for Kluever, said although Manase declined the Soekor appointment, she did this only after objections and when it became apparent she would be in "an intolerable position" Manase withdrew, saying she did not want the hearings delayed any further on her behalf.

# CEF inquiry starts with hiccup

ET(BR) 21/4/98 (183)

**NCABA HLOPHE**

**ACCUSER** *Penuell Maduna, the minerals and energy minister, whose suspicions led to the inquiry* PHOTO JOHN WOODROOF

Johannesburg — The inquiry into the alleged cover-up by Auditor-General Henri Kluever over missing monies from the Central Energy Fund got off to a false start yesterday as the composition of the public protector's team came under fire from Kluever's attorneys They claimed one of the panellists was partial

Advocate Eberhard Bertelsman, Kluever's attorney, called on Zodwa Manase, one of the auditors serving on the panel, to recuse herself because she had been appointed a board member to Soekor, a division of the Central Energy Fund (CEF)

Subsequently Manase stepped down from the public protector's panel in the interests of a fair and speedy resolution of the inquiry

The inquiry was set up at the behest of Parliament last year after Penuell Maduna, the minerals and energy minister, accused Kluever of failing to disclose that R170 million was missing from the CEF

He implied that Kluever might have played a part in the cover-up by not disclosing this in his annual report Kluever responded that the R170 million was merely a book loss resulting from the devaluation of stock

Bertelsman argued that Maduna had appointed Manase early this month after her auditing firm, Manase and Associates, had been appointed to assist in the inquiry in October last year

"The fact that one of the members of the tribunal has accepted a directorship of a state-controlled company through offices of the minister cannot but impugn her own independence in the eyes of the public," Bertelsman said

"It is for this reason and in the public interest and integrity of the public protector's inquiry that Manase or any person attached to her firm must be withdrawn from the panel," he continued

Selby Baqwa, the public protector, said that the inquiry would continue today and not be affected by Manase's withdrawal

**MINERAL & ENERGY AFFAIRS**

FM 24/4/98

# Will he squeeze the ooze out of oil?

## Maduna to propose sweeping changes to industry

(183)

Minister of Mineral & Energy Affairs Penuell Maduna may this week become the first ANC minister to genuinely embrace liberalisation as a prime condition for black economic empowerment Where much so-called BEE has taken place within the rules and regulations of old SA business practices, Maduna wants to present to Cabinet a Green Paper that suggests ways to sweep away decades of regulation in the industry

His decision in principle to go hard for deregulation has startled an industry that had expected him to opt to re-regulation and to simply introduce new rules aimed at promoting black empowerment in the industry

"This is a bombshell," says one analyst

Maduna's blueprint would herald the end of decades of a complex regime designed to create self-sufficiency during an era when SA was handicapped by a worldwide oil embargo It will also have far-reaching consequences for the country's six major oil companies — BP, Shell, Caltex, Total, Engen and Zenex, synthetic fuel producer Sasol, the future of 5 000 retailers (about 60% of whom are independent operators) and 50 000 pump attendants, the petrol price, and black empowerment

SA's petroleum industry has survived, and sometimes prospered, under a set of heavy regulations that allow government to set the petrol price and the profit margins of all the players in the supply chain — including wholesalers and retailers Added to this are a number of agreements between government and the petroleum companies that ban self-service and limit the number and growth of retail sites

But Maduna wants to put an end to all of that In an interview with the *FM,* he said "My vision is to see the State play a minimal role in the industry within five years' time The State will be confined to creating a legal regulatory system to ensure that there are proper standards and norms

"We could not postpone making a decision (on the industry's future) forever We have now decided to bite the bullet, to deregulate the entire industry "

Maduna makes no apologies for making this decision nearly two years after he took over the ministry "You must understand that I could not just walk into the department and say that I would deregulate the industry

"I was constrained by the fears of labour that jobs will be lost We are now looking at the implications of deregulation, and the time-frames and processes we will adopt Deregulation will be done in a way that suits our unique SA conditions and does not cause unnecessary disruptions

"I am satisfied with the current product (Green Paper) and am ready to take it to Cabinet "

Maduna believes the consequences of deregulation will be positive for the country "We are guided by government's Growth, Employment & Redistribution strategy and the Reconstruction and Development Programme Our policy will create a freer market condition There are many people, including black and foreign investors, who want to participate in the industry at levels above the retail level

"Deregulation will create opportunities where none existed before and attract new investment Hopefully, it will also result in lower prices (for the consumer) as a consequence of increased competition This is not a campaign against existing players in the industry I admire their commitment to the industry, but there is a need to open space for others to participate in the industry "

Though details of Maduna's plans are not yet clear — "I cannot talk to Cabinet through your magazine" — his comments came as a shock to most industry analysts

"This is astonishing There has been no indication whatsoever that the Minister would decide on deregulation When he first became Minister, in July 1996, he came out strongly in support of deregulation Subsequently, his statements suggested that deregulation had been pushed off the table," says one who was close to the process of drawing up the Green Paper

Another analyst points out that Maduna could be opening up a Pandora's box "There is no halfway house on the way to deregulation It is like a set of dominoes Every regulation impinges on other regulations He will

*Penuell Maduna . believes the time has come to bite the bullet*

Robbie Tshabalala

PHARMACEUTICAL INDUSTRY

# Face-twisting dose of harsh medicine

(183)

Producers tighten belts as generics hit the market

FM 24/4/98

The pharmaceutical industry is bowing to pressure from powerful market forces which are squeezing volumes and margins

Consumer have the most to gain in this price-sensitive environment while the industry rallies to form new alliances and strategies to cope with the increased competition

Two main forces are driving the market — cost-cutting by the medical aid industry through the introduction of managed health care, and a marked shift away from original (ethical) medicine to generic drugs — copies of original drugs whose patents have expired

The private-sector generics market grew 13% by value (in real terms) over the year to February 1998, while the market for originals hardly changed over the same period

Local generics manufacturers should gain from the swing to cheaper generics, but it is bad news for the multinationals that produce original drugs

Generics are up to 60% cheaper than original drugs and margins are far tighter in this market Therefore a large shift to generics can be expected to reduce the overall medicine bill markedly This is a windfall for the consumer, provided these savings are passed on by medical aids and pharmacies

The consumer was the winner in a price war sparked last month by the entry into the SA market of the new generic antimalaria drug, Mefliam Swiss multinational giant Roche slashed the price of its ethical product, Lariam, by 47% to compete — a move its competitors estimated would cut virtually R4,5m/year off Roche's bottom line (*FM Focus* March 13)

*Robbie Tshabalala*

***Daryl Kronson*** *Adcock Ingram's generics sales up by 50%*

Generics will be in even greater demand when Health Minister Nkosazana Zuma's sweeping legislative changes, aimed at cutting medicine prices, kick in

The Medicines & Related Substances Amendment Act was enacted late last year but is on hold pending legal challenges The Act makes generic substitution all but mandatory and allows for cut-price imports of international brands marketed by multinationals

Patients, too, are fed up with spiralling medical inflation and are beginning to demand cheap generics

With medical inflation having consistently outstripped the Consumer Price Index since the late Eighties, medical schemes are also desperate to cut costs and are turning to managed health care

Managed care is a US cost containment strategy which requires the medical aid company to monitor and manage the cost, amount and quality of care every member receives to ensure that the treatment dispensed by doctors and hospitals is cost-effective and necessary If, in the medical aid's opinion, it is not, it may refuse to pay

Using managed care techniques, medical aids are trying to restrict doctors to dispensing only cost-effective drugs on preferred drugs lists and are encouraging them to use generics where possible

The State is doing the same to contain public hospital costs through the introduction of an essential drugs list, made up largely of generics

The Health Department has made no secret of its intention to scour the world for cheaper bulk supplies of drugs for public hospitals Some local manufacturers have cut their prices to below last year's levels — barely covering their costs — to fend off foreign competitors for massive State drug tenders

SA Druggists' pharmaceutical division, Pharmacare, is the largest supplier of generics to the State Pharmacare CE Kobus Nel says he is not concerned about the prospect of increased foreign competition, but he fears a provision in the Act that allows for the fast-track registration of imported generics under certain circumstances He says that if this provision is used widely, and not just in extreme circumstances, it will mean local manufacturers will be at a disadvantage when competing against imports

Even though the generics market is taking off, the industry as a whole has had a hard year The 1997-1998 pharmaceutical statistics bear the hallmarks of a downturn

The total volume of medicine sold to retail pharmacies by wholesalers shrank for eight consecutive months to February this year (see graph), and in December there was even a nominal decline in the rand value of that medicine The indicators improved in January and February this year, but researchers say this is a seasonal phenomenon and the overall trend is still downward

The latest medical aid industry figures also reveal a decline in medical aids' expenditure on medicine — probably as a result of managed health care and other innovations, like medical savings accounts

According to the newly released Representative Association of Medical Schemes 1996 data, annual increases in the industry's expenditure on medicine have slowed from a high of 45% in 1992 to 14% in 1995 and 11% in 1996

It is a bleak picture for the pharmaceutical industry, which has become accustomed to annual industry growth rates of 10%-15% since 1994

Deutsche Morgan Grenfell pharmaceutical analyst Peter Armitage forecasts a "dismal year" for the pharmaceutical industry, with volumes down across the board "We are not going to see any new investment in the SA industry and could possibly see companies scaling back on R&D expenditure"

Mirryena Deeb, CEO of the Pharmaceutical Manufacturers' Association (PMA), which represents the large multinational pharmaceutical companies, says "I don't think we are feeling the downturn yet, but there is a sense that things are going to get worse The key thing for manufacturers, particularly those with production facilities in SA, is to keep their volumes up"

Pharmacare's Nel estimates that the market for ethical drugs will shrink from 83% (by value) of the private prescription market to 71% by 2001-2002 because of the shift towards generics and managed health care.

To add to their woes, the multinationals may also have to contend with parallel importation, though the PMA has vowed to fight this provision of the Act for all it's worth. The Act allows government to import international branded drugs from any parent factory in the world where they are cheaper than in SA.

The PMA and nearly 50 co-applicants are contesting this provision on constitutional grounds. The State is opposing the challenge and the matter will go to the Pretoria High Court later this year.

As the Act is on hold pending the court case and no regulations governing parallel importation have been published, it is unclear whether SA will be flooded with cheap (and possibly counterfeit) imports of international brands, or whether the Health Ministry will apply the provision selectively.

Zuma has said she will make use of parallel importation only if local manufacturers' products are too costly by international standards and they refuse to drop their prices.

Either way, there is no doubt that the Act will put pressure on the multinationals to become more efficient in a price-sensitive environment. Deeb expects a spate of mergers and partnerships as the industry is forced to become more competitive.

"Manufacturers will intensify their efforts to form new alliances and enter into joint distribution, manufacturing and marketing agreements."

An example is International Healthcare Distributors (IHD), a jointly owned distribution venture of the research-based manufacturers Bayer, Boehringer Ingleheim, Bristol-Myers Squibb, Eli Lilly, MSD, Novartis, Roche, Schering and Wyeth SA.

In order to reduce the cost of medicine to the consumer, IHD distributes its medicines directly to the retailer, bypassing the wholesaler.

The challenge for multinationals is to develop new original drugs ahead of the competition as off-patent drugs are quickly replaced by generics. This is why the industry is up in arms over Zuma's dissolution of the Medicines Control Council (MCC) and the threat that all new drug applications will be put on hold until a new regulatory authority has been established. The PMA fears that it could take the new body two years to build up the same standards of expertise as the old MCC had.

**Kobus Nel** *local manufacturers could suffer from imports*

*Robbie Tshabalala*

While the multinationals are fighting their battle in court, the field is wide open for SA's large generic manufacturers — SA Druggists (SAD)'s Pharmacare and Adcock Ingram — which together control about 58% of the generics market.

SAD and Adcocks are best placed to take advantage of what's happening. Both are listed on the JSE and analysts expect their share prices to benefit from the changes taking place in the industry.

Over the year to December 1997, Pharmacare gained market share in terms of both value and volume. Nel says this will accelerate once the legislation applying to generic substitution is fully implemented.

"No doubt there will be pressure on margins across the board, but then our volumes will be up," he says. "If you are not growing market share in a situation like this you are in trouble."

Nel estimates that the generics market will grow from about 17% of the private pharmaceuticals market (by value) to almost 30% by 2001-2002 and from about 20% to 50% of the public-sector market over the same period.

Adcock financial director Daryl Kronson says sales volumes and values in the company's generics division have already grown by about 50% over the past year.

As the brand leader in over-the-counter (OTC) drugs, such as Panado, Adcocks is also well placed to capitalise on brand awareness. Its OTC business has grown by about 20% by volume over the past year.

Nel expects the OTC market to expand from 44% to 53% of the total private pharmaceutical market between now and 2001-2002. Pharmacare has responded by launching its "Ask your Doctor or Pharmacist" marketing campaign, which aims to establish its brands as the country's top range of generics.

But it will be an "uphill battle" for SAD to break Adcock's dominance in the OTC market, says Merrill Lynch vice-president Graeme Wald. "Adcocks has the brand loyalty and its marketing is excellent."

Before the sale of 30% of SAD to Fedsure, rumours abounded that SAD and Adcocks would merge. Wald says Adcocks could still be after various products in SAD. "With close to R750m in cash and no debt, Adcocks is looking for acquisitions," he says.

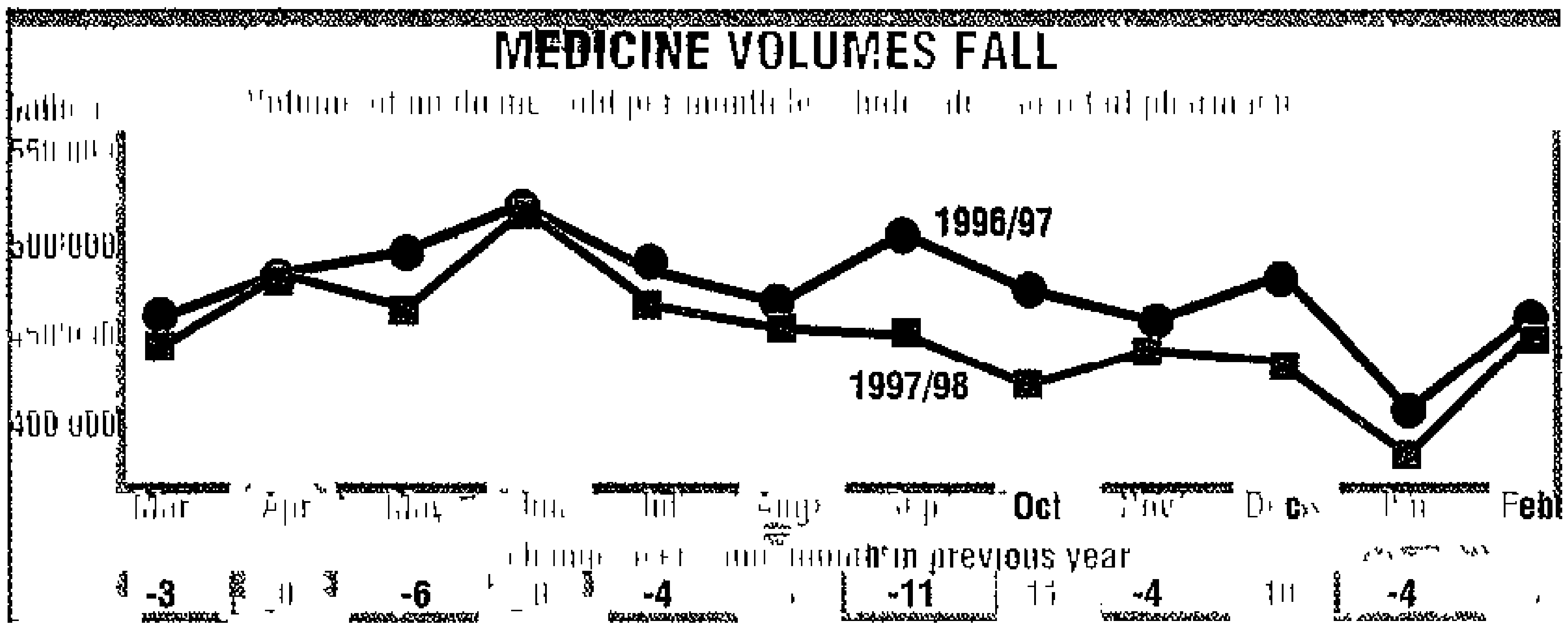
Kronson says Adcocks has its eye on an offshore OTC company as a vehicle to launch its products on international markets and as a source of cheaper raw materials and new products for the local market.

SAD, through Pharmacare, has also been seeking potential partners and acquisitions in places such as India, the Asia Pacific region and eastern Europe, with a similar intention.

All the indications are that a shake-out is occurring in the pharmaceutical industry, driven by market forces and underscored by looming legislative reform.

Total industry volumes are down in the private sector and medicine prices are under immense pressure. Companies that have anticipated the changes and geared up to become more competitive will cope in the new environment — some may even thrive. But the consumer should be the ultimate winner.

**Claire Bisseker**



MEDICINE VOLUMES FALL

# Probe outstrips Baqwa's budget

(153) M&G 24-29/4/98

**Mungo Soggot**

The taxpayer's bill for Public Protector Selby Baqwa's exploration of Minister of Minerals and Energy Penuell Maduna's possible slander of the auditor general is on track to outstrip the corruption watchdog's total annual budget of R7,5-million.

At least five legal teams are due to appear before Baqwa's investigation, which should run for at least the month of June.

Baqwa has been appointed to probe Maduna's extraordinary accusation in Parliament last June that the office of Auditor General Henry Kluever cooked the state oil company's books, hiding, among other things, the theft of R170-million of oil.

Baqwa's ruling will, in the words of Kluever's counsel, be "of extremely grave import". Either Maduna will have been shown to have committed a colossal defamation, or Kluever, who appeared relaxed this week, will be proved incompetent or dishonest.

The state oil company, the Central Energy Fund (CEF), has set aside R1-million for its lawyers, while Kluever's team expects to spend R3,1-million.

Kluever's office said this week that the whole of November had also been set aside for the hearing, which would double all the bills

Three other former employees of the CEF who have been implicated in Maduna's attack will also be represented by lawyers, whose tabs will be covered by the taxpayer, provided it can be established they were acting within the course and scope of their duties

Maduna is being represented by two advocates, while Barend Petersen, the accountant Maduna appointed last January to peruse the CEF's old accounts, will have a lawyer courtesy of the taxpayer The CEF's acting general manager Howard Roberts said this week the company had yet to budget for Petersen's legal costs.

Petersen's firm, Ntsaluba Nkonki Sizwe, which was appointed without going through a tender, has earned at least R2,5-million — the figure Maduna gave for its fees last November

All the legal fees exclude Baqwa's own bill, which includes hiring an auditor from Arthur Andersen to sit on his panel. Baqwa and his deputy, Kluever and many of his senior aides, as well as a string of CEF officials, will all be out of action for their normal duties during the hearing.

Judging by this week's proceedings, the matter is unlikely to be wrapped up in a month. Baqwa's panel took a day to decide what to do with one of its members, Zodwa Manase, who found herself a victim of Maduna's insatiable appetite for controversy.

Maduna decided earlier this month to employ her at one of the state oil operations, Soekor, despite the fact she was already working with Baqwa on the probe Manase, an accountant, opted to resign last week after Kluever's office alerted Baqwa to the obvious conflict of interest.

Maduna's counsel, Kessie Naidu, SC, opposed Kluever's application for Manase's resignation from Soekor, saying, among other things, the "auditor general has a habit of crying foul" Naidu argued that Manase's Soekor resignation made her a "credit to the commission although, with respect, she had no business to do so"

Naidu failed to convince Baqwa, who announced Manase would recuse herself. Baqwa was admitted to hospital that night with a bronchial infection and the hearings were called off for this week.

Maduna's attack on Kluever in Parliament last year was accompanied by a tirade in the media in which the minister accused Kluever of not being qualified for the job as he was not a chartered accountant. Kluever has spent most of his life working in state expenditure.

Six weeks after appointing Ntsaluba Nkonki Sizwe last January, Maduna dismissed the CEF's trading chief, Kobus van Zyl. Van Zyl has been sitting at home on full pay, and has still to be formally disciplined — his disciplinary hearing has been postponed pending the outcome of Baqwa's hearing.

Van Zyl was present this week, chatting confidently to Kluever and his colleagues, many of whom are privately gung-ho about their chances.

Kluever and his team were accompanied by several auditors from private firms who helped audit the CEF's books Many expressed exasperation at the cost and hassle of what they consider a pointless ordeal.

The platoon of auditors sat along the back row of the inquest room on the second floor of the Dutch Reformed church's Synodal Centre in Pretoria. Petersen sat on the side with his lawyer, while Van Zyl and his lawyer perched in the front row alongside the lawyers acting for the CEF, Maduna and Kluever Baqwa and his three, or rather two, panelists looked on from behind piles of paperwork.

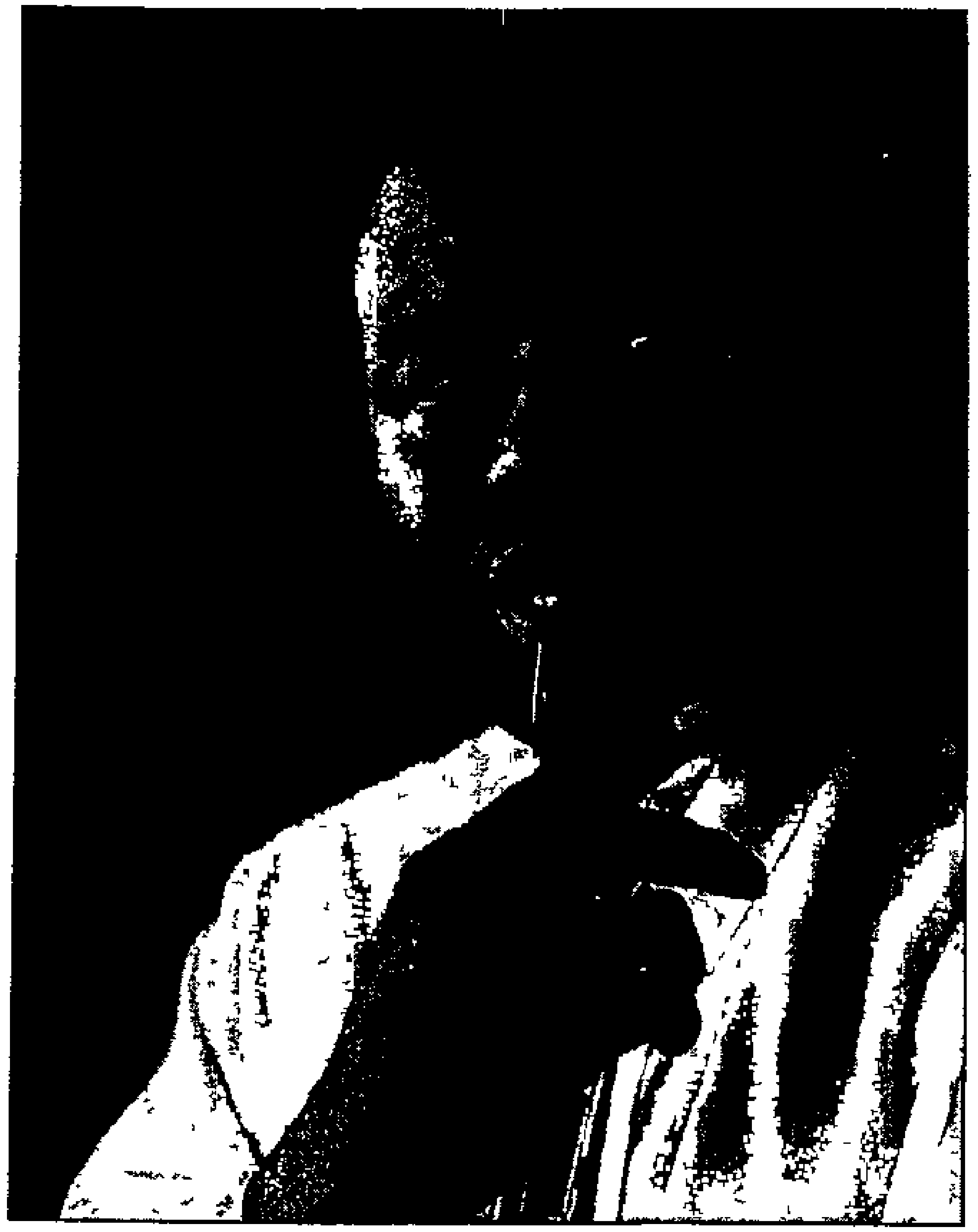
After winning the recusal, Kluever was heard to mutter "watch this space" as the hearing adjourned on Monday

There has been much speculation in oil industry circles that Maduna axed Van Zyl on the advice of Liberian Emanuel Shaw II, who was advising the minister at the time Shaw subsequently took over Van Zyl's office at the CEF's Johannesburg headquarters when its former chair, Don Mkhwanazi, gave him a lucrative consulting contract.

Mkhwanazi has since resigned in the wake of the scandal surrounding Shaw's appointment, which is still in place — despite the fact Shaw, who spends much of his time on official Liberian state business, has yet to submit any written work to the Department of Minerals and Energy Shaw's contract was worth R3-million a year

The public protector, meanwhile, has been denied a bigger budget and provincial branches, and is struggling to accommodate its enormous workload with only 12 investigators.

Baqwa's office had not disclosed its costs for the hearing at the time of going to press, while Maduna's director general was unavailable



**Strapped for cash: Selby Baqwa is conducting a multimillion-rand investigation into Penuell Maduna. PHOTOGRAPH: NAASHON ZALK**

MORE TANKER TRAFFIC APPROVED

# Green light for Saldanha deal

(183) CT 27/4/98

**WEIGHING THE ECONOMIC** benefits against environmental risk, an independent review panel has decided to allow extra traffic Environment Writer **MELANIE GOSLING** reports

THE Strategic Fuel Fund has been given the go-ahead to increase tanker traffic in Saldanha Bay to allow for crude oil storage deals with foreign countries

The approval comes with strict environmental conditions and will be permitted as an interim measure only, pending a review within the next five years

This was the recommendation of a report released last week which examined the best option to deal with the Strategic Fuel Fund's (SFF) aim to use its spare storage tanks at Saldanha Bay for trading purposes

SFF's intention was to store 15 million barrels of Iranian oil in the tanks, which would boost the country's oil-dealing profits by around R50 million a year

The Iranian deal has since been called off, but there is now talk of an oil storage deal with Saudi Arabia

The Iranian oil storage deal caused an outcry from the green lobby when it was announced two years ago because of the increased oil tanker activity in the environmentally sensitive bay

The deal proposed to increase the number of tankers entering the bay from around 25 a year to 75, pushing up the risk of oil spills

A relatively small five-ton oil spill from the tanker Hawaiian King in Saldanha Bay in 1995 resulted in an oil slick penetrating to the sensitive southern end of Langebaan Lagoon, part of West Coast National Park

The oil escaped from booms around the tanker, fuelling fears that oil spills in the bay could not be contained

When the SFF was negotiating with Iran it commissioned the Council for Scientific and Industrial Research (CSIR) to assess the environmental impacts of the proposed increased tanker traffic in Saldanha. Although the deal was subsequently called off, the impact assessment continued, as the results would be used for any future oil storage deals with other countries

> *From a purely environmental view, the panel would have opted to close down the oil terminal*

The CSIR came up with five options

- To maintain the status quo and not increase tanker traffic,
- To expand tanker traffic without increasing the port size,
- To expand tanker traffic and build a double mooring berth,
- To replace Saldanha's oil terminal facilities with an offshore oil-transfer facility at St Helena Bay, which would keep tankers out of Saldanha Bay, or
- To close down Saldanha's oil terminal and the SFF's storage facility altogether

A independent review panel of experts was set up to decide which of the five options was best, weighing up the environmental risks against the financial benefits

The SFF signed an agreement that it would abide by the recommendations of the review panel

The panel opted to allow oil tanker traffic to be increased, using a single mooring berth only, but to limit the number of tankers to 35 a year

The panel said that from a purely environmental point of view it would have opted to close down the oil terminal or replace it with an off-shore facility

But the former would probably have resulted in an oil facility being built elsewhere, which would be expensive and might carry greater environmental risks, while the time it would take to investigate and build an off-shore facility would probably mean that the window of opportunity for oil trading would be lost

The panel stipulated that the jetty-based oil transfers in Saldanha Bay should stop immediately if the SFF established an off-shore transfer facility anywhere between Lambert's Bay and Cape Hangklip

The SFF is investigating building an off-shore facility in Table Bay

Other conditions of approval were

- That the SFF set up an independent advisory body along the lines of the Shetland Oil Terminal Advisory Group in the United Kingdom,
- That the Department of Mineral and Energy Affairs start a holistic study to place the SFF in an appropriate context,
- That, because of the rapid and unco-ordinated industrialisation of Saldanha, the authorities undertake a regional environmental assessment to put all development initiatives in context, and
- That the SFF obtain an undertaking from any new shareholders that they will be bound by the recommendations of the review panel's report

The panel included more detailed conditions of approval dealing with preventing and minimising the impact of oil spills, fires, explosions and leakages from storage tanks and pipelines

The SFF must also take steps to get ISO 14001 certification (an environmental management system) by the SA Bureau of Standards

The tanks were built in the apartheid era to store strategic oil stocks South Africa started selling off strategic stocks in 1989, which meant the tanks at Saldanha Bay were under-utilised

# Obstacles loom for Sasol-AECI deal

(183) ([illegible]) ([illegible])

Amanda Vermeulen

BD 28/4/98

THE Competition Board is unlikely to approve energy producer Sasol's proposed takeover of chemicals group AECI without a formal investigation into the deal's effect on the fertiliser and explosives markets

Besides the board, Sasol also faces the task of convincing AECI directors of the merits of the deal

Sasol's discussions have so far been confined to Anglo American Industrial Corporation (Amic), which owns 52,6% of AECI Management of AECI is expected to balk at being taken over by Sasol and the deal could see the loss of more than 1 000 jobs, including some in the executive suite

AECI's board has been criticised for the company's poor investment rating and financial performance

Sasol's acquisition of AECI's businesses may result in the fertiliser and explosives businesses being rationalised with those of Sasol, leaving a limited role for AECI's current group executive.

Amic said in a cautionary notice last week that it was in talks to sell its AECI stake to Sasol for cash No price has yet been made public

By taking over AECI, Sasol would gain control of about 75% of the local fertiliser market and more than 80% of domestic explosives sales

The combination of Sasol and AECI's interests would test a Competition Board ruling in the early 1980s when it banned a deal between AECI and the Chamber of Mines giving the group an exclusive contract to supply explosive devices to mining companies

Board chairman Pierre Brooks said the board had fielded a number of calls from parties concerned about the implications of a Sasol-AECI tie-up

He said the board would probably have the final say on whether the transaction went ahead, and that a number of provisos could be attached to its approval. These might include instructing Sasol to sell parts of its enlarged fertiliser and explosives businesses to third parties to enhance competitiveness

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FPA 1

# Rees to replace Folb after 18 years at the helm of medicines council

(183) BD 27/4/98

**Josey Ballenger**

PROF Peter Folb, chairman of the Medicines Control Council for the past 18 years, has been replaced by council member Dr Helen Rees.

The move follows months of speculation that Folb would be replaced as a result of his conflict with Health Minister Nkosazana Zuma over legislation passed last year and the anti-AIDS drug Virodene.

As the council's only authorised spokesman at that time, Folb's name was often in the spotlight.

Bada Pharasi, the health department's chief director of registration, regulation and procurement, said yesterday that Zuma had appointed Rees last Thursday, although no public announcement had been made.

Zuma's spokesman, Vincent Hlongwane, said Rees would serve as chairman until a new drug body was set up. A controversial task team report recommended last month that the body be installed by October.

Parliament will have to repeal legislation governing the council and draw up laws to accommodate the new authority, which is supposed to remain independent from the minister.

Pharasi said Zuma had reappointed Folb as chairman in 1996 for the year to last August, then had temporarily extended his contract twice. The last contract period had expired recently.

Hlongwane downplayed speculation that Folb had been replaced for political reasons, saying "all government bodies are being restructured to reflect the era in which we work. We need fresh impetus, and (Folb's replacement) is part of the restructuring."

Hlongwane said Folb remained a member of the council and had "pledged to work with the department and the new body as it was being restructured".

Folb's staff and a source close to him said they were "not clear" on the status of his chairmanship, suggesting he had not been notified of Rees' appointment.

Folb did not return calls seeking comment.

Rees is director of the reproductive health research unit at Soweto's Chris Hani Baragwanath, the president of Planned Parenthood Federation of SA and a spokesman for the World Health Organisation's Safe Motherhood programme in Africa. She is also an adviser to the health department.

Rees said last night her mandate was not only to chair the council, but also to oversee the transition to a new authority. The minister would soon appoint a task team including certain council members and health department officials for this purpose.

ARG 29/4/98

# Folb axed from MCC

(183)

**POLITICAL STAFF**

Health Minister Dr Nkosazana Zuma has not renewed the contract of Dr Peter Folb, chairman of the Medicines Control Council for the past 18 years

She has replaced him with Dr Helen Rees, an internationally recognised consultant on reproductive health

Dr Zuma has also appointed Professor Peter Eagles, a professor of pharmacy at the University of the Western Cape, as vice-chairman of the MCC and Precious Matsoso, the director of medical schemes and medicines procurement in the Department of Health, as Registrar of Medicines

# Zuma replaces Medicines Control Council head

Star 29/4/98 (183)

**By Jovial Rantao**
Political Correspondent

Health Minister Dr Nkosazana Zuma has not renewed the contract of Dr Peter Folb, chairman of the Medicines Control Council for the past 18 years. She has replaced him with Dr Helen Rees, an internationally recognised consultant and director of reproductive health at Chris Hani Baragwanath Hospital

Zuma announced the move yesterday, and her spokesman Vincent Hlongwane said Rees' appointment would be effective from April 23

Zuma has also appointed Professor Peter Eagles, a professor of pharmacy at the University of the Western Cape, as vice-chairman of the MCC, and Precious Matsoso, the director of medical schemes and medicines procurement in the Department of Health, as registrar of medicines.

Hlongwane said Folb had pledged to continue working with the MCC until the new proposed Medicines Regulatory Authority (MRA) had been formed.

Zuma announced recently that the MCC would not be scrapped until after a task team set up to develop guidelines on the structure and functions of the proposed MRA had made its report next week

# MCC dismissals may lead to legal action

**Josey Ballenger** (183)

COUNSEL representing former Medicines Control Council registrar Johan Schlebusch and his deputy Chrystel Bruckner said yesterday the health department was likely to face legal action as a result of their "improper" dismissals

The health department on Tuesday named Precious Matsoso as Schlebusch's permanent replacement. Matsoso was installed as acting registrar last month while Schlebusch's and Bruckner's lawyer and the department were negotiating a settlement agreement The two were put on "special leave" without explanation

Rod Harper, the lawyer representing Schlebusch and Bruckner, said. "This constitutes bad faith on the health department's part The negotiations have not been finalised This will almost certainly force legal proceedings against the department for unilateral action, absence of consultation and oppressive behaviour "

Harper said a case would be built around "discrimination on the grounds of colour, race and age"

A task team appointed by Health Minister Nkosazana Zuma recommended last month that a new regulatory body be established by October.

Industry and other sources said that the appointment last week of Helen Rees to replace Peter Folb as the chairman of the council raised questions about the independence of the council and the structure that would replace it.

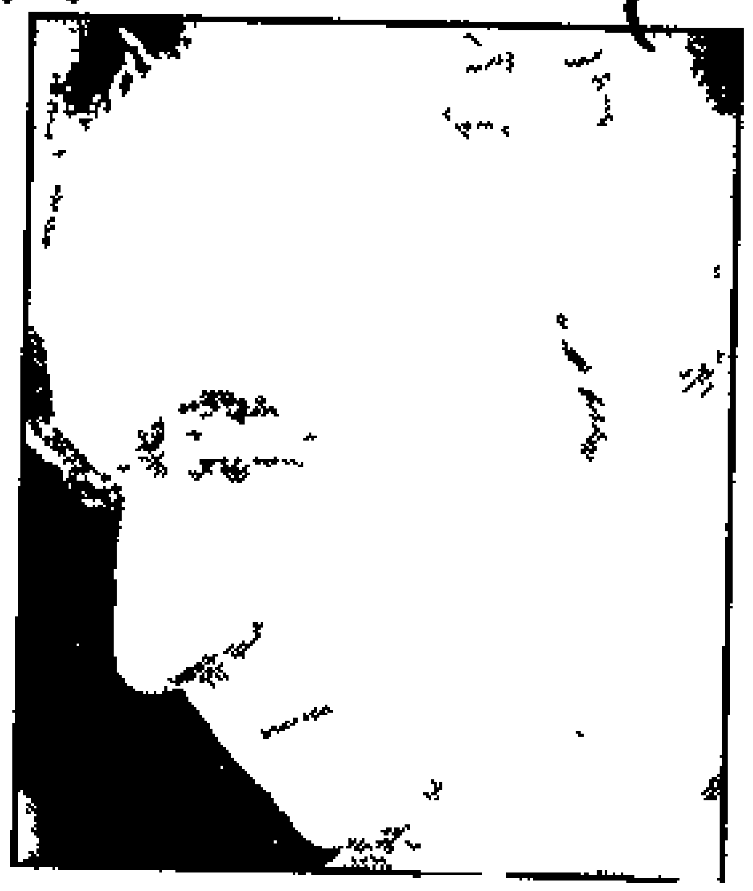
A source close to the council said Rees was "certainly not experienced in clinical pharmacology, which Folb certainly is"

BD 30/4/98

# Folb sacking 'nothing to do with Virodene row'

CT 30/4/98 (183)

**JUDITH SOAL**
HEALTH WRITER



**AXED:** Peter Folb

THE axing of Professor Peter Folb as head of the Medicines Control Council (MCC) had nothing to do with his disagreements with the government over the anti-Aids drug Virodene, the new head of the council, Dr Helen Rees, said last night.

Health Minister Dr Nkosazana Zuma announced this week that Rees, the director of the Reproductive Health Unit at Chris Hani Baragwanath Hospital in Soweto, had replaced Folb from April 23.

"An independent committee was set up to examine the role of the MCC long before the controversy over Virodene broke out That committee was chaired by experts recommended by Professor Folb," Rees said.

"They recommended that the MCC be overtaken by a new group, the Medicines Regulatory Authority (MRA) The MCC will continue its work until that group is established, which will take about a year "

Rees said the change in leadership was part of the process of changing the MCC

"The minister thought long and hard before making the appointment She consulted very widely," she said.

Rees, who has been on the MCC for 18 months, said the council had "made mistakes" in its treatment of the Virodene issue

"One of the tasks of a group like the MCC is to explain to all stakeholders why certain decisions are made Obviously we didn't manage to do this on the Virodene issue," she said

In March, Deputy President Thabo Mbeki slammed the MCC for refusing to allow clinical trials of the drug, which its developers say has been shown to "cure" the symptoms of HIV and Aids

The council said such trials were premature and unsafe Academics from the country's top medical schools supported the council's decision, and accused the University of Pretoria researchers of being unethical and breaking the rules of science

Rees said that a team of technical experts will work with the Virodene researchers and report to the ministry.

"Virodene has assumed great public importance, and we are keen to handle the issue very sensitively in future.

"The council has given a high priority to treatments of HIV and Aids, and we need to ensure that the development of drugs is not held up "

She said the new group would also pay attention to non-orthodox medicines.

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