

To be a **winning** nation or not to be ...



South Africa is desperate to be a "winning nation". This was no more evident than the way in which millions of South Africans united to cheer for Bafana Bafana during the recent Soccer World Cup. South Africans, from all walks of life, have been glued to their television sets in the hope of seeing the South African team winning. The ever-patriotic Cosatu even cut short a weekend meeting (to discuss the divisions in the public sector unions and their approach to public service restructuring) to watch Bafana Bafana play its first game.

This desire to see the country achieve and excel in the field of sport is not always evident in other areas. There are clear differences between various constituencies on how to take the country forward. Hence, calls for tough choices to be made to become a "winning nation" are not always welcomed or accepted. It is not only the tough choices that are questioned (as to whether they will achieve the desired outcome) but also the concept of a "winning nation" and who ultimately wins.

Differences over transforming the South African economy and society, raises some fundamental questions as to the link between consultation and

being a winning nation and whether the two are synonymous. Everyone agrees in the abstract to consultation on key areas of policy so as to put the economy on a potential growth path. However, the reality is often different. Labour argues that business and government think they can make better decisions without labour because it has no capacity. The recent public hearing on the dti's proposed integrated manufacturing strategy (IMS) surprisingly reflected a lack of capacity in business to engage. The parliamentary committees expressed their disappointment over businesses failure to use the process to engage properly. Business has the resources to bring in the necessary capacity. Does its failure to do so imply that perhaps it is not a priority?

This edition focuses extensively on the IMS as part of an attempt to broaden debate between key decision makers in labour, government and business. This is after all the new focus of the dti – to ensure proper engagement, debate and for all "stakeholders to contribute new and innovative solutions to the challenges outlined in the document." On the surface, the dti's position differs from the approach adopted by the

department of environmental affairs and tourism (deat) in its handling of the plastic bag dispute. Deat could argue that it has consulted on this issue but this has not led to a meeting of the minds. The complex issues surrounding the plastic bag dispute are explored in an article by Ceppwawu's Bengeza Mthombeni.

Differences have also emerged around other key areas of policy relating to privatisation and the restructuring of the public service. On the face of it Cosatu "lost" out on the privatisation strike. But elements in labour believe that it forced government to accept that it could not continue in the way it was without bringing labour on board. What remains unanswered is whether social dialogue will help contribute towards South Africa achieving its desire of being a winning nation.

Remaining on the theme of "winning nations", some of you might have noticed that the bulletin has been undergoing a face-lift. Comments on the new format, in the spirit of true engagement, would be welcomed and can be sent to salb@icon.co.za.

Reneé Grawitzky
Editor



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Labour Research Service

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Is this the end of **denial**?

More irreverent postcards from our intrepid reporter.

Dear Com,

Good to hear that Minister Omar is volunteering for a public HIV test, and telling us that he has always based his view on the accepted wisdom about the cause of AIDS. Pity he didn't do it a year or so ago when Thabo and his so-called dissident cyber buddies were leading us in chronic denial. It could have helped those who were confused about the safety of anti-retrovirals to make up their minds and perhaps be with us today. Still, better late than never. Whatever happened to the Cosatu leadership resolution to do the same thing I wonder? We need solid role-models com before our young people reject the revolution, and turn to dope, soap or Idols for inspiration.

By the way, have you noticed how quiet the AIDS dissidents have become of late? Seems the Denial Tendency have been threatened with the cold shoulder by international business, the very people who are supposed to be persuaded to come and invest here and rescue us from the Third World. Oops! Well as my old Marxist teacher used to say, if you sleep with the enemy, expect to have a few nightmares. Hey Com, let's hope that the recent sad events ensure that the AIDS dissident tendency wakes up to the realisation that this terrible virus can attack us all.

Dear Com,

Went to the Cosatu May Day Rally in Germiston and it was good to see lots of old friends and comrades. Mind you,

I wish they had revolutionised the format of the meeting. Can't we break with the practice of speaker after speaker more or less saying the same things hour after hour? To cap it all we then had Minister Cassa-Burri lecture us for half an hour about how we must take HIV/AIDS and tuberculosis seriously. Comrade Minister, we in the Unions have been taking the matter seriously, it's the cabinet that hasn't!

Whatever happened to celebration on May Day? Why no music, drama, workers' poetry, a bit of food, something for the kids to do. Seems the Cape Town comrades have a better idea. A family picnic with a couple of sharp speakers followed by fun for the whole family. Remember the old slogan, 'Revolution is the carnival of the oppressed!' A prize of a free subscription goes to the first one to write or phone into the Bulletin and say where this quote comes from.

Dear Com,

Been thinking about all this fuss around NEPAD, the new African partnership policy being promoted by Com Thabo and his Nigerian counterpart. Heard Zweli on the radio complaining that the unions have not been given the opportunity to comment on it, or play any role in putting it together. Sound familiar? Does this government never learn? Then again, maybe they do! Do you remember how Gear emerged? It was sprung on us by Clever Trevor who cunningly judged that most union leaders would adopt a

cautious 'lets wait and see' approach, for fear of upsetting the fragile alliance apple cart. Hey and we waited and we waited. It wasn't until the harsh realities became clear a couple of years later and privatisation reared its ugly head that our leadership comrades got the steam up to say, 'Hold on coms, this is a bit different to the RDP, this Gear is killing us!'

Is Thabo playing the same game? We get to be the nation that is leading NEPAD and there has been virtually no discussion between or within the alliance about what it actually means. Doesn't look good com. If NEPAD is so good for workers, why hasn't there even been a lukewarm attempt to sell it to us. Call me suspicious but I smell a continental Gear coming on Com.

Dear Com,

Can you believe it? I actually managed to get a copy of NEPAD from a visiting Nigerian comrade. No wonder its been kept from us! It's all about being competitive, flexible, responsible, and not rocking the boat for investment opportunities. And though it makes reference to the need for us to put our own democratic houses in order, and address poverty, it's clear that it's actually about reassuring the rich that we will not threaten returns on their investments. Hey Com who ever wrote it is wasted in politics. They should go and work for some top-flight advertising agency selling organic peanut butter. Talk about form and no content. It reads like something that

George Bush or Tony Blair might have commissioned. The platitudes are piled on like Black Cat. The only difference is this doesn't cling to your teeth but sticks in your throat.

But it does beg the question. Where is the workers' alternative? Zweli is right to ask why workers were not consulted, and I hear that one little bundle of trouble in Nigeria, Adams Oshiohmole of the Nigeria Labour Congress is saying the same thing to Obansanjo. But sooner or later, someone has got to say that it's not a place at the table we want, to share out the few crumbs from the cake. We want the bakery to make the cake our way!

Thought of a good slogan for the campaign to the tune of Bob Marley's Get Up Stand Up... 'Workers up off your NEPADs. Stand up for your R.I.G.H.T.S!' (Revolutionary Internationalism Generating Harmony, Towards Socialism). That could help give May Day a cool revolutionary swing!

Dear Com,

Here's a warning for Comrade Jeff Radebe Minister of Privatisation about his counterpart in Britain. Blair's right-hand man (some would say sycophant) Stephen Byers MP, has been in the forefront of pushing rail privatisation and extolling its virtues at every opportunity. After three deadly accidents, and a rail network in perpetual chaos, the (dis)honourable minister has finally been forced to resign and shunted out of the cabinet. He was in Tony's good books and did everything that he was told to do. So what made him resign you may ask? For a start the rail unions elected a new radical leadership despite the best efforts of the Blairite Media, and then worked especially hard to get their

message across to the masses and to other trade unionists. Eventually everyone knew that the root cause of the chaos and the accidents was the miserable penny pinching of the private rail operators to maximise their profits. Not satisfied at having bought public utilities at knock-down prices, they spent little or nothing on maintaining safety standards. Railway workers who raised safety considerations were silenced, and fatal accidents, which were waiting to happen, eventually did so, with devastating effect. Ordinary workers died needlessly on their way to work because Blair, Byers and their rich cronies put their obsession for privatisation and profits before safety. Even Blair, faced with a massive revolt, is now talking about the need for some sort of nationalised rail system. Meanwhile, the Minister of Privatisation here steams ahead dogmatically with his party card in one hand, and his discredited policies in the other.

Made me think Com. What disaster will it take to get a re-think from the cabinet? I shudder to think. Let's not wait for a disaster com, let's build further the movement against privatisation now!

Dear Com,

Hey the Cosas kids got a little out of hand in Joeys and likewise the cream of the nation at the University of the North. Someone has got to tell those kids that ripping into workers of the informal sector, or demanding a third of a million bucks for a Freshers' Party is not the way to build the sort of worker-student solidarity we need to get things rolling our way again. As always though, there must be a number of genuine concerns behind the headlines.

Mind you, it's not as if young people are set a good example from all our revered elders is it? Comrade Tony Yengeni is hardly a role model, or Morkel, or any of those countless others who lead extravagant lifestyles. Seems to me the student movement has been in a state of suspended animation for the last few years, and hasn't really had a chance to flex its muscles properly given the rigidity and conformity of politics in general. Certainly a number of those student leaders who have come in to the unions of late are as stiff as old uncle Joe Stalin himself. Hardly surprising then that when students do get out on the streets, the sort of discipline that the old ANC expects is not there. Maybe I am reading too much into this com, but doesn't this reflect an overall depoliticisation in the country? Answers on a postcard please Com!

Dear Com,

Interesting to read about the Fedusa congress last week. Not like the Cosatu congress. Different planet perhaps. But interesting to see the assembled 300 delegates or so listening earnestly to a procession of political heavy weights. Clever Trevor rightly saying how the unions must take control of Pension Funds and use their representation to direct investment into socially useful projects, Minister Shepherd rightly arguing for full use of the skills legislation to re-equip workers and to tackle discrimination. And finally President Thabo himself urging the Fedusa comrades to become partners in creating the New Worker. Of course we are all in favour of the New Worker, but where is the New Work Com Pres?

Yours,
Com Dot Com

Newsbits

The Labour Court faces rough justice

The Labour Court is facing some turbulent times with its staff being subjected to rather desperate measures from members of the public who are angry and frustrated over delays in the setting down of cases.

An applicant, who was desperate to get his case set down in the Labour Court, held up the acting registrar at gunpoint. This is an indication of the poor state of the administration or the lack of administration in the Labour Court, an observer said. This is but one of a number of problems being highlighted by users of the court and

members of the legal fraternity with regard to the functioning of the Labour Court. Other problems raised include the quality of the judges and judgments; political infighting and the lack of effective management. The status of the Labour Court (and its predecessor the Industrial Court) is currently the subject of some discussion within the legal fraternity. There is a view that the Labour Court should amalgamate with the High Court while the Labour Appeal Court would become a division of the Appellate Division. (An in-depth report on the state of the Labour Court will be published in the next edition of the bulletin)

Employers slow to support sector summits

Sector summits – as endorsed at the 1998 presidential jobs summit – gain momentum but employers appear reluctant to participate, sources close to the process said.

Although a number of sector summits have been held and more are planned, employers have not always been supportive of such processes and at times, have almost been forced into participating. Sector summits have already taken place in mining, public service and clothing and textile with varying degrees of success. Plans are now underway to organise sector

Inside SADC

The Southern African Development Community (SADC) is currently in the midst of a major revamp. In 2001, the SADC Heads of State agreed to a completely new structure for SADC, including a total review of the operations of its institutions. This includes the replacement of the current sectors, within a period of two years, by four new Directorates at the SADC Office in Botswana. The four Directorates are:

- Trade, Finance, Industry and Investment;
- Infrastructure and Services;
- Food, Agriculture and Natural Resources; and
- Social and Human Development and Special Programmes.

In terms of the new operations of SADC Institutions, a Summit consisting of Heads of State will be the supreme policy making institution. A Council of Ministers

will advise the Summit and will oversee the functioning and development of SADC and the implementation of policies and the proper execution of programmes. An Integrated Committee of Ministers (ICM) – comprising at least two Ministers from each Member State – will be set up to ensure proper policy guidance, co-ordination and harmonisation of cross-sectoral activities. This committee will be responsible to the Council of Ministers. In order to provide for the principle of tripartism in the new structure, employers' and workers' bodies will be part of the structures of the ICM.

Provision has also been made for SADC National Committees comprising key stakeholders, notably government, private sector and civil society. The main function of these National Committees, that will meet on a monthly basis, is to

provide inputs at the national level in the formulation of regional policies and strategies and to oversee the implementation of programmes at the national level.

In some instances different SADC countries are still responsible for administering and driving some of the so-called sectors, such as Zambia being responsible for the Employment and Labour Sector (ELS). In other instances, the work of sectors has already been handed over to the SADC Secretariat in Botswana. Historically the ELS has had close links with the International Labour Organisation (ILO) and unlike any of the other sectors, copied the tripartite character of the ILO.

The Bulletin is looking to increase its coverage of developments within SADC. Contributions are welcomed and can be e-mail to salb@icon.co.za

summits in wholesale and retail; agriculture and food; finance and engineering. Meanwhile, the information communication and technology sector held its summit on 3 and 4 June 2002 (see p 36).

Union sources claim that the sector summit process can be slow and frustrating and require huge amount of resources, 'but what is the alternative'.

Such sources claim the sector summit process has been important in building capacity in the unions on industrial strategy issues. This has been positive, the source argues. The same is not however, the case amongst employers. There is a general sense that business has not been willing to engage in the sector summit process. During the recent ICT sector summit process, participation by business was seen to be very weak. Labour has argued that business has the resources to bring in capacity but has failed to do so. During the process it became unclear to what extent the business representative had been granted a proper mandate from his constituency.

A union observer said labour had to ensure the sector summit process did not ultimately result in yet another forum for collective bargaining.

Divisions in business emerge during ICT sector summit

Existing tensions between different business groupings surfaced repeatedly during the recent information communication and technology sector summit.

Business South Africa (BSA) and Nafcoc represent business in Nedlac. In the past, the two organisations would caucus and emerge with one business position. However, with the recent merger talks between these groupings

and other business organisations, a uniform business position is no longer always possible. Sections of Nafcoc have merged with Sacob while BSA is in merger talks with the Black Business Council (BBC). The merger between Sacob and Nafcoc has not been well received in various quarters in white and black business.

During the ICT summit, the business representatives from BSA and Nafcoc could not agree on a common position. Aside from differing over the issues discussed at the summit, they could not agree on who the spokesperson should be and who should present the opening address from business.

BBC/BSA merger talks – what progress?

A task team, set up to drive the merger talks between BSA and the BBC, has only met once over the last two months.

The previous *Labour Bulletin*, 26 (2) outlined the process around the proposed merger talks between the two umbrella business organisations. The talks between BSA and BBC are an attempt to build unity between white and black business. A business representative said however, that the 'the road ahead is longer than we thought.'

During the first meeting of the task team, it became clear to the BSA representatives that if white and black business is to merge, business will have to sing from one 'hymn sheet'. This could require white business, for example, to develop clear positions on black economic empowerment and other related issues.

Meanwhile, discussions are underway between the SA Council of Churches and the South African Foundation on possible future

engagement and cooperation. Business is increasingly looking to expand its network for cooperation while the church is seeking assistance in how it allocates funding for poverty alleviation projects. A business source said, 'business is increasingly being drawn out of its traditional roots for wider engagement.'

Child labour and child trafficking

The International Labour Organisation's (ILO's) upcoming conference in Geneva will deliberate on a recent report released on the extent of child labour. As part of Cosatu's commitment to end child labour, the Western Cape office has embarked on a campaign to fight child trafficking. Cosatu's Western Cape regional coordinator Elma Geswindt explains how the federation is working closely with organisations that are campaigning against child abuse. She says the federation needs to lobby various government structures to ensure anti-child trafficking legislation is put in place. Cosatu is working with a Cape Town-based child rights organisation, Molosongolo to lobby and advocate for the rights and protection of children. Geswindt explains that child trafficking is very rife in the communities in and around the Western Cape.

'As the Western Cape we are appealing to all other regions and affiliates to take up the fight against this horrific crime against our children. It is imperative that we become involved with other organisations that are dealing with this form of abuse. We can only succeed in making a difference if we work together to fight this horrific crime in our society and only then can we truly say that we have achieved our freedom,' she says.

The dti's integrated manufacturing strategy: Is it

For many years criticism was levelled against the Department of Trade and Industry (dti) for failing to come up with an industrial strategy. It has been argued however, that post-1994, the dti had developed elements of an industrial strategy even though it was never formalised and put down in a document. There were elements of an industrial strategy as depicted in the cluster studies, supply side measures, national small business strategy and other interventions.

Former dti director general (DG) Zav Rustomjee says it would be extremely difficult to put a comprehensive strategy into one document because of the complexity and diversity of issues. A further complication, he says, is that people have different expectations and understanding of an industrial strategy and policy. 'The problem arises however, that if dti is not seen to be producing a document then it is not

seen to be doing anything,' he says. A discussion paper prepared by the University of Witwatersrand's Sociology of Work Unit (SWOP) in association with Nedlac highlights some of the critical debates around the drafting of an industrial strategy (see p 12).

During various intervals from 1994 onwards, the dti drafted numerous documents, which attempted to outline their policy approach. The turning point appeared to occur in 2000 when the department faced rising pressure to produce a document. The spotlight fell on the dti to produce something as increasing questions were raised about the need for an integrated intervention at the micro-level. The view was that the macroeconomic fundamentals were in place but what was missing was a corresponding approach, which would address issues such as competitiveness, small business development and black economic empowerment. These are amongst a range of issues, that fall under the ambit of the dti.

Within the tripartite alliance increased attention was given to a new

economic growth path, post Gear. The ANC's ETC began a process in early 2000 to look into this issue. The view was that a new growth path would go beyond merely relying on 'getting macroeconomic policies right'. Hence the move towards the need for an industrial strategy. 'This realisation led to an increased focus on sector-specific strategies' (*SA Labour Bulletin*, 26 (1)).

The realisation that the micro fundamentals had to be addressed was reinforced during a high-level meeting between President Thabo Mbeki and the head of the World Bank James Wolfensohn. A strong plea was made for the South African government to get its microeconomic strategies together. Following the November meeting, Mbeki stated in his opening address to Parliament in February 2001 that government would embark on an Integrated Economic Action Plan.

Against this backdrop the dti began

'The problem arises however, that if dti is not seen to be producing a document then it is not seen to be doing anything ...'

Former dti DG Zav Rustomjee

all just packaging?

drafting a paper, which would outline its approach to industrial strategy. The verbal brief given to the drafters seemed to reflect some uncertainty as to whom the document would be directed. It is understood that the brief was to draft something that would reflect what business would wish to see or rather something, which could be given to an industrialist. Sources close to the process say there was confusion about what the document should be doing and at whom it was targeted. In May 2001 the dti released its framework document entitled: 'Driving competitiveness: Towards a new integrated industrial strategy for sustainable employment and growth.'

Key elements of the discussion document

At the heart of the dti's discussion document released in May 2001 are the following:

- the need to move to a knowledge-based economy that recognises the decline in old modes of competitiveness, and
- competition and effective regulation with a focus on how the economy will be able to engage globally and compete.

This is based on an earlier analysis of changes in markets, and the need for a set of rules (to be established and

enforced in an industrial strategy) to ensure markets function effectively and to address market failures. Competition rules are the main thing identified as necessary for the effective functioning of markets. In the dti document various issues such as Black Economic Empowerment, SMMEs and employment were included to indicate that they were areas of concern.

The changing nature of competitiveness and the increased emphasis on a 'knowledge basis' underpins the strategy. As a result, the document highlights the need to develop backward and forward linkages of information and communication technology (ICT) with production, and the use of capacities in knowledge driven activities to realise lower production costs, economies of scale, and integrated regional production systems.

Human resources and telecommunications are identified as two key constraints for the realisation of a 'knowledge driven economy'. The approach outlined by the dti is one of a 'joined-up' government in order to enhance the potential impact of an industrial policy. The discussion document states that in the absence of an integrated approach in government the policy will have very little impact.

It is important to distinguish between the concepts industrial structure, industrial strategy, and industrial policy. Industrial structure refers to the actual structure of different sectors of the economy in relation to each other, as well as the way in which the interaction between the state and markets is structured. Industrial strategy is a broad vision of how the state can bring about, or facilitate, changes in the industrial structure, ie industrial restructuring. The aim of industrial strategy is to shape a process of industrial restructuring with the view of contributing to national socioeconomic goals, such as the creation of jobs and the alleviation of poverty. Different approaches to industrial strategy imply a range of different perspectives on what level of state 'intervention' in the economy is required and feasible. Industrial policy implies the actual policy instruments that can be used to implement an industrial strategy.

Reaction to document

Tensions emerged within the alliance and other quarters as to its perceived business bias and its main focus on competitiveness and export-driven approach. The document was not drafted as a political text nor was it seen to have emerged out of a politically driven process. The language was business/academic and did not take into account everything going on in the political environment. Based on the brief given, the document focused extensively on the challenges business faces in becoming competitive and growing their export base.

It became clear that the political process was looking for something different, a source close to the process says. As a result political buy-in from alliance partners ran adrift. Planned public hearings in the parliamentary portfolio committee on the document for August 2001 were cancelled. It became clear during discussions, however, sources say, that people viewed what an industrial strategy was meant to achieve, differently. Cosatu, for example, saw it as a wider strategy, which also incorporated an employment strategy while others saw it in its strictest narrow definition. This posed the question as to which ministry looks after employment. Should it be dealt with in a separate ministry or should it be a key concern of the economic affairs cluster, which is chaired by the dti?

Drafting of the microeconomic reform strategy

During the cabinet breakaway in January 2002, the different government departments reviewed their plans and acknowledged the need for a greater degree of coordination across departments and to put into practice the concept of a 'joined-up' government. Emerging from this

process was the drafting of a Microeconomic Reform Strategy. This strategy, essentially an integrated action plan, seeks to ensure the overall growth of the economy through the following interventions:

- Macroeconomic policy where necessary.
- Competitiveness requires that a set of fundamentals – appropriate and efficient economic and social infrastructure (such as ports), access to finance, investment in R&D, buy-in to new technologies, investment in human capital and an adaptive and flexible workforce – are in place in the economy.
- Ensuring key input costs such as transport, energy and telecommunications are able to be utilised to drive competitiveness.
- A number of growth sectors would be targeted to receive 'focused attention from the state'. These are viewed as having considerable potential for increased outputs, exports and employment creation.
- The plan will then seek to integrate these interventions with the desire to address black economic empowerment, promotion of small business, employment and the broadening economic activities to areas previously ignored for development.
- The state's role would be critical in ensuring the success of this strategy.

IMS

Learning from the previous experience, the dti began redrafting their May 2001 discussion document by engaging with key stakeholders throughout the process. Various focus groups were convened, including representation by a number of economists across the political spectrum. The revised document entitled: 'Accelerating Growth and Development: The contribution of

the Integrated Manufacturing Strategy (IMS)' was officially released on 18 April 2002.

The new document is being viewed as a politically driven and organised process. The dti's task of obtaining buy-in was made all the more easy by virtue of the fact that the key thrust of its approach was already included in the microeconomic reform strategy.

It is now being acknowledged in dti circles that reworking the discussion document was the appropriate way to go. The May 2001 document served its purpose by allowing everyone to agree on more issues than they did last year, a source says. Some constituencies have raised questions about the extent of buy-in to the strategy from those within dti in view of the fact that the department published a vastly different document six months ago. It is being argued by some in the dti however, that the main thrust of the document is not so different to the previous one. The differences lie in the way the document was drafted, the language, the way in which the issues were contextualised and analysed (more within a political framework) and the fact that it does target potential growth sectors.

The dti has viewed its intervention in the automobile industry – through the Motor Industry Development Programme (MIDP) – as one of its 'success stories'. It is possible that elements of this intervention could form part of the 'customised programmes' to be developed, in partnership, with those sectors targeted. UCT economist Anthony Black analyses the impact of the MIDP to determine the potential implications for the drafting of an industrial strategy as well as the factors underpinning the intervention (see p 16). In contrast Wits sociology researcher Andries Bezuidenhout looks at an industry that has had limited if no government

support – the white goods industry – to show how the power of capital is a critical element to the success of interventions such as the MIDP (see p 20).

Key features of the IMS

The essential focus on the most recent document is similar to the previous one. Its emphasis is on manufacturing; the need to move to a knowledge-based economy while recognising the decline in old modes of competitiveness and the need for the economy to engage globally and compete. The other features include:

- A strong emphasis on all parties being able to work together to build the economy. There is a lot of 'Nedlac' talk within the document with a focus on the need for collective action.
- The challenge to bring ICT into the main functioning of the economy. The emphasis is to see how industry can use IT in the manufacturing process to draw a competitive advantage.
- There is an acknowledgement of the need to develop a customised set of support measures. Eight sectors are targeted for special attention with the dti acting in partnership with these sectors to develop customised programmes to ensure their growth. The sectors include clothing and textiles, agro-processing, metals and minerals, tourism, automotive and transport, crafts, chemical and biotechnology and ICT.
- There is a strong focus on a value chain approach.

'... there are a lot of ideas in peoples' heads, (especially in Alec's head) but they are not written down and it is difficult to elicit these ideas in a concrete way ...'

There is wide acknowledgement that the revised document is an improvement on the original one. There is also a general sense amongst interested parties that no document is going to be perfect. While, vast differences exist between what labour, government and business would like to see in the document, there is a feeling that the document should not be ravaged in total. The document is generally broad and its political nature ensures there is something for everyone. A range of economists was asked to present their views on the document (See p 22).

The broader positions of labour, business and other interested parties were presented during the recent public hearings held in Parliament from 23 April to 2 May 2002. A brief summary of the proceedings is on p 24.

During the proceedings Nedlac executive director Philip Dexter pointed out that the parliamentary process coincided with the Nedlac process.

This, he indicated, was unlikely to cause tension. The Nedlac process is currently continuing. Dexter said there was a general sense among the constituencies that the second draft is a substantial improvement and advance. He hoped this would lead to a commitment to seek consensus around the draft in the

coming weeks. The dti's DG Alister Ruiters has indicated that comments from the parliamentary process (and Nedlac) will be incorporated into the document and a final recommendation will be made to cabinet within two months.

PHOTOGRAPH COURTESY OF THE SUNDAY TIMES



Conclusion

As with any strategy developed, whether it is within government or the private sector, it will remain as such unless the dti (and other government departments) have the infrastructure and staffing to ensure its implementation. (This is aside from the ability and capacity of labour and business to come on board.) It is no use having a brilliant strategy, which is inside someone's head. As one source said during the process, 'there are a lot of ideas in peoples' heads, (especially in Alec's head) but they are not written down and it is difficult to elicit these ideas in a concrete way.' A further factor is that people were weary about making proposals, which would result in additional restructuring in the dti. At the same time, it is far too easy for the key stakeholders to criticise but a harder job to find out what they actually want. This was all too evident during the parliamentary hearings. LB

The dti documents referred to are available on (www.dti.gov.za) or can be found on the Trade and Industrial Policy Strategies (Tips) website (www.tips.org.za) The reference to the dti in small letters is not a mistake but part of the departments rebranding exercise.

An evaluation of industrial policy perspectives in the South African context

*In order to facilitate meaningful debate in Nedlac's Trade and Industry Chamber a discussion paper was prepared by sociology researcher **Andries Bezuidenhout** to evaluate different approaches to industrial policy.*

Countries are becoming more economically interconnected as trade barriers between them are dismantled. In the context of trade liberalisation, the way in which goods and services are produced has changed significantly – commodity chains now span across national boundaries, and many products are assembled in several countries. In this context, the role of the state, and particularly in developing countries, has come under renewed scrutiny. New approaches to industrial policy have emerged, as the traditional model of Import Substitution Industrialisation (ISI) is no longer available in its classical form. These approaches focus specifically on how developing countries are affected by the global process of industrial restructuring – or how countries are incorporated into the global production process along commodity chains.

Processes of policy analysis and research can no longer focus on the national level – the local and the national must be grounded in global processes of restructuring. Various

states are 'inserted' into global commodity chains in different ways. Hence, one can no longer talk about 'best practise' in policy making in an unproblematic way. Commodity chains are not static, and are influenced by processes of national policy. The aim of industrial policy should therefore be to 'insert' the national economy into global commodity chains in a way that reduces vulnerability and risk. Hence, industrial policy is not a matter of whether the state has a role to play, but what the appropriate role is.

Historically, however, debates on the ability of industrial policy to shape development within a capitalist framework revolved around different perspectives on the nature of relationships between states and markets. On the one end of the spectrum, institutions such as the World Bank traditionally supported a neoliberal approach. In this model, industrial development should be market-driven, with a minimalist role for the state to play in influencing industrial structure. On the other end,

the model of the developmental state saw a central role for the state in shaping industrial structure through industrial policy measures such as the targeting of certain industries for investment or for other supportive measures.

Debate on industrial policy

Debates and a conscious focus on industrial policy became prominent globally since the late 1970s. In the mid-1980s, the debate subsided to some extent, but in the 1990s, renewed attention was paid to the issue.

Since the 1930s, governments tended to play a central role in their economies through demand-side macroeconomic management. These demand-side measures included various ways of boosting domestic demand, such as minimum wages, coupled with the protection of local industries by import tariffs. The intention was to facilitate the development of local industries. This approach to industrialisation is known as import

substitution or ISI. However, this 'golden age of capitalism' came under pressure because of rising inflation and the oil crisis in the early 1970s. Governments started to abandon these demand-side policies for neoliberal policies, implying a withdrawal from the economy through privatisation, trade liberalisation and flexible labour markets.

Trade liberalisation exposed many developed countries to competition from certain Asian economies, notably those of Japan and South Korea. This drew attention to the role played by the governments of those countries in facilitating industrial development. Many of these governments used a combination of supply-side and demand-side measures to stimulate and to strengthen their manufacturing industries. Certain industries were targeted for export promotion. They would initially be protected to develop capacity to serve domestic markets while receiving considerable support from governments through various supply-side measures, including state-funded research and development, financing and tax incentives.

Recent debates on the impact of globalisation on societies have drawn renewed attention to the need for governments to cushion some of the negative social effects of globalisation. A re-evaluation of the relationship between state and markets has taken place. This has given rise to new perspectives, some of which draw on the notion of industrial policy to shape the outcome of neoliberal globalisation.

Perspectives on industrial policy in the SA context

The broad industrial strategy followed since the 1920s in South Africa, even though not consciously framed in those terms, seemed to display three main characteristics:

- It contained some elements of import substitution industrialisation by means of protecting local industries from competition through import tariffs. To what extent tariffs protected local industries is subject to debate.
- The state played a significant role in setting up corporations to drive a programme of industrialisation. During the sanctions era, the state attempted to use corporations to supply key resources, such as fuel extracted from coal through Sasol.
- A dual labour market was created, where white South Africans were incorporated into a limited welfare state and were accorded labour rights, whereas black South Africans were formally excluded through a repressive labour regime.

During the 1980s the industrial policy of the apartheid government started to shift towards a position where tariff reform and privatisation were supported. However, decisive steps on economic reform, especially privatisation, could not be taken because of the illegitimacy of the government.

As with all policy, the making of industrial policy does not take place in a social vacuum. Policy is always influenced by the articulation of vested interests. When it became clear in the early 1990s that South Africa would enter a transition process based on a negotiated settlement, industrial policy as a way to address the legacies of apartheid capitalism received renewed attention. Debates on the relationship between the state and market became an area of intense contestation. During these debates, a number of major perspectives emerged. All the approaches agree that it is important to strengthen manufacturing. In the context of a mineral rich country such as South Africa, policy measures can be



aimed at moving up the value chain – focusing on adding more value to commodities through manufacturing before exporting goods or selling it to the local market. This form of industrial restructuring would attempt to strengthen the local manufacturing industry.

But the perspectives have radically different approaches to how this should be brought about, and what role the state should play.

- The World Bank approach follows the orthodox neoliberal approach where the market should determine the cost of labour and capital. The state's role is limited to that of a regulator. In more recent times the World Bank's position has shifted to increasing the importance of an industrial strategy (the extent of government involvement is not clear).
- The post-Fordist approach became prominent through the work done by the Industrial Strategy Project (ISP) in the early 1990s. At the request of Cosatu, the ISP conducted detailed case studies of several of

the South African manufacturing sectors in order to devise an industrial strategy to improve performance. According to the ISP analysis, South Africa's industrial structural deficiencies can be traced to the decline of the manufacturing sector brought about by the sustained regime of import substitution. Since

individual firms, but also to cooperation between different firms in so-called 'clusters', they said. Monitor believed the state could play an important role in facilitating cooperation in certain 'clusters'.

- Whilst the ISP located the reason for South Africa's economic decline in the manufacturing industry,

into retail. The real issue here is how these commodity chains are controlled globally and where different countries fit into the commodity chains. Developing countries are generally locked into the lower end of the commodity chain. Therefore, the issue

'When it became clear in the early 1990s that South Africa would enter a transition process based

manufacturing firms were protected from global competition, the South African manufacturing industry relied on dated technology and managerial techniques. In addition, the unequal income distribution patterns that mainly favoured white South Africans led to a saturation of the local market. Hence investment in the manufacturing industry, as well as productivity levels, declined. This approach emphasises trade liberalisation, and supporting an export-oriented manufacturing industry through supply-side measures, human resource development, and technological policy.

- The Porterist approach entered the debate following a study conducted by the Monitor Company on behalf of the National Economic Forum in 1994. The Porterist approach to competitiveness assumes that it is 'firms that compete and not nations'. However, government still has an important role to play. Monitor argued that the 'most productive role of government is to improve the quality of the inputs (factors) firms can draw upon, and to define a competitive environment and rules of the game that promote innovation and upgrading'. Competitive advantage does not only relate to

economists Ben Fine and Zav Rustomjee questioned the extent to which the manufacturing industry is central to the South African economy. They argued that if South Africa wanted to build an economy of scope and scale based on manufacturing, industrial policy considerations had to take into account the influence of powerful corporate interests in the economy, and how these interests shape the role of the state. Fine and Rustomjee's political economy approach questions the assumption that South Africa has moved away from a minerals-based economy to an economy based primarily on industrial manufacturing. Industrial policy measures proposed include demand-side measures through the development of infrastructure, as well as the targeting of manufacturing industries that can build on the strengths of the minerals energy complex.

- The Global Commodity Chain approach has emerged in more recent debate. This approach recognises that industries do not operate nationally but transnationally and that it is important to look at production as a process and how each production process links backward into agriculture and mining and forward

for industrial strategy is to attract the higher value added activities into the country – or to 'upgrade' along existing value chains.

One has to take into consideration what is included in, as well as what is excluded from industrial policy. It would seem that different components of industrial policy are prominent at different times. Therefore, definitions of industrial policy are not neutral, 'because of what is included and what is excluded'.

South Africa has never had a clear industrial strategy in the 1990s that could have led to a coherent set of industrial policy measures. Hence, the role of the dti, as well as the Industrial Development Corporation (IDC), has generally been used as a yardstick to assess current government thinking on industrial policy. Documents such as the section on industrial policy in the Growth, Employment and Redistribution strategy (Gear), as well as other the dti discussion documents, were used as indicators for the thinking of government officials on the status and direction of industrial policy.

Generally speaking, the industrial policy orientation shifted towards what the dti called a supply-side orientation, where import substitution made way for export-led growth. This movement is in line with the proposals of especially the World Bank, the Porterist and some of the elements of the post-

Fordist perspective. Alongside a programme of import tariff reduction, the dti put in place a general set of supply-side measures, including a tax incentive scheme and the provision of low interest loans to companies in industries undergoing rapid tariff reductions. Legislation governing competition was reviewed,

seems to have been a shift in this area with the focus on targeting sectors in the draft manufacturing strategy.)

It is also important to recognise that the way in which the government's macroeconomic policy was introduced, and the strict adherence to fiscal discipline, closed down some of

commodity chains operate transnationally.

There appears to be a growing convergence of interests since the presidential jobs summit in 1998 around the need for a more active role for government in industrial

on a negotiated settlement, industrial policy as a way to address the legacies of apartheid capitalism received renewed attention ...'

and new agencies were created to support the development of small business. It also embarked on spatial development initiatives (SDIs) and industrial development zones (IDZs) in order to attract investment to certain geographical regions.

In the context of a policy of export-led growth, it is interesting to note in which sectors of the manufacturing industry jobs have been created. From 1996 to 2000, the highest growth rate in employment has been in plastic products, leather & leather products and wood & wood products (not including furniture). These sub-sectors of manufacturing each achieved annual average growth rates above 5%. In only three other sub-sectors (out of the 27 main sub-sectors in manufacturing) was employment in 2000 higher than in 1996.

Two of these sectors (plastics and leather products) may have benefited from active government industrial policies – such as the MIDP. However, the argument that government should be more pro-active in the targeting of certain industries seemed to lose ground. Two reasons given for this is the perception that the dti does not have the capacity to do this successfully, and the concern that some of these measures may not be admissible under the World Trade Organisation rules. (However, there now

the space provided in the RDP framework to couple supply-side measures with demand-side measures. Hence, an industrial strategy that could focus on economic growth through infrastructure development and the meeting of basic needs became undesirable in the broader policy framework adopted by the government.

Conclusion

Countries occupy different positions in the world economy, and governments function from different positions of power. Yet, there remains significant scope for industrial policy to shape processes of industrial restructuring. A key area of concern in the context of globalisation is how national economies are 'inserted' (incorporated) into global commodity chains. South Africa's manufacturing industry has not been able to build a downstream economy of scope and scale on the benefits provided by a minerals-rich context. An important step would be to develop a better understanding of how trade liberalisation and other macroeconomic changes have impacted on the South African industrial structure – ie the extractive, beneficiation, manufacturing, retail and service sectors have to be analysed in relation to each other. But such an analysis has to take seriously the fact that

development, particularly with a view to job creation. It is evident that such an approach requires concrete inputs from all social partners. The areas that could be built on, are:

- Links between the sector summits and specific industrial policy measures addressing specific needs of sectors.
- A regional analysis of the sector development across the SADC countries. This applied to heavy industry such as Mozal as well as the development of the clothing and textiles sectors to maximise the potential gains from AGOA.
- An understanding of the role of key institutions such as the IDC in building strong capabilities in downstream manufacturing sectors.
- Measures to strengthen overall South African value chains to build competitiveness and create jobs.
- Draw on the existing sector specific research to understand the development dynamic. LB

This is an edited version of the discussion document prepared by the Sociology of Work Unit, University of the Witwatersrand in association with the Nedlac Research Department. The full version can be found on the Nedlac website (which will include a comparative study of Malaysia, Ireland and Mauritius).

The MIDP and restructuring in the auto industry¹

*The MIDP has been viewed as one of the dti's 'successful' interventions into a sector of the economy. **Anthony Black** reflects on this experience and attempts to draw some broader implications for other sectors.*

In recent years the South African automotive industry has received much positive publicity as a successful example of industrial policy. Important investments by major multinational carmakers and the achievement of large export orders have underpinned this apparent success. Most recent has been the announcement by Toyota in May that the company would be investing R3.5bn over the next three years partly, to cater for the export of Corolla vehicles to Australia. In April, Ford announced they had invested over R1bn in South Africa's only major engine plant and would expand production from 55 000 units last year to 240 000 units in 2003. These expansions have taken place at a time when the domestic vehicle market has shown little growth and foreign investment inflows have not met expectations. Furthermore, success in global markets is occurring in an industry, which less than ten years ago was highly protected and regarded as very uncompetitive. Too many small assembly plants, all producing too many models in uneconomically low volumes meant that both the assembly and component sectors were seemingly under grave threat from looming tariff reductions.

The policy applying to the automotive industry since 1995 has been the Motor Industry Development Programme (MIDP). Originally scheduled to run until 2002, it has been extended (in a phasing down format) to 2007 and negotiations are currently in progress to extend it to 2012.

Automotive policy

In common with policy in many other developing countries, the South African automotive industry has always been treated somewhat differently to other sectors. Tariffs historically were prohibitively high and as far back as 1960, requirements that domestically assembled vehicles should have minimum levels of local content were introduced.

The first steps to expose the industry to foreign competition occurred in 1989, prior to the beginning of the MIDP, with the introduction of Phase VI of the local content programme. This allowed firms to include exports as part of their local content requirement. In 1995, the MIDP was introduced after lengthy negotiations in the tripartite Motor Industry Task Group. The major objectives of the MIDP are to promote the development of an industry, which is able to compete in local and foreign

markets and through increased production provide sustainable employment and achieve an improved sectoral trade balance. In turn, this requires a phased integration into the global automotive industry and an increase in the volume and scale of production through expanding exports and gradual rationalisation of models produced domestically. The key policy instruments have been a gradual reduction in tariff protection and the encouragement of higher volumes and a greater degree of specialisation by allowing exporting firms to earn rebates in import duties.

Production and trade

Until the early 1990s, prohibitive tariff levels resulted in negligible imports of vehicles into South Africa. Vehicle prices were significantly above international levels. The phasing down of tariffs led to an increase in light vehicle imports from 2% of the market in 1990 to 18.7% in 2000. This increase is roughly in line with the expectations of policymakers but with vehicle exports increasing from 15 700 units in 1995 to 108 000 units in 2001, the number of vehicles being exported is now significantly higher than the volume being imported (Figure 1). A number of factors such as falling

protection and limited domestic market growth possibilities have contributed to export expansion but the import-export complementation arrangements of the MIDP have been crucial.

From 1960, the introduction of a series of local content regulations led to increasing levels of localisation. With the introduction of Phase VI of the local content programme and later the MIDP, the sector has been coming under increasing pressure from imports. However, the reduction in average local content levels has not been great although the very low levels of local content in certain recent, low volume models have caused some concern. Again, this has been offset to a large degree by the rapid increase in component exports.

As a result of growing component and vehicle imports, the overall automotive trade deficit widened dramatically from under R5.1bn in 1992 (a year of weak demand) to R14.1bn in 1996 before declining as a result of falling domestic vehicle production (requiring fewer imported components) and growing exports. In 2000 it had declined to only R9.7bn as imports increased moderately while exports continued to grow rapidly.

Rationalisation and industry restructuring

The scale of production is one of the central policy issues facing the South African automotive industry. South Africa's eight light vehicle plants produced an average of less than 50 000 vehicles in 2001 and a total of as many as 30 different basic models. Resulting average volumes per model are way below the world norm and significantly lower even than in relatively low volume producers such as Brazil and Australia. While this is an improvement from a few years ago, the cost premium incurred by component

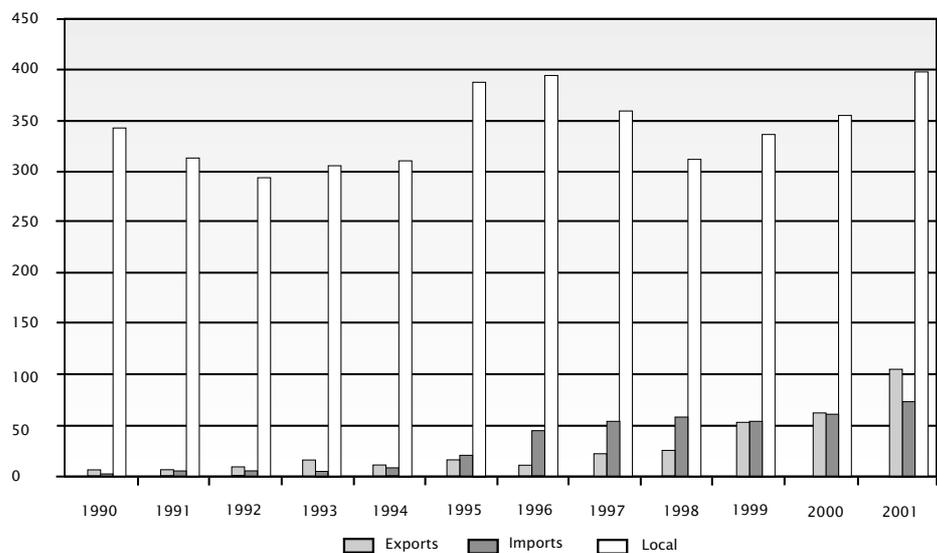


Figure 1: Vehicle production and trade, 1990-2001
Sources: dti, NAAMSA

	CKD assembly	Transition	Full manufacturing
Target market	Domestic	Domestic and export	Domestic and export
Level of integration with parent company	Low; import of CKD packs	Medium	High
Model line up	Many models	One or two	One or two
Derivatives	Limited to reduce costs	Full range to supply export market	Full range to supply export market
Localisation	Generally low but may be quite high as a result of local content requirement	Moderate based primarily on cost factors	Medium to high
Quality	Below source plant	Equal to source plant	Equal to source plant
Production cost	High	Medium; penalties incurred by high logistics costs	Low
Domestic design	Local adaptations	None	None – may do worldwide R&D in niche areas

Table 1: Stages in the development of vehicle production in South Africa

makers for producing a wide range of products at low volume is considerable.

In this context, the objective of the MIDP has not been simply to increase exports. Policies to assist exports can only make sense if they are to offset cost raising import duties on components or as a temporary expedient to help firms break into export markets. Another reason, which is applicable in the case of the auto industry, is to assist the industry to

restructure. An important objective of the import-export complementation scheme as well as the tariff reductions is to assist vehicle manufacturers and component suppliers to achieve high volumes which would make them more efficient, and able to compete in export markets as well as against imports in the domestic market. This policy, which could be termed 'guided integration' is aimed at encouraging a phased transition from completely knocked

down (CKD) assembly to full manufacturing with the attendant benefits of higher volumes and increasing localisation of components (Table 1).

For instance, the MIDP has made it possible for companies such as BMW and Daimler Chrysler to discontinue local production of low volume models and expand production of remaining models. This has the advantage of enabling them to reduce unit costs and increase local content by encouraging investment by first-tier suppliers. For example, production of the C Class Mercedes has increased from below 10 000 units per year in 1999 to over 35 000 units in 2001. With higher volumes it then becomes economical for domestically based component firms to make the large investments required to produce a greater share of the components in these vehicles. The objective is that a smaller range of vehicles would be produced in South Africa but in higher volumes and with higher local content. This then requires that some imports would be necessary in order to ensure the availability of a wide range of vehicles to local buyers. To some degree, this objective has been met. Firms such as BMW, VW and Daimler Chrysler have achieved high volumes through exporting. Toyota will join this group next year. However, these volumes remain insufficient to justify high levels of local content but are nevertheless a step in the right direction.

In the bid to offset import duties on vehicles and components, all vehicle makers have also facilitated growing volumes of component exports. This has resulted in the growth of a large, new export sector in products such as catalytic converters, automotive leather and wheels. While South Africa has become an efficient global player in these products, this development

contributes little towards reducing domestic industry input costs as the bulk of these products are exported.

Investment, productivity and employment

The entry of imported vehicles in significant volumes has led to much greater price competition and lower margins, which have added to the pressures of stagnating sales volumes. While profits are under pressure in an increasingly competitive market, there is clearly the risk of investment being reduced and gradual attrition taking place leading eventually to plant closure. However, the investment behaviour of the assemblers is influenced by a number of industry specific factors. The importance of economies of scale means that the increased competitive temperature places some pressure on firms to increase production as a way of reducing unit costs. This in turn may require that the parent company creates export opportunities for the South African subsidiary and invests accordingly.

Interestingly, there have been moderate increases in investment in both assembly and the component sector. Fixed investment in the assembly sector increased from R492m in 1994 to R1 562m in 2000. Firms such as BMW, Daimler Chrysler and Toyota have announced major expansion plans. Since 1994, the automotive sector has been the fourth largest recipient (after telecommunications, energy and food and beverages) of foreign investment which is particularly significant given adverse domestic market conditions and the fact that the industry faces declining protection.

Automotive industry productivity is low in South Africa but is improving rapidly. Data collected by MIs

International Motor Vehicle Programme, based on assembly plant surveys conducted in 1994 and 1996, showed that the average South African assembly plant compared poorly with assembly plants in other countries. The reasons for this can be ascribed to relatively low levels of automation and the complexity of most assembly plants, which continue to produce a range of models in relatively low volumes. However, the rate of improvement has been rapid and the component sector has also made rapid progress in productivity.

The automotive industry is exceptionally cyclical and this shows up in employment levels. Disaggregating the effect of trade liberalisation from the impact of market conditions is complicated by the impact on market growth resulting from the reduced price of vehicles in real terms, which in turn is partly the result of liberalisation. The export sector has now also become a major source of employment. Total employment in the vehicle manufacturing industry increased from 73 800 in 1994 to 82 100 in the boom year of 1996 followed by a decline to 71 000 in 1999. Partly as a result of export expansion employment has since then shown moderate increases. However, the prospects for massive productivity gains make employment gains in the assembly sector unlikely in the absence of rapidly expanding output and the potential for employment growth will be primarily in the component sector.

Implications for trade and industrial policy

The experience of the automotive industry under the MIDP raises a number of broader questions. These relate to the impact of globalisation and the role for trade and industry policy in promoting and regulating this process.

‘Considerable pressure has been placed on component suppliers and parts of the “traditional” component sector have not been able to adjust and have contracted ...’

For a relatively small developing economy moving away from the dead-end of protectionism, there remain important questions about the rate of the liberalisation. And more specifically how policy can help economic sectors integrate into the global economy on a basis that maximises the possible gains of access to world markets, while minimising the potential downside in the form of the destruction of local capacity and jobs. This means linking the domestic sector into global value chains on a basis that strengthens local capacity and creates new opportunities rather than placing it under excessive competitive pressure. In the global automotive industry, the value chain is controlled by a handful of large multinational vehicle producers.

The largest firms such as Ford and General Motors each assemble vehicles in over 30 countries around the world. These large carmakers also coordinate huge global networks of suppliers and play an important role in the location of investments undertaken by these suppliers. National policy clearly must attempt to maximise the benefits for the local industry of these decisions.

In the case of the South African automotive industry, the impact of globalisation has been felt in two main areas. Firstly, the level of foreign investment and ownership has increased substantially in both the assembly and component sectors. Locally owned assembly firms operating under licence from foreign carmakers have seen it as increasingly necessary to have a multinational partner in order to gain access to export markets. The same applies to component makers who have frequently sought foreign partners in

order to upgrade technology to the required standard. Therefore, while foreign ownership has frequently led to the demise of local R&D and the ending of local adaptations in product technology, for many locally owned firms with minimal indigenous product technology and a traditional reliance on foreign technology, it remains the most viable option.

Secondly, the industry has become much more open to international competition although it is far from being in a free trade situation. With its limited domestic market, unfavourable geographical location (in terms of distance to major markets) and history of heavy protection, the prognosis for the South African industry did not appear good in the face of the pressures of trade liberalisation. To date the costs of liberalisation have been quite low. The share of imports has grown but the small fall in employment that has occurred is mainly attributable to weak domestic sales. However, investment has increased and there has been a very rapid increase in exports. Vehicle prices have also declined significantly in real terms.

Coupling tariff reductions with strong export support rather than simply liberalising imports has provided an important catalyst for international automotive groups to strengthen their ties with their South African licensors and subsidiaries and draw them into their global networks. This has provided crucial access to high volume markets for both vehicles and components and in turn encouraged the investments, which have gone some way to making parts of the South African automotive industry competitive.

In spite of the successes, key problems remain. Considerable pressure has been placed on component suppliers and parts of the ‘traditional’ component sector have not been able to adjust and have contracted. There are also question marks over the sustainability of export expansion. The rationalisation process has been slow and may have benefited from more interventionist policies. Nevertheless, a number of vehicle manufacturers have made considerable progress towards rationalising their operations and it is likely that more will follow. Higher model volumes in the assembly industry are more likely to encourage investment in the component sector resulting in a lower cost production structure and more sustainable basis for industry development. A further problem has been slow growth in the domestic market. Multinational firms do not, on the whole, see South Africa as an export platform and future investment and expansion will depend to a large degree on perceptions regarding the growth of the domestic vehicle market over the medium and longer term.

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Endnote

1. More detail can be obtained in Black A (2001) ‘Globalisation and restructuring in the South African automotive industry’, *Journal of International Development* 13, pp 779-796.

Anthony Black is an associate professor in the School of Economics at the University of Cape Town and has worked as an advisor to the dti on automotive policy.

Why white goods are struggling to survive liberalisation?

*A study of the white goods sector by **Andries Bezuidenhout** looks at whether it has adapted to the opening up of the economy since 1994 and the kind of role an industrial strategy could play.*

Prior to 1994 the white goods sector (washing machines, fridges and other appliances) appeared to predominantly produce for consumption amongst the urban white market. The main manufacturers took advantage of the benefits provided by the previous government and set up some of their operations in the decentralised areas in the former bantustans.

During the 1990s, Eskom's electrification drive expanded the market by about 50%, but compared to other countries, South Africa's white goods market remains small. In the post-1994 period, some firms have relocated their operations to the neighbouring states.

Such moves ensured they were able to keep their labour costs in check while maintaining questionable industrial relations practices. The sector increasingly employed temporary workers and little appeared to change in the nature of the relationship between workers and management despite the introduction of new labour legislation. However, this strategy – of keeping labour in line – was not sufficient to prevent the sector from facing competition from cheaper

imports once tariffs were lowered. This is largely due to the fact that labour costs only account for 20% of total costs in the production of white goods while 50% of the costs relate to input costs such as components.

Composition of the sector

Globally there has been a process of concentration and rationalisation in the white goods industry. A number of very large corporations are controlling more and more of market share globally.

The structure of the South African white goods industry has also changed significantly since the 1990s. Whirlpool, a US multinational, bought a local loss-making firm and started manufacturing for the domestic and African markets. Kelvinator was temporarily saved from closing down by its management, but was liquidated anyway at the end of 1999. Simon Koch, the manager, blamed it on Masterfridge in Swaziland, who, according to him, had access to much lower wages. However, the following year Masterfridge was also liquidated. After this spate of bankruptcies, the only major remaining locally owned firm is Defy. Defy bought some of the production equipment from both Kelvinator and Masterfridge

to boost its production capacity.

So the only major local manufacturers left are Whirlpool and Defy. Whirlpool only manufactures fridges and freezers locally, while Defy manufactures all the major appliances in their three factories. But local manufacturers are under increasing pressure from importers.

One could well question why management in this sector failed to tackle their cost disadvantage in terms of input costs (50% of total costs) instead of trying to compete by using cheaper labour and retaining existing work practices without considering alternative ways of responding to globalisation.

Bezuidenhout argues in his study that the local industry is very sensitive to currency fluctuations, as many of the components are imported. Secondly, from his perspective, the white goods sector is not a powerful one and is unable to influence the costs of inputs needed. This is illustrated by the fact that steel is a major input cost but the sector is unable to take advantage of potentially cheap steel produced locally by Iscor. 'The white goods industry is an example of a downstream industry that does not get the benefit of cheap



steel produced in SA,' Bezuidenhout says. This is a key issue to be considered when drafting an industrial strategy as this issue relates to the industrial structure of the economy. A further and critical factor is the power an industry exercises in the overall economy. The white goods sector has little power to influence government unlike the automobile sector, which is dominated by powerful multinational corporations. This sector was able to put in place a targeted strategy largely because it had high profile employers who are able to negotiate deals with the state. Bezuidenhout asks: 'What about smaller employers, what power do they have?'

Current state of the sector

The sector currently faces rising competition from cheaper imports. About a third of local consumption is now imported, and the proportion is increasing. It is heavily affected by

illegal imports, government's failure to enforce anti-dumping laws and is unable to benefit from raw materials produced locally. Bezuidenhout argues that South Africa has tariff measures,

'The white goods sector has little power to influence government unlike the automobile sector, which is dominated by powerful multinational corporations ...'

which could protect local industry, but they are not being utilised effectively. 'Domestic laundry equipment is protected by a 25% import tariff. Industrial laundry equipment can be imported at a 0% tariff. The cut-off point is whether a washing machine takes 7kg of clothing or more. Some foreign firms are importing laundry equipment with an alleged capacity of 7.2kg to get around the import tariff for domestic equipment. This sector, like many others in manufacturing, need a flexible and sophisticated bureaucracy to play the trade game. If government cannot implement and police current policies, why develop new ones?'

There is a misconception that South Africa has a strong manufacturing sector. Increases in exports are often as

a result the exporting of raw or beneficiated materials such as steel. The advantages of a strong mining and steel industry should be passed on to the downstream manufacturing industry so as to strengthen local value chains where more value is added. Otherwise, there is the danger that the economy will remain a typical underdeveloped one where raw materials are exported and manufactured goods are imported from elsewhere.

In view of the situation in white goods, Bezuidenhout says, it is questionable whether the dti's most recent attempt to draft an industrial strategy addresses properly or merely pays lip service to value chain analysis. The value chain approach is at the centre of the dti's IMS, but Bezuidenhout questions whether a proper analysis has been conducted of the different sectors and how they link into each other.

LB

Bezuidenhout is a researcher at the Sociology for Work Unit (SWOP), University of Witwatersrand. This article emerges from a presentation he gave on his research during a SWOP workshop.

A view from the economists

*The dti process provided for the establishment of a focus group, which included a number of economists who provided input on the IMS. The **Labour Bulletin** elicited the views of some of those who participated in the process.*

All the economists interviewed, some of whom do not wish to be named, believe the document will act as an important catalyst for people to engage. They argue that constructive engagement on the document is after all – critical.

The following are viewed as some of the positive elements of the strategy as highlighted by the economists interviewed.

- The document provides a sober and comprehensive analysis of the problems in the economy.
- It recognises that some of the policy levers fundamental to growth do not necessarily fall under the ambit of the dti – hence the call for a more integrated approach within government.
- The acknowledgement that the manufacturing sector could act as a catalyst for employment growth, whilst at the same time recognising the potential of the service sector.
- The document sees a more active role for government. This could be positive if government's intervention

produces better outcomes.

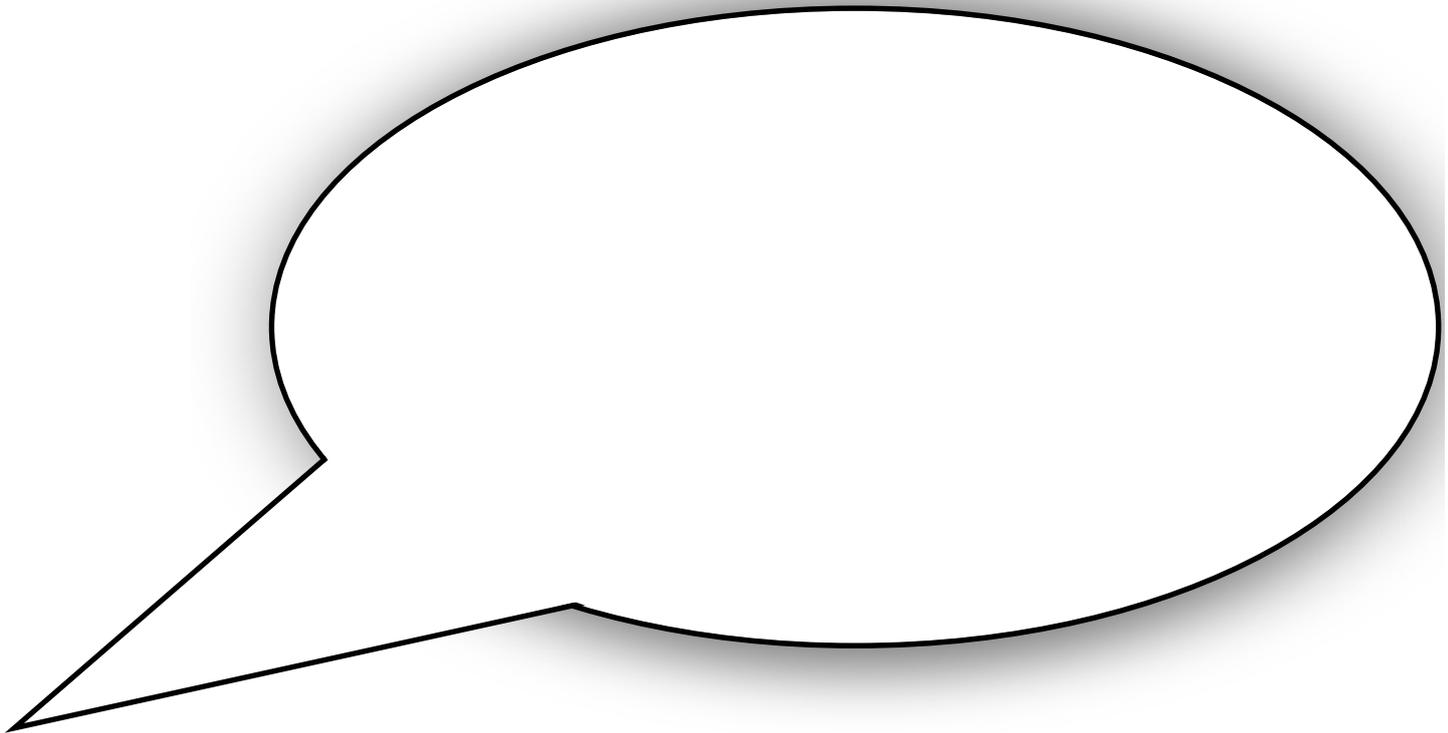
- There is a shift towards the targeting of sectors – although more controversial is the way targeting is done.
- The call for more collective action and engagement between key stakeholders.
- The dti (government) is clear about what it is able to provide, namely, leadership, customised services for different sectors and access to a broad range of products and services.
- A value chain paradigm allows one to identify where in the economy there is a potential to create value.

Some of the concerns amongst the economists relate to the following:

- The document sets out what the plan should be. It aspires to be a strategy but is at best a vision – an RDP for manufacturing.
- In view of the fact that the dti has put forward a broad perspective on the economy (and the focus on sectors falling outside of its ambit)

it is critical to determine whether the department has the political muscle to ensure cooperation from other departments. Who will give the dti this authority to play a leadership role? A case in point is the acknowledgement by the dti of the need to reform the telecommunications sector. It however, seems to lose this battle to the line department.

- The document fails to separate the dti's functions and its vision as to how it will impact on the overall economy. The document should have carried an analysis of its current status and functions and show how these are being met. Thereafter, it could propose extended functions. This is important in order to assess whether the dti is able to deliver on its strategy. There is some concern as to whether the dti is sufficiently resourced. (The production and analysis of statistics is critical for those wishing to export and was raised as an issue during the public



hearings.) Observers have indicated that the department has a large number of young, untested and relatively inexperienced staff. The positive is that they are enthusiastic and full of energy and are prepared to try new approaches instead of being stuck in an old mindset. Their test will be whether they are able to deliver to their 'customers'.

- The document is also silent on its institutional capacity. The dti lists all its subsidiaries but fails to highlight their role in implementation.
- It is questionable whether companies will work together to facilitate exports through economies of scale and other interventions. Business is essentially fragmented while some do not have the power to influence others up the value chain. In addition, how do you achieve collective action when constituencies do not share the same vision and thinking?
- It is unclear how the sectors targeted were identified? How will they be promoted? It is also

questionable whether systematic analysis was conducted to target sectors and how these sectors will be promoted? Although the document recognises the importance of a value chain approach, it does not identify whether (and where) South Africa has a comparative advantage in the value chain. The document needs to be more upfront about what parts of the value chain have a comparative advantage.

- Employment growth is not restricted to manufacturing. In recent years manufacturing jobs have been lost in favour of the service (and related) sectors. There is not a sufficient acknowledgement of this.
- It is questionable to what extent export-led growth will lead to job creation. Evidence has shown that

... it is critical to determine whether the department has the political muscle to ensure cooperation from other departments.

the strongest export sectors have retrenched.

- To what extent will government be able to influence various input costs such as energy, transport and telecommunications.
- The uncritical focus on the MIDP fails to acknowledge all the factors that have led to its 'success'.
- It is questionable to what extent the

proposed strategy reflects existing strengths such as the relations in the automobile sector or the power to be created. The aim of an industrial strategy is to represent interests of organisations that are not powerful. Hence,

the idea of a strategy is to alter a development path not to reflect the existing power relations. To what extent does dti respond to different elements of business than others? LB

The dti takes the debate

Public hearings were held from 23 April to 2 May 2002. The hearings were scheduled to discuss general views held by key stakeholders on an industrial strategy but were refocused to comment on the dti's proposed IMS.

From the outset all parties indicated that their comments on the dti's proposed IMS would be brief, as they had not had sufficient time to study the document. The document was officially released to the public on 18 April 2002, a mere four days before the start of the public hearings.

An important issue to emerge during the proceedings was the status of business input to the process. The chairman of the parliamentary portfolio committee on trade and industry Rob Davies and chair of the select committee on economic and foreign affairs Mooshen Moosa expressed their concern at businesses' failure to engage in the parliamentary process properly. They argued that business appeared poorly represented at a policy level; that they were dominated by big white business (black business was supposed to make representation but withdrew during the hearings); there was limited take-up of a developmental agenda and there was limited evidence of a grasp of big policy issues facing the country. Moosa argued that businesses failure to engage was critical if the IMS was to be implemented. Its implementation, he argued, would affect business

(industry) – 'that is the coalface and where the IMS will be implemented'.

Davies and Moosa highlighted some of the potential areas of tension that emerged from the presentations of the various stakeholders. These included finding a balance between competitiveness and developmental imperatives; a balance between the production of export-oriented goods to producing to meet the basic needs and ensuring a domestic demand-driven approach and the focus on employment. They argued that the absence of a strategic vision was critical. Davies said an 'absence may lead to negative consequences of potentially positive trends'. Parties had to explore more carefully issues around skills development and training; stakeholder dialogue and engagement; a proper assessment of the sector summit process; coordination in government; research and development; the critical role of the Industrial Development Corporation and how to ensure its mandate more effectively supports local economic development and SMMEs.

Business submissions

Business submissions were made by the Textile Federation, the Small

Business Project, Business South Africa and Sacob (Safcoc) while the black business groupings failed to appear. The submissions from these groupings included the following comments on how government should approach the drafting of an industrial strategy.

- There is general support for the IMS document, but concerns around implementation.
- Certain sectors affected by tariff reforms should get a 'breathing space'.
- Government needs to address the influx of cheaper imports and be more proactive on its anti-dumping legislation.
- High input costs such as wharfage charges and transport costs are too high.
- The dti needs to ensure reliable and timeous statistics.
- Government needs to ensure greater efficiency and a higher level of coordination.
- The role of the IDC came into question and whether it treated domestic investors in the same way as foreign investors (some of whom had dubious intentions).
- Government should review all regulations relating to small business.

to Parliament



- Small business strategies should be integral to an industrial strategy.
- Business faces a number of factors inhibiting investment including the cost of capital, potential rates of return, and limited economic opportunities because of dominant state role in the economy, the availability of investment projects and the size of domestic market and access to other markets.
- The effective company tax rate is too high (for example, Ireland's average is four times lower).
- The ability to participate in the economy is hampered by the fact that there is limited ICT capacity.
- Integrated value matrices concept and collective action are useful – but still need to address 'investment fundamentals' – leadership by each constituency is vital.
- There is a need to explore SMME financing institution alternatives.

Trade union submissions

The submissions from the trade unions were dominated by comments by Cosatu, four of its affiliates and Naledi, a research unit linked to the federation. These submissions included the following comments:

- Government's microeconomic reforms are welcomed while the new IMS document is an improvement on the previous discussion document.
 - The increased focus on consultation and involvement of stakeholders is welcomed.
 - The analysis in the first section of the document is inconsistent with the second section, which focused extensively on exports. There should not be an exclusive focus only on exports. There is a tendency to neglect production for basic needs, which could improve quality of life and boost domestic demand.
- There is undue focus on investment in labour-shedding technologies instead of a shift towards more labour intensive production.
 - Despite the adoption of a value matrix approach, the document does not spell out the implications for sectors outside of manufacturing. In addition, downstream activity and completing of value chains should not just focus on international value chains, but also (primarily) on completing value chains within the domestic economy. Factors that needed to be considered in this regard include import parity pricing, procurement to help domestic production and tariff distortions, which could lead to input costs being higher than manufactured goods.
 - There is a need for a national strategy and strong sectoral

dimension: sector summits and other forums are crucial for engagement around the economy.

- Need to improve access to finance and policy coordination. The concept of the joined up government needs to be taken on board.
- A macroeconomic policy needs to support industrial policy.
- The role of state-owned enterprises should play an important role in an industrial strategy. The dti needs to expand on this.
- There is a need to explore the concept of a developmental strategy within the overall focus of an industrial strategy. There is a need to align social development with an economic development strategy.
- The IMS document does not define collective economic action.
- The document is weak on production for domestic needs as well as its focus on capital and the financial sector.
- The document fails to highlight how the capacity of the IDC will be integrated into the overall strategy.
- Some positive steps in relation to trade policy were noted in the document such as the need to align sectoral and regional imperatives. However, increased exports do not necessarily lead to jobs. Increased exports should be done in a way that will lead to the creation of jobs.
- The dti should be making better use of WTO rules as a legitimate tool to strengthen domestic production.
- There is an acknowledgement that the current skills base is too small.
- Supply-side measures such as incentives have a role to play.
- The dti needs to explore the barriers to entry to the economy for SMMEs.

- Foreign direct investment, has in some instances, led to the replacement of local production and is in effect resulting in the deindustrialisation of the economy. The latter relates to concerns raised around technology transfer and the relationship between multinationals and new technology.
- There is a need to link tariff and trade strategies with an overall industrial strategy.
- Some caution expressed around the notion of knowledge-intensity roll-out and what role it can realistically play within a developmental strategy.

SA Communist Party submission

The SACP welcomed the IMS as an advance on the first draft. It welcomed the following approaches outlined in the document:

- The shift in focus of government policy towards the real economy.
- The comprehensive approach to accelerating growth and development.
- It provides a leading role for government and active state leadership.
- The focus on promoting collective action.
- The focus on employment.
- It offers a new range of measures and customised services.

The SACP felt the document failed to explore the promotion of a developmental agenda within the context of globalisation. Ultimately, the SACP argued for the need for an active developmental state with government-led sector and industrial strategies. Reinforcing the views of Cosatu, the SACP argued that the focus should not purely be on export-orientation but on those sectors which could cater to domestic demands in the provision of basic

services. The transformation of the financial sector was crucial, and should be at the centre of an industrial strategy.

Research institutions

A number of research institutions and one government department made submissions on the role of research and development within an overall industrial strategy. They provided a sober picture of the poor state of R&D in South Africa.

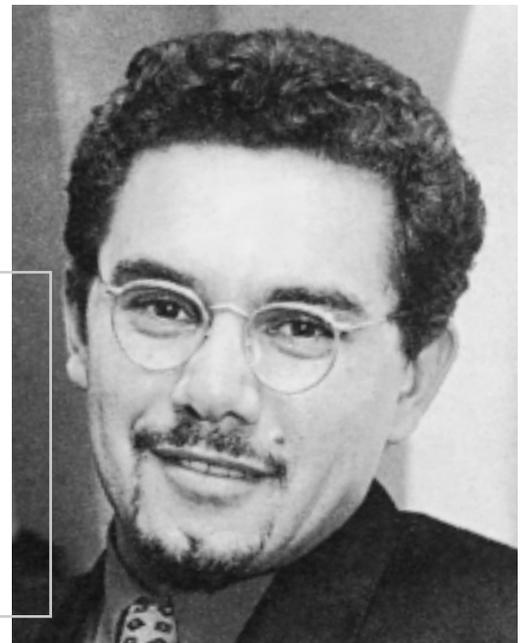
The institutions included the Foundation for Education Science and Technology, the Department of Arts Culture, Science and Technology and the CSIR.

Their submissions included the following comments:

- Research and development capacity in South Africa is declining.
- Government is intervening to ensure the remaining elements of R&D capacity in the country are not lost and is increasingly being incorporated into parastatal structures such as the CSIR.
- R&D capacity is critical to enhance and maintain competitiveness.
- Those working in science and related fields are predominantly white and aging and this is hugely problematic.
- There needs to be interventions to engage R&D in the private sector. These could include the possibility of incentives to encourage R&D.
- There is a need to draw people into appropriate skills. There is a need to inculcate a culture of science and technology.
- There is a need to elaborate on technology implications for an industrial strategy – technological changes have significant implications for economic growth.
- The IMS needs to be more explicit about how it will support a

'The economic problems we currently confront reflect that the economy has significantly restructured and that this restructuring is deep-seated and cannot be easily reversed.'

Alistair Ruiters, DG for the dti



technology-based future. It is weak on clear actions and targets.

- There is an urgent need to restructure tertiary education subsidies – currently there are incentives for social sciences over science and technology because universities make financial losses on these students.
- There is also a need to restructure secondary education to produce more maths & science higher-grade matriculants.

Dti institutions

A number of institutions, which fall under the jurisdiction of the dti, such as the IDC and the Competition Commission, made the following submissions:

- There is general support for the IMS document but a number of areas of clarity are required, including issues around input costs.
- Although there is agreement on the

overall importance of new sources of competitiveness, the document needs to provide more clarity on the implications for industrial strategy.

- While there is agreement on the strategic use of tariffs, tariff reductions should be used to counter the potential for import parity pricing.
- The approach of 'picking winners' is a problem. Any incentive given to an industry disadvantages other sectors in the economy, caution against customised support measures – not level playing field. Simplification of 'broad raft' of measures more important than selection of particular sectors.

Nedlac

Nedlac informed the committees of the progress being achieved in the discussions on industrial strategy. During the Nedlac process

engagement was focused on a number of areas such as the relationship between macroeconomic policy and industrial strategy, whether the IMS was going to be able to facilitate the creation of jobs; the degree of state involvement in the IMS and issues around foreign direct investment.

Nedlac executive director Philip Dexter explained how the workings of the institution and the involvement of all key constituencies (labour, government, business and the community) could provide useful input to the dti on the notion of collective action and the necessary ingredients for this to be achieved. Of critical importance is an acknowledgement of the importance of the constituencies to ensure things happen. Other factors included the need for decisive leadership; access to relevant information, which did not support an approach of 'limited or

Nedlac executive director Philip Dexter said: 'Of critical importance is an acknowledgement of the importance of the constituencies to ensure things happen ...'

privileged' access and more importantly, whether the parties have the capacity and organisational strength to drive processes.

The dti response to submissions

Following input from various stakeholders, the dti director general Alistair Ruiters made an initial response to the overall comments made. He said: 'The hearings have represented an important moment in the process of developing a shared vision of our economy and the challenges confronting us as we move our economy onto a higher growth path.' The conclusion of these hearings does not signify the end of the process, he said.

Ruiters explained that the IMS document, together with the Microeconomic Reform Strategy, would provide the framework for further engagement. Many of the submissions presented had recognised three important policy areas identified by the dti in the IMS, he said. They included the fact that:

1. Manufacturing represents the linchpin of the strategy to improve the economy's performance.
2. The role of the state – not only in regulating the economy, but also in providing economic leadership for the transformation of our economy in a manner that also meets our development challenges as a nation.
3. The need for customised interventions to address specific developmental and competitiveness

challenges in high potential sectors.

Perhaps the key theme that has emerged from many of the submissions, he said, was the concern about South Africa's readiness to embrace a knowledge economy. The knowledge economy, he said, involves new ways of working, new management practices, new forms of corporate governance, more visionary boards and enlightened managers, new forms of government offerings, and new relations between government, business and labour. The knowledge economy also requires the development of networks and the diffusion of best practice between enterprises.

Studies conducted by the dti in a wide variety of sectors had identified knowledge-driven activities, such as innovation and marketing intelligence, as the prerequisite of their further development. The key blockage to growing these sectors 'for example clothing, wine, chemicals, pharmaceuticals and jewellery and others' is frequently the absence of knowledge, he argued. Thus, the focus on knowledge is not just a strategy only for high-tech industry but is relevant for the entire economy.

'The economic problems we currently confront reflect that the economy has significantly restructured and that this restructuring is deep-seated and cannot be easily reversed.' This was evident in the fundamentally altered sectoral contribution to gross value-

add (the tertiary sector now contributes nearly two-thirds of gross value-add), the change in the labour-skills mix (demand for highly skilled labour has increased in all sectors while at the same time the demand for unskilled labour has fallen), and the rapid deepening of technology (capital to labour ratios have increased despite the relatively high cost of capital). This structural change, he said, gives rise to negative social implications that must be addressed through immediate and medium-term interventions otherwise higher growth rates will only serve to exacerbate inequality and poverty.

The dti, he said, will ensure closer working relationships with its social partners in specific sectors and value matrices to promote increased output and employment at a sector level. 'This work is hampered by the absence of a credible, highly-organised and unified business voice in South Africa.' The department, he added, was developing strategies around small business development and black economic empowerment, which would address questions around marginalisation and economic development.

Ruiters concluded that the IMS required a detailed implementation plan, which would follow. A key step in this process would be for Parliament and all social partners to work with the dti to shape the plan and to ensure that sufficient resources are allocated to the implementation of the plan.

LB

on a lighter note

STAFFROOM STORIES SPECIAL AFRONAUT EDITION

IF YOU WOULD LIKE THE RECIPE FOR MAKING YOUR OWN FIZZY ROCKET WRITE AND TELL US WHAT YOU THINK OF STAFFROOM STORIES

MONDAY MORNING AT PROGRESS HIGH, BOX 601, SOUTH AFRICA, PLANET EARTH.

STUDENTS THROUGHOUT SOUTH AFRICA ARE LITERALLY FALLING OVER WITH EXCITEMENT. I'M SURE. TODAY MARK SHUTTLEWORTH STARTS HIS ROADSHOW!

THAT RICH BRAT! WHAT A WASTE OF \$20 MILLION!!
HE COULD HAVE BOUGHT TOILETS FOR 18000 SCHOOLS.

DON'T YOU HAVE ANY IMAGINATION?? HE'S INSPIRING MILLIONS OF AFRICAN KIDS TO STUDY SCIENCE.

LATER!
IT'S HARD BEING A VISIONARY IN A SCHOOL LIKE THIS SIGH
I BET TB WON'T TURN UP AGAIN

BANG!
BANG!
BANG!

GASP, IT'S THE WHOLE SCHOOL!
WE'VE COME TO LEARN ABOUT ROCKETS, SIR!!

HE, HE, HE. I USED TO MAKE ROCKETS PROPELLED BY FIZZY TABLETS WHEN I WAS A KID.
TABLET INSIDE! PUT YOUR ROCKETS DOWN AND MOVE AWAY.

BOOM
FIZZES
WHOOOSH
PAFF

AFTER SCHOOL!
WELL THAT WAS A GREAT DAY...
PSSST MENEER - LOOK WHAT WE'VE FOUND

A GIANT FIZZY TABLET!

THE NEXT DAY:
WHAT IS IT, GIRLS?
PRINCIPAL, SIR, THERE'S A TERRIBLE PROBLEM.

VANDALS HAVE STOLEN THE WALLS AND THE ROOF!
NO, SIR. LOOK UP.

FINLAY THAT TOILET'S NO USE UP THERE. COME DOWN IMMEDIATELY!
SORRY PRINCIPAL. IT'S TOO LATE, THE WATER'S ALREADY IN.

HANDS ON YOUR EARS EVERYONE!
BOOM!

WHAT AN UNBELIEVABLE WEEK IT'S BEEN...
NEWS
IT ALL STARTED ON TUESDAY...

...WHEN A LOCAL SCHOOL PUT THE FIRST AFRICAN ROCKET INTO ORBIT...

THIS LED TO A MINOR CRISIS ON WEDNESDAY...
THERE ARE 18000 PLUS ONE SCHOOLS WITHOUT TOILETS

WHICH WAS SOLVED ON THURSDAY, THANKS TO MARK SHUTTLEWORTH'S GENEROUS GIFT.

TODAY THE GENIUS SCHOOL TEACHER, FINLAY, WAS ARRIVED IN AMERICA.
THANK YOU, THANK YOU.

CARTOON COURTESY OF THE EDUCATOR'S VOICE, MAY EDITION - SADTU PUBLICATION

The Myburgh Commission: **Looking in vain for**

*The rand commission was set up by government following the dramatic drop in the value of the rand. **John Pape** analyses the commissions' work (which is expected to cost government R25m) and its implications for workers.*

The fall of the rand by 37% in 2001 was the major economic media event of the year. This was not the first time the currency has crashed. But it is the first time a public commission has been appointed to investigate the issue of currency fluctuations. The Myburgh Commission, set up in February 2002, has a general mission of determining whether there were any illegal or 'unethical' activities that contributed to the decline in the value of the rand. Chaired by Justice John Myburgh, the commission took testimony from dozens of experts including economic consultants, business leaders, and officials from the Reserve Bank and commercial banks.

Most workers, indeed most South Africans, do not quite know what exactly makes the value of the rand go up and down. But there is a healthy suspicion that there is someone out there pulling the strings and making some money. The explorations of the Commission have taken some steps to confirm this.

Background to the Myburgh Commission

The origins of the Myburgh Commission supposedly stem from a

letter written by Kevin Wakeford, the CEO of the South African Chamber of Business (Sacob) to President Thabo Mbeki in January 2002. In the letter Wakeford detailed information he had received from an unnamed but 'reliable' source that there had been conscious attempts by South African companies to drive down the value of the rand. Wakeford argued that these attempts should become the subject of a public investigation or commission.

Activities and achievements of the Commission

Perhaps the greatest success of the Myburgh Commission has been to open the secretive world of financial markets to the public eye. At least three important aspects of currency trading received considerable media attention. Firstly, there is the question of the staggering amount of money involved. Experts traced the ever increasing billions and trillions involved. By 2001 the daily global trade in currencies had climbed to \$1.2 trillion (at the time about 9

trillion rand). Daily rand trading, while representing less than 1% of global values, rose from \$2bn in 1992 to about \$8bn in 2001. This means that in 2001, the weekly trade in rands was about equal to the entire South African government budget for the year.

At least as surprising as the scale of trade was who was taking part. Some expected that some hedge fund in New York or a group of conspiring European speculators had devised a plan to drive down the value of the rand. But surprisingly, if there has been any finger pointing at the Commission it has been directed at local businesses and financial institutions. Some of the big players in rand

trading include Standard Bank, Sasol, Cell C, De Beers, Anglo Gold. In April 2001, of the \$11bn being traded in the daily rand markets, \$8bn was taking place in South Africa.

Apart from shedding some light on the statistics and organisations behind

'Most workers, indeed most South Africans, do not quite know what exactly makes the value of the rand go up and down ...'

the smoking gun

PHOTOGRAPH COURTESY OF THE SUNDAY TIMES



Right: Commission chairman John Myburgh with fellow commissioner Christina Quinta.

the trading, the Myburgh Commission has also given us some limited information on the how and why of currency trading. For example, a number of witnesses described in an asset swap of R2.5bn undertaken by Sasol and the German Deutsche Bank. Essentially in an asset swap, a local company trades local shares, which are denominated in rands for an equal amount overseas, which are held in a hard currency like Euros or US dollars. Asset swaps provide companies with a way of taking money out of the country without having to go through a direct trade in cash. It is the equivalent to a South African individual swapping a Chiefs soccer kit for a Manchester United kit with a person overseas.

In addition to bringing out information about speculators, the Commission also revealed much about the operations of the South African Reserve Bank. In a nutshell, the testimony demonstrated that at present the Bank has very little power or capacity to regulate the actions of currency traders. The Bank generally regards currency traders as important investors and appears very hesitant to take any action, which might scare them away.

Business' response

Many business people, particularly those involved in currency trading, have been very disturbed by the Commission. They have responded on a number of fronts. Firstly, many within the business community have attacked Wakeford. The business media have attempted to discredit his story and belittle his motives for making the appeal to Mbeki. Although one may wonder why Wakeford chose to go public with an unverifiable source, the efforts to undermine his credibility clearly smack of an effort by business to close ranks.

A second aspect of business' response has been to provide assurance that their international activities are not harmful to the value of the rand or the economy in general. In particular, there

has been an attempt to defend the big corporations like Anglo American, Old Mutual, Gencor (now BHP Billiton) South African Breweries and De Beers who have moved billions out of the country to list on overseas markets and play a more global game. Big business in South Africa wanted to make sure that the Myburgh Commission would not lead to a restriction on their capacity to move their money around the world.

But the major thrust of business' response to the Myburgh Commission has been to blame the problems of the rand on the Reserve Bank and exchange controls. At present the Reserve Bank has very mild controls on movements of money in and out of the country. Major transactions (those involving hundreds of millions) do require Reserve Bank approval. However, much

'Perhaps the greatest success of the Myburgh Commission has been to open

the secretive world of financial markets to the public eye ...'

of organised business argues that such controls scare away investors. They cite the 14 October 2001 statement by the Reserve Bank where it threatened to enforce existing controls more strictly as the factor which led investors to sell rands, leading to the fall of the currency's value. Business' view is that the way to stabilise the rand is to abolish all exchange controls, thereby providing business with a complete free hand in moving their money around the world.

Analysis

The Myburgh Commission is very unlikely to find any evidence of illegal or unethical currency trading in their investigations. While their work has surfaced considerable interesting information, essentially they are asking the wrong questions. Global and local currency traders do not operate illegally or unethically. They are playing a game where all the rules are set up in their favour. A key component of globalisation has been the liberalisation of financial markets. Hence, rather than looking primarily for the one or two culprits behind the rand's demise, the Commission could have looked much deeper at the global economic structure.

Essentially there have been three sets of responses to dealing with the issue of global currency traders. The first response has been to focus on the regulations and systems in place in affected countries. In other words, the main factors behind the fall of currencies in South Africa or Indonesia are local corruption and incompetence. This is a line largely advanced by elements in the World Bank and the

International Monetary Fund (IMF). For them the solution is capacity building in order to bring countries in Asia, Africa and Latin America into the world of 'good governance' and 'international best practice'. Their argument is that the free market simply needs to be made to work better.

A second response has been to develop a range of reforms of the global trading system in order to reduce the power of currency traders and others who invest in speculation rather than production. Reforms could include placing more controls on their activities. Countries like Malaysia, China and India have taken steps like compelling investors to keep their money in the country for a minimum period of time. A more elaborate reform proposal is the Tobin Tax. This initiative would place a service charge on every international investment transaction. The moneys raised from such a tax would then go to a global development fund, which would be used to create infrastructure and meet other basic needs in developing countries. At this point the Tobin Tax remains idea-based.

A third response has been to ask broader questions about whether a few tariffs or 'speed bumps' will be enough to make a difference. In their recent book, *Global finance: New thinking on regulating speculative capital markets*, Walden Bello, Nicola Bullard and Kamla Malhotra have argued for a more fundamental restructuring of the global economy, which would include the closure of institutions such as the World Bank.

In South Africa, labour and other social movements have also been grappling with these issues. The

combined efforts of Cosatu, the South African Non-Governmental Organisation Coalition (Sangoco) and the South African Council of Churches in the Peoples' Budget Campaign have also tried to provide an economic policy alternative, which would redirect investment away from speculation and focus on production to meet the basic needs of South Africans.

Conclusion

The bottom line is that the Myburgh Commission has confirmed many workers' worst fears. The sad truth is that money held in workers' provident funds, as well as the profits earned through years of labour exploitation, is flooding into the global financial markets. The culprits in rand currency trading are not just overseas fund managers but local capital as well. Moreover, the calls from business for further financial liberalisation will just make it easier for big business to take their money to London or New York, leaving behind a falling rand and a trail of retrenched and underpaid workers from Polokwane to Cape Town.

Ultimately, the Myburgh Commission will not isolate the cause of the fall of the rand. They will find some of the underlying factors – instability in Zimbabwe or a quick and dirty trade by Deutsche Bank and Sasol. But there is a much deeper structural problem in the global economy, which must be addressed before currencies like the rand, or the Argentinian peso or the Thai baht will stabilise.

LB

Pape is projects coordinator, International Labour Resource and Information Group, Cape Town.

Collective bargaining indicators

*As wage negotiations move into full swing in various sectors of the economy, the **Labour Research Services** tracks developments to ensure up-to-date data is available for collective bargaining.*

A study conducted by the National Institute for Economic Policy (Niep), found that all households rely extensively on wage labour as their main income-generating activity. Wages are thus the most important source of income for the majority of South Africans. However, wage labour has come under severe pressure due to the escalating cost of living, declining government spending on social services (which forces workers to pay for certain essential services) and the rise in unemployment and poverty levels. The wage packet of low-income workers is being eroded by the increased cost of basic commodities, like food and clothing, as well as by the rise in fuel prices.

Average settlement levels

In 2001 we witnessed a wave of strike activity as workers tried to negotiate for wages that could alleviate the ever-increasing pressure on low-income households as a result of the rising cost of living. The South African economy is experiencing a steady increase in the rate of inflation (a measure of the average price increase of goods and services). This means that workers will be able to spend less on goods and services. Hence, pegging wage increases to inflation does little to improve the standard of living of low-income households.

Workers demanded wage increases

of between 10% and 15% during 2001 while increases were on average below 10%. With the rate of inflation on the rise again, these increases translate into very low real wage increases.

Out of a sample of 203 bargaining units representing about 303 443

workers across various industries, the annual median percentage wage increase was 8% for a 45-hour working week and the annual average wage settlement was 8.3% for an average working week of 44.25 hours.

Workers in the public transport

Table 1: Average percentage settlement levels attained by workers in various industries in 2001

Industry	No of bargaining units	Approx. No of workers covered	Median % increase	Average % increase
Mining & Quarrying		190 000		
1) Gold & Uranium Ore	16		8%	8%
2) Diamond	8		10%	9.4%
3) Coal	6		7.5%	7.7%
4) Metal Ore	2		7%	10.8%
5) Other	8		9%	9.2%
Manufacturing				
1) Paper products; printing & publishing	23	4 217	7%	7.7%
2) Chemicals, rubber and plastic products	22	16 917	8%	9.4%
3) Food products and beverages	41	24 556	7%	7.6%
4) Automobile	1	21 000	9%	9%
5) Steel and engineering	6	13 685	7.8%	10.6%
Construction				
1) Building and manufacturing of bricks and cement	12	866	7%	7.6%
Wholesale and retail trade, catering and accommodation services				
1) Wholesale and retail	25	19 733	9.6%	10.1%
2) Catering and accommodation	21	1 368	7%	8.3%
Transport, storage and communication				
1) Public transport	4	7 130	9%	11%
Financing, insurance, real estate and business services				
1) Business services	7	434	8%	8.3%
Electricity, Gas and Water				
1) Water supply	1	3 537	7.7%	7.7%
TOTAL	203	303 443	8%	8.3%
Annual inflation rates	CPI = 5.7%		CPIX = 6.9%	

Source: AWARD, Labour Research Service. Industry settlement levels exclude bargaining councils' percentage settlements

AWARD Job grade	No of barg. units	Median weekly wage	Median hours of work	Average weekly wage	Average hours of work
Labourers					
Grade A1	273	R408.77	45	R411.82	43.65
Grade A2	39	R505.19	45	R517.83	44.00
TOTAL	312	R419.81	45	R425.09	43.71
Production workers					
Grade B1	109	R456.04	45	R489.42	44.06
Grade B2	115	R527.58	45	R561.63	44.10
Grade B3	97	R615.05	45	R657.47	44.00
Grade B4	56	R675.28	45	R700.70	45.00
TOTAL	377	R571.32	45	R602.31	44.29
Craft workers					
Grade D1	19	R423.20	40	R417.62	41.00
Grade D2	23	R664.67	40	R642.69	41.63
Grade D3	69	R794.40	45	R851.53	42.78
Grade D4	10	R490.40	40	R573.00	41.00
TOTAL	121	R577.54	40	R621.21	41.60
Transport					
Grade K1	26	R383.05	41	R388.15	42.13
Grade K2	28	R460.80	41	R459.68	42.20
Grade K4	17	R503.00	40	R468.35	41.53
TOTAL	71	R460.80	41	R438.73	41.95

Table 2: Average weekly minimum wage rates and working hours across various grades, 2001

sector won the highest average increase of 11% followed closely by the metal ore mining sector attaining an average wage increase of 10.8%. The steel and engineering and wholesale and retail employees also attained average wage increases of just above 10% (see Table 1).

Average wage settlements attained by various trade unions

The South African Transport and Allied Workers Union (Satawu) attained the highest annual percentage wage increases, recording a median increase of 9% and an average increase of 10.5% for an average working week of 42.03 hours. The lowest increase was found in the National Union of Food, Beverage, Spirits and Wine (Nufbsaw) with an annual median increase of 6% and an average annual increase of 7.45% for an average working week of 42.71 hours. The median annual settlement level for

the sample was 8% for a 45-hour working week. The average annual settlement level was 8.3% for an average working week of 44.15 hours.

Average minimum wage levels

In the sample of 312 bargaining units it was found that a labourer earned on average a weekly wage of R425.09 for a 43.71-hour week and a median weekly wage of R419.81 for 45 hours per week. In comparison, craft workers earn an average weekly minimum wage of R621.21 for a 41.60-hour week and a median weekly wage of R577.54 for a 40-hour working week. (See Table 2).

The average weekly wage for artisans was R851.53 for an average working week of 42.78 hours and their median weekly wage was R794.40 for a median working week of 45 hours. In the sample, labourers earn on average 49.9% of an artisan's

average weekly wage.

A look at the lowest wage rate reveals that the lowest wage in this category is found in the construction industry recording an average weekly minimum wage rate of R262.45 for a 44.27-hour working week and a median weekly minimum rate of R265.95 for a working week of 45 hours. The wholesale and retail trade and catering and accommodation services industry followed closely with an average weekly minimum wage rate of R311.63 for a 44.89-hour week and a median weekly minimum wage of R274.94 for 45 hours per week.

Minimum wage rates

The average weekly wage (from a sample of 17 bargaining councils representing 23% of the total number of bargaining councils and covering approximately 950 000 workers) was R566.25 for a 43.22-hour working

Table 1: Consumer price index and % change according to urban areas

CPI All Items Areas	Mar-02 CPI	Mar 01-Jan 02 Inflation
Western Cape	112,8	+8,0%
Cape Peninsula	112,5	+7,4%
Eastern Cape	112,2	+8,1%
Port Elizabeth	112,1	+7,5%
East London	112,0	+7,3%
Northern Cape	113,0	+7,5%
Kimberly	114,3	+9,1%
Free State	109,3	+5,4%
Bloemfontein	108,7	+4,3%
Free State Goldfields	110,7	+5,6%
KwaZulu-Natal	112,1	+6,7%
Durban/Pinetown	112,3	+6,3%
Pietermaritzburg	113,4	+7,9%
North West	111,0	+6,3%
Gauteng	111,0	+6,2%
Pretoria/Centurion	111,9	+7,0%
Witwatersrand	111,1	+6,0%
Mpumalanga	112,4	+7,6%
Nelspruit/Witbank	113,5	+7,9%
Limpopo Province	111,4	+6,3%
Polokwane/ Pietersburg	107,6	+4,2%
Metropolitan	111,7	+6,6%
Metropolitan and other urban areas	111,5	+6,8%

Source: Statistics South Africa

Table 2: Food price index and % change according to urban areas

Food Inflation Areas	Mar-02 CPI	Jan 01-Mar 02 Inflation
Western Cape	115,7	+12,2%
Cape Peninsula	117,6	+13,2%
Eastern Cape	117,1	+16,5%
Port Elizabeth	118,0	+15,9%
East London	116,6	+14,3%
Northern Cape	114,9	+11,1%
Kimberly	118,2	+13,3%
Free State	115,9	+12,6%
Bloemfontein	120,1	+15,4%
Free State Goldfields	115,3	+10,3%
KwaZulu-Natal	122,5	+15,9%
Durban/Pinetown	122,3	+15,2%
Pietermaritzburg	121,7	+14,9%
North West	117,3	+15,2%
Gauteng	114,7	+12,3%
Pretoria/Centurion	116,5	+13,3%
Witwatersrand	114,3	+11,8%
Mpumalanga	120,9	+18,0%
Nelspruit/Witbank	121,6	+16,9%
Limpopo Province	120,7	+15,4%
Polokwane/ Pietersburg	120,5	+18,1%
Metropolitan	116,5	+13,0%
Metro and other urban areas	116,8	+13,6%

Source: Statistics South Africa

week whilst the median wage was R489.13 for 45 hours per week

The lowest weekly wage was found in the Motor Service Stations Bargaining Council with grade A1 workers earning a weekly wage of R144.90 for a 45-hour working week. This is closely followed by general workers in the building industry earning R205.65 per week for a 45-hour working week. The lowest paid worker in the Tearoom, Restaurant and Catering Bargaining Council earns R219.25 per week for 45 hours per week.

The highest weekly wage in the sample was found in the public sector where educators in notch 1 rank 9 earn R2052.21 per week for a 35-hour working week. Artisans in the metal and engineering industry earn R939.72 per week for 41 hours per week. This is closely followed by the Meat Trade Industry Bargaining Council in Gauteng where master meat cutters earn a

weekly wage of R911.61 for a 45-hour working week.

Conclusion

Wage bargaining has come under enormous pressure as a result of retrenchments, increased employment of casualised, part-time or temporary workers, increased levels of poverty and other negative impacts of globalisation. In 2001, workers won above-inflation wage increases. However, negotiations this year have to contend with an economy that is in a constant state of flux. The South African currency has experienced a 40% decline against the US dollar resulting in a rise in inflation and interest rates. Workers will have to dig deeper into their pockets to afford the increased cost of living. The above-inflation rate increases will thus do little to improve the standard of living of low paid workers.

The Bureau of Market Research calculated that an average low-income family requires a minimum living level of R354.43 to survive on and a supplemented living level of R465.99 per week. This report found that in a sample of 273 of the lowest paid workers, the average minimum weekly wage was R411.82. The average minimum weekly wage set by 12 bargaining councils was R468.13 with the lowest paid worker found in the motor service stations earning R144.90 per week for a 45-hour working week.

This is an edited version of a report compiled by the Cape Town-based Labour Research Services. The data is obtained from their Actual Wage Rates Database (AWARD), which is designed to provide trade union negotiators with useful wage information in preparation for wage bargaining.



ICT sector focuses on growth, jobs and service delivery

At the Presidential Jobs Summit in 1998, the Nedlac constituencies (government, organised labour, organised business and community) agreed to hold sector summits. The Declaration adopted stated that: 'in some sectors or clusters of industry, particularly those with high potential to create or lose jobs, sector strategic processes should be encouraged. These should facilitate the development of industrial strategies for stakeholders, designed to expand output and create or save jobs.'

In 2001 government initiated a sector summit process for the information and communication technologies (ICT) sector. The Nedlac constituencies agreed to engage in such a process covering broadcasting, telecommunications, postal services and IT sub-sectors. The parties agreed to engage at the Nedlac level, and then to open the process to a wide range of stakeholders through a two-day public event. Following the public event, there would then be a post-summit process to implement whatever agreements had been reached.

Discussions at Nedlac began in November 2001. Once the terms of reference for the process had been established, each of the Nedlac constituencies met in their own caucuses in order to work out their positions. The parties then met around

the table over four months of intensive discussions, in working groups, plenary, and with a steering committee overseeing the process. The parties managed to hammer out a Nedlac agreement, which was taken to the public event on 3 and 4 June 2002.

Aims of the Summit

The Summit aimed to define how the sector could be encouraged to grow in such a way that will maximise employment creation, investment and growth, and raise living standards on a broader scale.

Another aim of the Summit was to unite the Nedlac stakeholders of government, business, labour and community within the sector around common aims and strategies and to encourage the parties to share information and coordinate their various programmes and actions.

Challenges facing the sector

The parties identified that there were a number of challenges facing the sector. One of the biggest challenges is how to minimise job loss and underemployment and how to increase employment in the sector.

The parties recognised, however, that apart from job creation, there were other important challenges, including meeting RDP goals such as poverty alleviation, regional development and developing human

resources. The sector also needs to be opened to sectors that have previously been excluded, namely women, the disabled and youth. Achieving universal service, particularly to underserved areas, is another major challenge facing the sector.

The parties identified that it would be very important, in developing the sector, that the local industry is promoted, and not merely foreign imports. It would therefore be important to get support within the sector for the Proudly South African Campaign, which encourages the procurement of local goods and services in the interests of economic growth and job creation.

A further challenge was not only with regards to local technology, but also to promote the growth of local cultural industries including South African languages, local broadcasting programmes and local film, music and advertising.

Looking to the future, the parties realise that the sector needs to start with the youth, improving primary, secondary and tertiary education that promotes ICT usage; promoting mathematics and science, design and the skills needed for the development of associated sectors using ICT; promoting ICT infrastructure at schools and promoting specific education and training to assist people who want to enter the sector

PHOTO COURTESY OF BUSINESS DAY/ROBBIE BOTHA



Nedlac executive director Philip Dexter speaking to Department of Communication's DG Andile Ngcaba during the Summit.

Agreements reached

The Nedlac parties reached agreements on a number of specific aspects relating to the sector.

Universal service and universal access

The parties agreed that universal service and universal access must be achieved. This would include a telephone in every household/institution; every person/house/institution having a physical address and an address in any other form and every person having multimedia services including broadcasting. Affordability would obviously need to be taken into account.

Human resource development

The parties agreed to develop a Human Resource Development Strategy/Sector Skills Development Plan, in partnership with relevant SETAs.

The social plan

In cases where large job losses are unavoidable, the social plan approach, which was agreed at the 1998 Presidential Jobs Summit, seeks to actively manage retrenchments and lessen their effects on individuals and local economies.

For the ICT sector specifically, the parties agreed that enterprises in the sector should register vacancies and with their permission, former

employees, with a central database, so that if they do need to hire staff, then they should hire from the database. If no people on the database meet their needs then they should proactively seek to employ people within the local community.

Procurement

Ensuring that government, parastatals and large private companies procure their ICT requirements locally is critical in terms of developing the sector. The parties agreed that procurement should be used to help achieve the aims of the sector summit process. The parties agreed to establish a database showing actual and projected procurement by parastatals, government and large private companies, where appropriate,

indicating whether this was local or foreign. The database would also include a list of producers of ICT goods and services by type of product/service.

Research

Stakeholders agreed to submit a proposal on research and foresighting in the ICT sector to the Fund for Research into Industrial Development, Growth and Equity (FRIDGE) under the Trade and Industry Chamber of Nedlac.

Post Summit process

The Nedlac stakeholders committed themselves to detailed and ongoing engagement in the sector summit process after the Summit itself had taken place.

LB

'... the importance of transformation is that you have to change the old to make way for the new ...'

**Public Service and Administration Minister
Geraldine Fraser-Moleketi**



Public service unions – whether they belong to Cosatu or Fedusa – have agreed on the need to restructure the public service so as to provide more efficient and effective services to the people of South Africa. Once having agreed to this in principle, the parties are left with having to deal with the potential fall-out of a restructuring/transformation exercise. There are bound to be some casualties. Some public servants will have to be retrenched to make way for employees who are able to do the jobs required. A government source says, in real terms the size of the public service is set to increase. There are plans to employ more police, health workers and more

teachers in specific jobs. 'What do you do if you have a surplus of bible study teachers and not enough suitably qualified maths and science teachers?' one source commented.

The unions will argue that unqualified teachers, for example, have been given the offer of 'catching up' in terms of educational opportunities. But, the question remains whether any have taken up this offer and are now 'suitably qualified'?

This is the dilemma both government and unions face. Government wants to move ahead and ensure the public service is properly resourced. However, in order to meet this objective, some workers might lose their jobs.

Government sources estimate, at this stage, that no more than 30 000 jobs could be lost. This comes at a time when government is facing constant pressure to address the problem of rising unemployment. Hence, it is aware that its actions could have disastrous implications for broader society and rising levels of poverty.

Unions, acknowledging the need for transformation, are also faced with tough choices. They could be forced to agree to retrench their own members if options for redeployment or retraining are not viable. The unions have a genuine fear of the implications of putting their members out on the streets. How do they tell their members

Is it **crunch time** for the public service?

*Government and public service unions have engaged in restructuring talks on and off since 1994. Government has become frustrated with the process and clear divisions have emerged between the unions. **Reneé Grawitzky** outlines the tough choices both parties have to make.*

they will be retrenched 'but do not worry because there could be someone else doing the job you are unable to do?'

As this dilemma continues to weigh heavy on the unions, tensions and divisions (which have always existed) have come to the fore in the public service coordinating bargaining council which comprises 12 unions. There are not only political tensions between Cosatu and Fedusa affiliates but within the ranks of Cosatu unions. This has been borne out by the fact that a number of Cosatu public service unions including Nehawu have signed the restructuring agreement, which will give government the green light to go ahead

with formal restructuring and transformation. However, the other largest public service Cosatu affiliate – Sadtu – has failed to do so. The restructuring agreement will require government departments to comply with a proper procedure – so in a sense, government argues, the agreement will protect workers more than if there was nothing in place. That is the reason Nehawu claims it signed the deal. However, a union source said some unions signed knowing that their membership would not be affected.

Sadtu has refused to sign the agreement despite the fact, according to sources, that it was very constructive in the process leading up to the final

drafting. Government is surprised by Sadtu's failure to sign the restructuring agreement especially in view of their earlier cooperation in the process. There has been ongoing tension between Nehawu and Sadtu for some time. It is difficult to pinpoint the origins of this tension. It could partly be based on personalities or the belief that some unions are more hardline than others. There is a perception that Sadtu does not want to be seen to be towing a government line while Nehawu has often been positioned as falling in line with government's position. This view is rather simplistic. It is not a case of one union being more or less pro government. The differences between

Cosatu views the Fedusa affiliates and other unions as being 'anti-transformation' (whatever that means). However, the Fedusa unions (as the Cosatu unions are in fact trying to achieve) do not approach the current negotiations around restructuring from a political perspective ...

Sadtu and Nehawu largely stem from the different dynamics of the sectors in which they operate and the type of workers they represent.

Sadtu organises mainly higher paid professionals while Nehawu's base is largely lower paid workers. Hence, both unions represent different consultancies and have to deal with different organisational dynamics.

The dynamics between the Fedusa and Cosatu unions in the bargaining council also make for some interesting reading. Cosatu views the Fedusa affiliates and other unions as being 'anti-transformation' (whatever that means). However, the Fedusa unions (as the Cosatu unions are in fact trying to achieve) do not approach the current negotiations around restructuring from a political perspective. The focus is to get the best deal for their members. The majority of the Fedusa unions have not signed the restructuring agreement because it provides lesser retrenchment benefits for its members (the majority of whom are higher paid workers – or certainly in the case of the PSA). The cost of retrenchments has always been a concern for government. In terms of the restructuring agreement, provision is made for retrenchments. In the event of retrenchments – whether voluntary or forced – the new severance packages are now more favourable to lower paid workers than was previously the case. Does this mean that the failure of some Fedusa unions to sign the deal is anti-transformation because they want a better deal for their members?

At a recent meeting of the bargaining council Public Service and Administration Minister Geraldine Fraser-Moleketi lashed out at the union leadership and accused them of being cowardly and

anti-transformation. The unions however, have always argued that they support restructuring and transformation. The minister asked during the meeting what the unions support about transformation. She added that 'the importance of transformation is that you have to change the old to make way for the new'.

A union source said: 'government wants us to see it only their way and no other'. The real issue is not what must happen but how.

Fraser-Moleketi stormed out of the meeting after the parties failed to, yet again, engage on the restructuring agreement. A failure by all the unions to sign the agreement does not prevent government from going ahead and promulgating the agreement as a set of regulations. The minister has indicated her intention to do just that. A government regulation is a government decision but it has to be in compliance with other legislation in place such as the Labour Relations Act.

The irony is that according to government (and those unions that have signed), the regulations will force public service management to follow a set of guidelines for restructuring. Therefore, it will ultimately, protect workers by ensuring that proper procedures are followed. All the unions have already acknowledged that their failure to sign the restructuring agreement has not prevented departments and government institutions from going ahead with restructuring plans. A number have already begun the process and some are a long way down the road. Government has consulted and is, in terms of the law, entitled to promulgate the regulations.

Nehawu's chief negotiator and acting general secretary Kumbu Majudulela said government is continuing to restructure while 'outsourcing is going on as we speak'. The restructuring agreement 'will assist us in controlling it. Whether the agreement is signed or not government is going ahead.'

Some union officials have secretly acknowledged that it might prove easier for them if government goes ahead and promulgates the regulations. Such a move will 'save face' for them in the eyes of their members. They can always claim afterwards that they never signed or agreed to the deal. However, once the regulations are promulgated, they will be binding. A union official said currently, those unions who have signed are feeling slightly vulnerable while those who have not will let the process unfold and deal with those departments that are restructuring.

Government has become increasingly frustrated with this process. This has even been acknowledged by a number of union officials. The restructuring agreement has been under discussion since the public service jobs summit in January 2001. However, it could well be argued that where government has failed is in its inability to find a process where it could bring all the unions on-board. This view is based on the claim by the unions that government should not have combined retrenchment principles in an overall transformation programme. There should have been an agreement on transformation and then the parties could have dealt with retrenchments as a separate issue. This is now all rather academic. What remains to be seen is how the parties engage in the future to ensure an efficient public service?

LB



A taste of the jackboot of the new ruling elite?

Ebrahim Harvey looks at the political ramifications of the demonstrations by anti-privatisation activists outside the home of former trade unionist turned Johannesburg mayor Amos Masondo.

Tempting as it is to many on the left one cannot justifiably say that nothing or little has changed in South Africa since 1994. In a general sense a great deal of positive democratic, constitutional, institutional and legislative changes have taken place under the ANC-led government. But the critical question that must be posed is: has this avalanche of changes in many fields translated into jobs for

millions out of work, decent and affordable housing for all, the uninterrupted supply of very basic social services, such as electricity, water and sanitation, for those who did have access to it and the access to it for those who did not have it before, free and/or affordable education, health and other social services. Unfortunately – and which is the biggest blight upon our democracy – one cannot answer

this question in the affirmative.

It is with this question in mind that I turn to the arrest, manhandling and jailing of many protesters outside the home of the executive mayor of Johannesburg, Amos Masondo in April 2002. Among the protesters – which included pensioners and children – were members of the Soweto Electricity Crisis Committee (SECC), Rob Rees, an official with the South African Municipal



The black ruling elite has not hesitated to act against protesters with the jackboot that we were so familiar with under apartheid

Masondo in his days as a unionist.

Workers Union (Samwu) and Trevor Ngwane, expelled former councillor of the ANC and leading activist of the Anti-Privatisation Forum (APF). The protesters wanted to present a memorandum to Masondo regarding the spate of water and electricity cut-offs poor families in Soweto and other places around the country have had to endure. This has been done by the municipal authorities, under the direction of the ministries of Finance and Provincial and Local Government. They wish to clamp down on defaulters who either receive highly inflated accounts or are unable to pay because of high service charges, rate increases and the subsequent effects of rising poverty and unemployment in the townships across our country.

To make matters worse about 60 children and pensioners, who were arrested during the process were only released upon urgent request the following day. The remainder were refused bail until they appeared in court ten days later. A press statement by Cosatu reported that the grounds upon which they were denied bail was that the police needed time to verify the addresses and refused to accept the addresses given, including the union address given by Rees. And if that was not enough Cosatu reported that a member of the APF, who went to the police station to arrange legal assistance, was also arrested though

she was not even present at the protest. All this while the bodyguard of Masondo – who had fired live ammunition into the crowd and injured some protesters – walked freely after simply making a statement to the police.

This picture is so reminiscent of the way protesters were dealt with under apartheid and is a graphic, sad and brutal reminder of the fact that though we are into the eighth year of a democracy – regarded as a ‘miracle’ – workers and the poor are denied an uninterrupted supply of electricity and water. The black ruling elite has not hesitated to act against protesters with the jackboot that we were so familiar with under apartheid.

Though small by comparison, this case perhaps more than any other prior protest against privatisation and spate of electricity and water cut-offs, has shown what the SECC, the APF and other progressive forces are up against. In an article last year, I wrote, ‘The ANC-led government will most likely be forced to suppress the fight waged by others to obtain what it has been unable to deliver.’ What should be of great concern to all who want a more fundamental social transformation – where basic needs are provided for all – is the fact that though this protest in no way threatened the authority and safety of Masondo, the protesters were shot at by his bodyguard and unnecessarily

denied bail for ten days (due to political pressure, perhaps?). Apparently, it was only after Masondo’s bodyguard opened fire on the protesters that things turned ugly. Such action is not only enough to anger opposition but to seriously undermine the positive changes, which have occurred since 1994.

Masondo was reported as saying the protesters were ‘misguided radicals’. This statement shows scant regard for the valid concerns raised by them, particularly the brutal insensitivity towards the plight of poor people who have and will continue to suffer electricity and water cut-offs across the country. The fact that Masondo is a former unionist raises serious questions for the labour movement. The list of former unionists (now in senior government positions and business) who have effectively turned their backs on the very needs of the working class they fought hard for not long ago, is extensive. Though the trend is more visible with former Cosatu unionists who, like Masondo, are leading ANC members occupying senior positions in the government, it has in fact unfolded across the entire trade union and political spectrum. This raises a critical question: what are the underlying motive forces that drive former leaders – and in many cases strong, committed and leading working class fighters – to go against the class they not only represented yesterday but were born

'The list of former unionists (now in senior government positions and business) who have effectively turned their backs on the very needs of the working class they fought hard for not long ago, is extensive ...'

into? It is the reverse of the 'class suicide' that some writers earlier referred to in terms of revolutionary intellectuals of the bourgeoisie and petit

bourgeois crossing over to the side of the working class. It is a class betrayal that no amount of hoodwinking can succeed in concealing.

What is significant is that this betrayal (notwithstanding the predictably defensive and even enraged reaction from certain quarters to this allegation) is not a detached political reaction but one firmly rooted in either orchestrating or succumbing to the fundamental compromises the ANC has made. By virtue of the privileged material and social status the new ruling elite now enjoy – in stark contrast to the gruelling poverty of most citizens, including their own supporters – they are compelled to defend the political, and in the final analysis the economic system that underlie the compromises. These trappings of power – augmented by the overwhelming political dominance of the ANC – are powerful motive forces that propelled the changes activists underwent when they moved into leading government and business positions. But we cannot omit what is perhaps the real causal basis of this distinct reactionary trend: the definite loss of revolutionary hope and morale that followed the cataclysmic changes in the former Stalinist Soviet Union and East European states, the overturn of nationalised property relations and the resultant and perhaps reluctant embrace of capitalist market forces.

How else does one explain what has happened to other former socialist unionists, such as Marcel Golding, Irene Charnley, Cyril Ramphosa and Jay Naidoo, to mention only the more prominent? Anyone with integrity who

worked in the unions and knew them will tell you that they underwent an incredible sea change. They are now ensconced at the top of the white-dominated bourgeois corporate world, in the guise of black economic empowerment. It will not be an exaggeration to say that the combined annual earnings of Golding, Ramphosa and Charnley – all from the National Union of Mineworkers – is probably more than that of hundreds of mineworkers whom they not long ago served, at a salary of five or six thousand rands per month, which is today probably not even what they pay in taxes. We need to begin to understand the underlying factors and forces that shaped these changes, little of which has arisen in debates and analysis thus far. The brief for research in this regard should be to unearth the structures and trappings of power and its material base in the wider context of globalisation, the demise of Stalinism and the resultant retreat of the left in order to understand why this radical change has occurred. This is not the Amos Masondo I worked alongside in the unions in the early '80s.

But are the forces that largely determine the neoliberal economic, public and social policies of the ANC-led government so dominant that they (the ANC) fail or refuse to see that it is policies such as privatisation (and the repressive actions we have seen in this case) that have led to a rapid decline in their support base. The fact that many members of the ANC publicly burnt their membership cards after this horrendous ordeal bears powerful testimony to their decline in real terms,

so stark that not even their bigger majority secured in the 1999 election can deny.

One would have thought that aside from the depressing poverty most township people suffer, worsened by huge cost of living increases this year, and the fact that government has promised communities a certain quantity of free water and electricity since 2000, they would have sensitively tempered their approach to these basic but combustible issues. Instead we have seen a spate of water and electricity cut-offs around the country, sometimes under armed guard. It is a profound historical irony that it was not long ago that the ANC condemned and fought the unjust policies and brutal repression of the previous hated apartheid regime. And now that they have achieved power they are acting against those who are still fighting for fulfilment of the same basic needs they fought for under apartheid and which the ANC government have been unable to satisfy to the extent demanded. This makes their rallying and electioneering slogan of 'A better life for all' and the demands in the Freedom Charter a brutal mockery. And so the struggle continues. Only this time it appears to be led not by the ANC on behalf of the masses but by the masses against the ANC government. This is not surprising. In an article written after the elections in 1999 I concluded, 'The ANC is on a collision course with its own support base and could suffer come the 2004 elections.'

LE

Ebrahim Harvey is a political writer and commentator.

A glimpse inside the injustice system

The legal system upholds the injustices of a society ruled for the rich. In Sun City we saw every colour, age and size of person, from a tiny baby to an old white woman who looked like a small-town librarian – but no rich people.

The rich grease the bars with money to squeeze through. If you cannot pay a lawyer you may sit for ages. A young man ahead of my bail hearing had been in jail since New Year's eve. He disappeared up the steps to the court, nervously hopeful of being reunited with his girlfriend, only to reappear 10 minutes later, deflated. He was remanded to Sun City again until his next court appearance in June. Before his guilt or innocence was ever tested he would already have served half a year.

The jails are overflowing with the results of unemployment and poverty. The women's section, meant for 500, held 850 before we added 30. For most of the day we were confined to our cell because the lone warder could not supervise hundreds of women. For the same reason there are only two meals a day, breakfast at 10 and lunch at noon.

These conditions do not rehabilitate anyone and never touch the roots of crime. This whole machinery of police and jails ticks over from day to day containing some of the human wreckage caused by a system that will not provide for everyone. That keeps the machine oiled in case it is needed for its other function, to use against any organised challenge to the rule of the rich.

Masondo, somy Masondo we'll shake you a favourite song in

When a busload of demonstrators were arrested outside Amos Masondo's house in April, the mayor surely hoped that ten days in the cells would break the growing

When 50 of us were transferred to Sun City on Monday 29 April 2002, we were hurtled along the highway with sirens wailing, as if these vans were crammed with public enemy number one. The accused were not thugs, but a cross-section of working class people aged between 16 and 80. They included a nurse, a factory worker, several students and many unemployed. There were slightly more women than men. More than half were of working age though most have no jobs. About one-third were pensioners while several live in shacks.

These ordinary men and women, organised in the Soweto Electricity Crisis Committee (SECC) and the Anti-Privatisation Forum (APF), are an embarrassment to Masondo and his council because our demonstrations remind the world of his broken promises to the working class.

What were we doing 'invading Masondo's privacy' at home?

When Masondo and the council wanted our votes they kissed our babies and shook our hands in the streets and

promised a better life. Strangely, Masondo is nowhere to be seen now when we try to tell him that cut-offs of electricity and water and evictions are not improving our lives. We were trying to deliver the same memorandum for the fourth time to Masondo. Last year – to coincide with human rights day – an attempt was made to present Masondo a memorandum. But to no avail. Instead a group cut his water to show him what it felt like – though we knew his house would be reconnected in hours, unlike ours. This human rights day, Masondo ignored our march again.

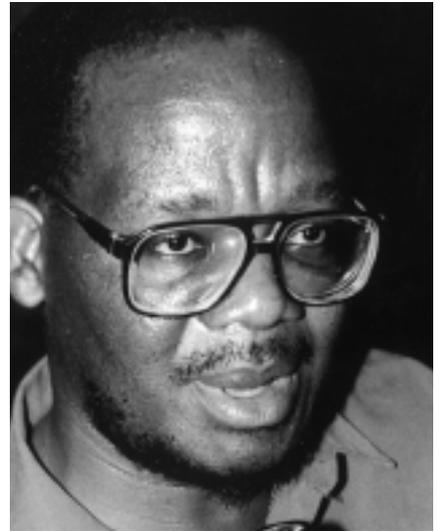
During the intervening period, there have been rises in unemployment and prices, which are placing additional burdens on the poor. But those who fall into arrears are coldly cut off. Reconnection fees eat up 90% of a state pension. Debt repayment arrangements seemed to put a human face on things for a while, but usually end with another cut-off because they do not solve the poverty at the root of non-payment.

Eskom and the council believe this strategy will improve cost recovery. But a better bottom line for Eskom's future

agazisa malele

while you sleep –
our cell

resistance to cut-offs. Claire Seruti gives a personal account of what transpired and the origins of the demonstrations.



shareholders produces much unnecessary human discomfort. In houses where electricity has been cut, nearly half the children suffer from breathing problems, according to a Municipal Services Project Survey.

We now call Masondo the mayor of Sandton, because it seems he represents only the rich. We went to his house to cut off his water and to fire him from his job because he failed to deliver what his party promised. This was not a criminal act: we were standing up for our rights. Electricity, water and a place to stay are basic human rights and should be free.

Officials who now base themselves on the power of big business must remember the power that brought apartheid to its knees. What really frightens Masondo and his class is that we are not the only ones angered by government unaccountability. The APF hears more and more reports of outbursts against lack of delivery from places like Durban, Ermelo, Ikageng and Itsoseng. These outbursts are by landless people, evicted people, people whose services have been cut, retrenched workers and

even disgruntled soldiers.

Masondo and the government set themselves on a collision course with this layer of society when they chose to govern capitalism. Our needs, the needs of the majority, cannot be met by a system that says we must buy a better life but retrenches millions.

Our movement is still a minority but it can grow. When people burned their ANC cards outside court they were only giving a voice to ANC members' mute mass desertion. Masondo sat silent for five hours during a Cosatu Mayday rally where APF members were present because he could not be sure that workers would support him in a confrontation.

In this situation Masondo's class fears any organised call for delivery or accountability. Therefore we start to get scenes in the new South Africa that remind us of the old: mass arrests in Kensington and Ermelo and constant police harassment of community organisations in the Northwest.

But repression does not automatically win. Our arrest built support instead of squashing the movement's spirit. It thrust into the

public eye a sentiment that more and more people are feeling – that government has failed us. And it said something could be done about it: we can begin to take our future into our own hands if we organise ourselves from the ground.

The APF and the SECC have grown into a mini-mass movement. If the SECC was about a self-interested person misleading pensioners, as some claim, then why did the protestors delay the arrest for hours arguing that police had to arrest all or none? Who organised the impressive defence campaign while the SECC organiser and many of its leading activists were in jail?

The arrests show this is a new movement, not a cult. Its strength is that it has built the confidence and activity of working class people such as those arrested. It has sprung up in response to the unfinished business of the old movement: eradicating poverty. **LB**

Claire Ceruti is active in the Anti-Privatisation Forum (APF), the Inner City Community Forum and Keep Left Network, which is affiliated to the APF.

Violations of **human rights** in farming communities

*Exploitation and oppression of farmworkers continue despite the ongoing democratisation process. **Chris Derby Magobotiti** explores this issue with particular reference to human rights abuse (not limited to traditional white farmers) in the Eastern Cape.*

Many years of colonial oppression and institutionalised racial discrimination has left South Africa with a terrible legacy of vast social and economic inequalities. In the case of Queenstown (Eastern Cape) this legacy resulted in land dispossession and wealth by the majority of black people who were forced into the reserves and locations. They now face oppression on white-owned farms. Frontier wars of land dispossession created some significant tenure farming communities in the jurisdiction of Queenstown. Farmworkers continue to face exploitation, evictions, feudal practices and the violation of human rights, despite the ongoing democratisation and constitutionality.

Constitutionality in the context of farming community

The 1994 democratic breakthrough ushered in a constitutional democratic

state. South Africa prides itself on being a constitutional state, which has entrenched democratic institutions – A Bill of Rights, Human Rights Commission, Public Protector, Constitutional Court and independent judiciary. Despite these achievements farmworkers continue to be subjected to degrading abusive practices by farmers. Urban South Africans witness their rural counterparts in the farming community being isolated from the macrocosm of society and prohibited from enjoying their rights. Human rights textbooks tend to view human rights violations as practices carried out by the state through its agents such as the police, the army, courts and anyone acting with the authority of the state against the individual or citizens.

In essence, human rights abuses have been the dominant factor on a broader scale by the regimes. But another silent side of human rights abuses, which is equally devastating,

includes violations in the farming community in the claim of ownership. The ongoing case of illegal evictions on Queenstown farms exhibits the gravity of the problem. Section 7(2) of the Constitution states that: 'the state must respect, protect, promote and fulfil the rights in the Bill of Rights.' This section places positive obligations on the state not to be neutral or play a regulatory role, while its laws and people are being violated. Section 23 broadly guarantees rights and fair labour practices including unionism. Section 26(3) of the Constitution states that: 'no one may be evicted from or have their home demolished, without an order of court made after considering all the relevant circumstances, no legislation may permit arbitrary evictions.' Section 27(1)(a)(b) of the Constitution states that: 'everyone has a right to have access to health care services including water.' These are the major sections or constitutional rights that seem to be



commonly offended in the farming community. Other infringements include section 10, which relate to the right to human dignity and section 11, which relate to the right to life (see Constitution, Act 108 of 1996, p 7).

Extension of Security of Tenure Act, 62 of 1997 (ESTA)

This Act, which became law after February 1997, secures occupiers' legal right to live on and use the land. In the context of the farming community, the Act seeks to prohibit unfair or arbitrary evictions. It does permit legal evictions under certain circumstances on court orders. Access to water and education services is provided. It goes on to give special rights to people who are 60 years or older and who have been on the land for 10 years or longer. According to the Act: 'if owners force occupiers off the land or deprive them of use of the land or water against their will, they commit a criminal offence and

can be jailed or fined for this.' Broadly the Act provides rights and duties to both owners and occupiers.

In the case of the Queenstown farming community some lessons with regard to the notion of deracialising and democratising ownership can be drawn. There are instances where new black farmers have been charged for offending the ESTA and other constitutional rights discussed above. The conduct and oppressive practices, in the claim of ownership, by black farmers against former farmworkers has exposed serious distortions on the notion of deracialising and democratising the economy.

In an interview with some workers and families, there was a sense that present black farmers have replaced their former white bosses in the oppression and abusive practices. The responses suggest that capitalists whether black or white is distinguished by its pursuit of private

profits. In this regard, race or individual background is often used opportunistically in the land reform project. Individual background or race does not automatically lead to progressive conduct, rather what seems to be fundamental is class interests. There is a possibility that the rights enshrined in the Constitution and the ESTA, can serve only the rich and the elite including chauvinistic and reactionary elements. They are able to afford powerful lawyers in cases of litigation or rush to lessee the occupied land. In this regard, land rights and the Constitution can become a commodity and serve the interests of the powerful elite.

Access to justice

In this context, the notion of access to justice should entail empowerment of workers to know their rights and change their social and economic conditions. This involves effective land



The conduct and oppressive practices, in the claim of ownership, by black farmers against former farmworkers has exposed serious distortions on the notion of deracialising and democratising the economy ...

use by the workers as they constitute the majority and possess skills through experience of working the land. In the Queenstown area, some lessees have been charged for illegal eviction by the Department of Land Affairs (DLA), the Border Rural Land Committee, Human Rights Commission of PE and Lawyers for Human Rights. These structures and institutions responded sensitively to what seemed to be a trend in human rights abuses in the farming communities. In the context of the farming community there is danger that the entrenched rights in the Constitution, ESTA and the Bill of Rights might not be known by the farmworkers or even lack an understanding of these rights. It is also possible they may not have the capacity or lack financial means to invoke them.

Accountability and independency of institutions

In recent years we have witnessed attempts by the courts to resolve

cases of evictions and criminal offences in a manner that shows a sense of accountability and independent judiciary. In *S v Mhlakaza* the public sentiments were generally running high and it is in this judgment that sentencing dynamics were revealed. The court decision was that: 'the duty of the court is not to satisfy public opinion but to serve the public interest.' In the case of Mosoko Rampuru who was brutally murdered by his farm boss the trial court handed down a disproportionately lenient sentence to the convict. This case suggests an element of disparity in the approaches of the courts.

The way forward

The farming community faces enormous challenges, which will require some form of human rights education. Cases discussed above suggest that institutions and structures that are already created by the new Constitution need to be proactive in order to prevent human

rights abuses. In this regard the upcoming conference by the South African Human Rights Commission on the abuses of human rights in the farming community including the killing of farmers is a step forward. Unions also face some challenges in trying to get to grips with the issues, aside from lacking capacity to recruit and service members. The South African Agricultural, Plantation and Allied Workers' Union (Saapawu) needs to be visible in the farming community and ensure that it protects and advances worker interests and rights.

This discussion recognises the seriousness of the ongoing violations of human rights in the farming communities. It takes into account the realities that have been created by the Constitution and ESTA as the bases from which to depart from in the struggle for justice. LB

Chris Derby Magobotiti is currently doing his Phd in criminology at the University of Cape Town.

Workers' live

The social partners strike a new deal

The amendments to the Labour Relations Act come into effect later this year. Dawn Norton, Anton Roskam and Mandy Taylor outline the changes and their implications for workers and employers.

The Labour Relations Act, 1995 (the Act) has undergone a fourth set of amendments since Parliament passed the Act seven years ago. The latest amendments (the '2002 amendments') arise from a review of the labour market. The 2002 amendments aim to improve the application of the Act and in this regard: correct practices that subverted the Act; streamline dispute resolution processes; strengthen enforcement mechanisms; manage the process of large-scale retrenchments and regulate the transfer of contracts of employment arising from the sale of businesses.

Dealing with the subversives

Employees/Independent contractors:

People who are considered to be genuine 'independent contractors' are not employees and they are thus not protected by this Act (or by other labour legislation). Some unscrupulous employers have, in the past, simply informed their employees that they have become 'independent contractors'

even if the employment relationship has not changed or have persuaded their employees to sign contracts that state they are no longer 'employees' but 'independent contractors'.

The 2002 amendments to the Act have clarified the issue further by providing that where a particular factor is present in the relationship between a worker and the person for whom he or she works, the worker is presumed to be an 'employee', unless the employer proves the opposite.

These factors are whether or not a person:

- falls under the control or direction of the employer;
- works hours that are subject to the control of another person;
- forms part of an organisation;
- has worked for another person for an average of at least 40 hours per month over the last 3 months;
- is economically dependant on the employer;
- is provided with tools of trade or equipment; or
- only works for one employer.

Bogus union and employer organisations:

In the past, some businesses or consultancies formed bogus trade unions and employers' organisations. The Department of Labour has become aware that some of the organisations force members to sign agreements which entitle the union to all benefits due to the member upon his/her death. Furthermore, some charge excessive or disproportionate fees for representing the member at the CCMA or Labour Court. Now the registrar of labour relations has the power not to register (or to withdraw the registration of) a trade union or an employers' organisation if the registrar is satisfied that the applicant is not a genuine trade union or employers' organisation.

Dealing efficiently with labour disputes

Enquiries into allegations about an employee's conduct or capacity: Prior to the amendment to the Act there was extensive duplication between internal hearings conducted at the workplace

and arbitrations conducted at the CCMA. To deal with this problem of duplication, employers and employees may agree that an arbitrator will conduct an enquiry at the workplace concerning an employee's conduct or capacity and that the decision of the arbitrator in this inquiry is final.

The advantage of the 'once off' arbitration for: employers, is a speedier process leading to finalisation of the dispute; employees, is an independent presiding officer at the workplace to hear the dispute; and the CCMA, is less disputes to process and cost savings as the employer carries the cost of the arbitrator.

Con-arb: Previously the LRA required all disputes to be referred to conciliation before they could be referred to arbitration. As a high proportion of disputes are resolved in conciliation, it was anticipated that this would speed up dispute resolution and reduce the number of cases proceeding to arbitration. In practice, however, many employers do not attend conciliations, and simply wait for the arbitration process to present their case.

An important innovation in the 2002 amendments to the Act is that the CCMA may now resolve disputes by 'con-arb'. In 'con-arb' the arbitration starts immediately after the end of the conciliation if the dispute is not settled. 'Cob-arb' must be used in: disputes about probation; dismissals for misconduct or incapacity, unless a party objects.

Enforcing awards and orders

Certifying an arbitration award: It is not uncommon for an arbitrator to make an award in favour of an employee and for the employer to then refuse to comply with the award. Previously, in those circumstances the employee's recourse was to apply to the Labour Court to

enforce the award (ie to make the arbitration award an order of the Labour Court). This entailed extra expense and a delay in the implementation of the award. The 2002 amendments simplify this. A party may apply directly to the director of the CCMA to have an arbitration award certified. A certified award may be enforced in the same fashion as a Labour Court order. If the award is for money, the employee may request the Sheriff of the Court to seize the employer's goods and sell them to raise the money.

Enforcement of collective agreements by bargaining councils: Prior to the 2002 amendments designated agents had powers that were similar to the powers of CCMA commissioners when conducting conciliations and arbitrations. However, in reality the role of designated agents more closely resembles that of labour inspectors.

The powers of designated agents have been strengthened to encourage parties to comply with the provisions of collective agreements. A council may refer any unresolved dispute concerning compliance with any provision of a collective agreement to the CCMA for arbitration. An arbitrator conducting the arbitration may make an appropriate award including ordering a person to pay any amount which is owed, imposing a fine, or by confirming, varying or setting aside a compliance order.

An arbitration award is final and binding and may be enforced as if it were an order of the Labour Court (unless it is an advisory arbitration award). The minister has published a notice setting out the maximum fines that may be imposed by an arbitrator for a breach of a collective agreement.

Managing retrenchments

The 2002 amendments make a distinction between retrenchments of

individuals, retrenchments at small-scale businesses, and retrenchments at large-scale businesses. The main changes introduced by the amendments are that:

- individuals who are retrenched may now refer a dispute either to arbitration by the CCMA or a council or to the Labour Court for adjudication;
- the consultation process in large-scale retrenchments may be facilitated by a person appointed by the CCMA; and
- employees involved in a large-scale retrenchment may either strike or may refer a dispute over the substantive fairness of the retrenchments to the Labour Court.

The referral of a dispute by a single employee: A single employee who has been retrenched may now choose to refer a dispute either to arbitration or to the Labour Court. Prior to the amendment, all individual retrenchment disputes were referred to the Labour Court and about 50% of cases that went to trial dealt with individual retrenchments. The amendment is likely to significantly reduce the case load of the Labour Court.

The referral of a dispute by employees at a small-scale business: Employees may refer a dispute over the substantive and/or procedural fairness of retrenchments to the Labour Court, if section 189A, which deals with large-scale retrenchments, is not applicable. This is the case if the employer has less than 50 employees or if the number of dismissals contemplated is less than the threshold figure set out below.

The process for large-scale retrenchments: The 2002 amendments introduced a new section (section 189A) to improve the effectiveness of consultations in large-scale retrenchments. This new section applies to workplaces where an

employer employs more than 50 employees and where the number of retrenchments contemplated meet a certain minimum threshold. This threshold is reached if the employer contemplates the retrenchment of more than the specified minimum, or if the number of retrenchments that have taken place in the preceding 12 months plus the number contemplated exceed the specified minimum.

The written notice: When an employer contemplates a dismissal for operational reasons, the employer must issue a written notice inviting the other consulting parties to consult with it and must disclose all relevant information including the reasons for the dismissals, the alternatives considered, the number of employees likely to be affected, etc.

The employer must allow the other consulting parties to make representations about these and any other matters. The employer must consider and respond to any representations that are made. If they are made in writing, the employer must respond in writing.

The appointment of a facilitator: The employer or the consulting parties may request the appointment of a facilitator from the CCMA to assist the parties during the consultation process. If the employer makes the request, it must accompany the notice calling on the other parties to consult (s189(3)). If the other consulting parties make the request, it must be within 15 days of the employer issuing the notice to consult.

The minister has made regulations dealing with the facilitation process. The facilitator may chair the meetings of the parties or direct them to meet on their own. The facilitator must assist the parties to resolve disputes over the disclosure of information and can arbitrate unresolved issues on this

matter. The facilitator may meet up to four times with the parties. The director of the CCMA may extend the number of facilitation meetings.

When a facilitator is appointed, the employer may not issue notices of termination for 60 days after giving the notice to consult. If 60 days have passed from the date on which notice to consult was given, the employer may give notice terminating the contracts of employment and the registered trade union or the employees concerned may either give notice of a strike or may refer a dispute to the Labour Court concerning whether there is fair reason for the dismissal.

If there is no facilitator: If neither party requests the CCMA to appoint a facilitator, a party may not refer the dispute to a council or the CCMA for 30 days from the date of the notice to consult. Once the period for conciliation is finished (30 days or when a certificate is issued), the employer can give notice of termination and the union or employees can give notice of a strike.

The election to strike or to refer a dispute to the Labour Court: In large-scale retrenchments, employees may elect to strike over their dismissals or to have the Labour Court adjudicate the substantive fairness of the dismissals. Employees may not do both – ie refer a dispute to the Labour Court and strike.

The test for substantive fairness: If a consulting party chooses to challenge the substantive fairness of the dismissals in the Labour Court then the test for substantive fairness is limited to whether-

- the dismissal was to give effect to an operational requirement;
- the dismissal was justifiable on rational grounds;
- there was a proper consideration of alternatives; and
- the selection criteria were fair and objective.

Disputes over procedural fairness: In a large-scale retrenchment, disputes over the procedural unfairness of a dismissal are dealt with separately from disputes over the substantive fairness of a

Hiccups around the implementation of labour law amendments

The amendments to the Labour Relations Act and Basic Conditions of Employment Act have yet to come into effect. The amendments were initially scheduled to come into effect in May, then the date changed to July. A new date has yet to be set. Meanwhile, the committee, set up to facilitate the implementation of the amendments faced a number of problems. These related to the negotiations of some regulations, which had to be finalised so that the amendments could come into effect.

- The negotiations around the rules for the CCMA.
- The negotiations around the regulations stipulating the definition of remuneration also proved rather difficult.
- The regulations governing the facilitation of retrenchments as envisaged in section 189A have not been finalised. As a result this section will only come into effect later this year.

Finally, some confusion arose around the move by the Department of Justice to publish amendments to the Insolvency Act without the legislation having been referred back to Nedlac. It is now understood that the amendments, drafted by Justice, are not in line with the agreement reached between labour, government and business in Nedlac.

dismissal. Whether employees choose to strike or to refer a dispute on the substantive fairness of a dismissal, does not effect their right to approach the Labour Court if an employer does not comply with a fair procedure. The Labour Court can compel an employer to comply with fair procedures and can grant an interdict preventing an employer from dismissing until it has complied with a fair procedure. A challenge to the employer's procedure must be brought on application (affidavit) no later than 30 days after the employer gave notice of termination.

Regulating the transfer of a business as a going concern

Automatic transfer of employment contracts: Prior to the amendments there was considerable uncertainty regarding this aspect of the Act. The 2002 amendments seek to clarify the situation. When a business is transferred as a going concern, the new employer takes over the employees' contracts of employment from the old employer. This happens automatically on transfer of the business unless there is an agreement to the contrary between the employers and the appropriate employee representatives.

An employee's continuity of employment is not interrupted by the transfer of the business. The new employer must employ the employees on terms and conditions which are on the whole not less favourable than those which employees enjoyed with the old employer. The purpose of this provision is to allow for flexibility in the total package provided by the new employer. However, if the terms and conditions of employment of the transferred employees are determined by collective agreement, the collective agreement continues to apply.

Employees who do not wish to transfer to the new employer may resign. They will not, however, be entitled to severance pay. If their new service conditions are substantially less favourable than their previous service conditions, they may resign and bring a claim for constructive dismissal.

Agreements between the parties

The old employer must reach agreement with the new employer as to a valuation on the date of transfer of the transferring employees' -

- accrued leave pay;
- severance pay, if the employees were entitled to severance pay;
- any other accrued entitlements (eg bonuses).

The agreement must also specify which employer is liable for paying these amounts and what provision has been made for the payment of those amounts.

For a period of 12 months after the date of transfer both the old employer and the new employer are liable to any employee who becomes entitled to a payment as a result of being dismissed for operational requirements or as a result of the employer's liquidation or sequestration.

Obligations of the new employer:

The old employer's obligations in respect of trade union organisational rights or recognition agreements are transferred to the new employer. This facilitates the continuity of collective bargaining.

Unless the parties agree otherwise the new employer is bound by any existing arbitration award or collective agreement.

The new employer becomes liable for any unfair dismissal, unfair labour practice or act of discrimination committed prior to the transfer by the old employer. These provisions place

a burden on the new employer and the new employer should factor into the purchase price the potential financial costs of transferring employees.

Dismissals and transfers of businesses: An employee cannot be dismissed merely because a transfer takes place but an employee can be dismissed if the transfer creates operational requirements that justify dismissal. A dismissal due to a transfer that cannot be justified in terms of operational requirements, is regarded as automatically unfair.

Regulating the transfer of contracts of employment in circumstances of insolvency: Prior to this Act, employees' contracts of employment would automatically terminate when a business became insolvent. In these circumstances employees often lost severance pay and did not have a right to be reinstated if the business revived. The Act deals with this problem by providing that when a business becomes insolvent and a scheme of arrangement is entered into to avoid the winding-up or sequestration of the business, employees' contracts of employment transfer from the old employer to the new.

The new employer is automatically substituted in the place of the old employer but all the rights and obligations between the old employer and its employee at the time of transfer remain with the old employer. This is in contrast to when a business that is not insolvent is transferred.

When an employer is facing financial problems that may result in the business becoming wound up or sequestered, the employer must advise the employee representatives of that fact. An employer who applies to be wound up or sequestered must provide the employee representatives with a copy of the application.

LB

Samwu hits out at micro lenders

Micro lenders have seen the benefit of infiltrating unions to access huge numbers of workers to provide micro loans at high rates. This has led to corruption and the payment of bribes to shopstewards and union officials. Samwu reveals how it dealt with this issue in its own ranks.

As mentioned in the previous *Labour Bulletin*, 26 (2), micro lenders and the insurance industry began moving aggressively into the market of the so-called blue-collar workers from 1994 onwards. This forced unions to begin exploring the notion of facilitating the provision of a range of financial services to their members. Some unions such as the NUM, through their investment company, set up a separate financial services division to provide such services to mineworkers.

Samwu, one of the few unions that has resisted setting up an investment company, was eventually forced to intervene to regulate the number of micro lenders providing services to workers in local authorities. Samwu general secretary Roger Ronnie explains that the union had to intervene in order to lessen the burden of unscrupulous loan sharks on their members. It was eventually agreed that there had to be some sort of consolidation and regulation of micro lenders in the sector. Initially a central agreement, to offer micro loans to workers in local authorities, was entered into with Unibank. However, a number of problems emerged and the union decided to secure a new service provider. In the interim however, a number of

companies attempted to enter through the 'back door' to provide loans to workers.

The union discovered that certain companies have used rather 'aggressive' means to market their services to shopstewards and union officials. Various measures were employed such as providing financial incentives, cellular phones and holidays to officials to secure the business. The union has subsequently instituted disciplinary proceedings against a number of these officials, some of whom are still suspended pending an inquiry. It was important, Ronnie said, for the union to be seen to take action against these individuals as it showed that the union would not tolerate corruption within its ranks.

Following this incident, the union went out to tender for the provision of micro loans. This process culminated in the contract being awarded to FNB. The agreement reached will apply to workers across the majority of local authorities and could affect an estimated 120 000 workers. The agreement stipulates the interest rate that the bank can charge as well as the limit for monthly repayments. The SA Local Government Bargaining Council has agreed to grant FNB stop order facilities so that deductions can be made for repayments of loans.

Repayments cannot amount to more than 25% of take-home pay. At the time the agreement was reached the interest charged was calculated at prime plus 7%. (At the time, prime was between 11% and 12% but has now increased to 15%.)

Ronnie adds that the union did not want to intervene in this issue as it is in principle opposed to the use of micro lenders. However, it was forced to do so as a result of the dynamics and corruption that emerged. As part of its own initiative, the union has started its first national savings and credit cooperative. It has a membership of 1 000 workers. The aim of the cooperative is to encourage a culture of savings amongst workers. If after a period of time workers need to access loans then they can do so.

'The union is aware of the potential pitfalls of members being caught in a debt spiral,' Ronnie says. Unions are increasingly realising the potential effect of this on their ability to bring members out on strike. Samwu will face this test if the dispute in the bargaining council is not resolved. He concludes: 'We will begin to see the impact of debt on our members when we begin to ballot in June.' This is a critical lesson for unions as rising debt amongst members has the potential to affect union militancy. **LB**



Finance Minister Trevor Manuel.

Employers move to **restruc**

*A number of recent strikes and disputes highlight the continuous move by employers to restructure the provision of benefits so as to reduce their future liability. The **Labour Bulletin** looks at these developments.*

Employers are increasingly looking to reduce their future liability in terms of the benefits provided to employees. This is largely due to the rising costs of benefits such as medical aids and pension and/or provident funds.

In a recent case, the City of Johannesburg set up a new pension fund to replace 17 pension funds covering 27 000 (4 000 of whom were not covered by any fund). It has been argued by certain trade unions that this move was an attempt by the City to deal with a future liability, largely the result of payments to pensioners in excess of R500m. The City of Johannesburg argued however, that the move to restructure and rationalise the pension provisions was aimed at standardising contributions and benefits. The City said that the current funds were established at a time when extended benefits were provided only to a small group of beneficiaries. The City claimed the establishment of a new fund formed part of an attempt to address racial imbalances and remove

discrimination from retirement fund arrangements.

Cosatu's Jan Mahlangu says employers are trying to walk away from future liability in terms of pension funds. This, he says, is clearly evident in the City of Johannesburg case. The Financial Services Board says there has been a dramatic shift in recent years, especially post-1994, for employers to shift the financial risk to employees (members). This has largely been achieved by the move from defined benefit to defined contribution funds. Ironically, it was the emerging trade union movement, which supported this move in the 1980s as defined contribution funds provided greater flexibility to their members. The FSB also believes that the new requirement for employers to share fund surpluses with employees will act as a further incentive by employers to convert to defined contribution funds. This change – as reflected in the Pensions Second Amendment Act, 39 of 2001 – came into effect in December 2001.

Employers previously enjoyed the

benefits of fund surpluses. They argued that the only reason there were surpluses was because they contributed more than was necessary to the fund. Employers now do not see why they should be lumbered with financial risk, if the fund for whatever reason cannot pay out benefits, because they no longer benefit from fund surpluses.

The Cosatu unions viewed defined contribution funds in the 1980s as being better able to cater to their members needs, especially for younger workers entering the labour market. The benefits include workers being able to get a lump sum payment when they leave an organisation, as well as getting both the employer and employee contributions. However, the issue for workers is that if the fund performs badly and is unable to pay out benefits to members, the employer no longer bares the risk (as is the case of defined benefit funds). It is therefore, critical for pension fund trustees to ensure funds are properly managed.

The move by the City of Johannesburg to set up one fund for all

ture benefits

its employees – eJoburg Retirement Fund – coincides with discussions in the South African Local Government Bargaining Council to rationalise all the funds within the local government sector. Discussions within the bargaining council came to a halt after a dispute arose between the unions and the SA Local Government Authority. In the interim, the City of Johannesburg announced its intention to go ahead and start making payments into the new fund it had set up. Municipal unions, the existing funds and the bargaining council interdicted the City from going ahead with this. They argued that the new fund would provide lesser benefits and the employer was attempting to unilaterally change employment conditions. During court proceedings it became clear that the City was unable to afford to extend the benefits granted to members of the existing funds to other employees and that certain categories of employees were unlikely to enjoy the same level of benefits as before. An interim order was granted requiring the City to continue paying contributions to existing funds. The City is currently reassessing how it will ultimately, achieve its objectives.

The recent strikes by members of the NUM and Numsa at various Anglo Platinum operations and the dispute at the Harmony/African Rainbow Minerals Joint Venture in the Free State highlights the potential conflict around medical aids and the provision of health care in the workplace. Anglo Platinum changed its medical aid because of the escalating costs. The company has now introduced an in-house medical aid scheme which will eventually cover all

of the organisation's 40 000 employees. Anglo Platinum believes this approach will be cheaper in the long run both for the company and its employees. Previously, the company argued, employees were paying high fees with reduced benefits.

The dispute arose around the introduction of Platinum Health – a task team now set up to look into number of issues.

The dispute between the NUM and Harmony/Arm arose because the union believed that the medical aid introduced was expensive. The union

demanded that workers should be given a choice in determining which medical aid they should belong to (see p 60).

Escalating medical aid costs are the result of a number of factors including changes to legislation, which have made medical aid schemes less able to control risk. Mahlangu says employers are also beginning to link medical aid liability to retirement. Employers are attempting to ensure that on retirement they are no longer required to carry the costs of medical aid provision to pensioners.

LB

Manuel calls on unions to ensure worker savings are properly managed

Finance Minister Trevor Manuel called on trade unions to utilise the power they have by ensuring pension funds are properly managed and fund managers are held accountable.

Speaking recently at Fedusa's national congress, Manuel said trade unions won the right to ensure that 50% of pension fund trustees are worker representatives. Now having won that right, worker representatives on pension funds had to exercise their power and hold fund managers accountable for how worker monies are invested, Manuel said.

'Trusteeship is a badge you should wear with honour.' However, worker representatives were all too often bought over very easily, Manuel said.

He added that the Pension Fund Act was clear about the powers of pension fund trustees. 'The law gives huge powers to trustees.' Worker trustees, he said, need to properly understand their responsibilities in terms of the Act.

'Someone needs to explain to me why no-one is bothering about this issue,' he asked. 'If fund managers lose money because of bad investment decisions, workers will suffer.'

He called on all unions to begin to educate pension fund trustees because for too long unions have ignored this issue and the developmental approach towards savings. With the low level of savings in the country, it is critical, Manuel argued, that existing savings are properly managed. Worker pension/provident funds constituted a large proportion of existing savings. For these savings to grow and be protected, unions had to become active players in the investment arena. The management of savings is an important part of the overall functions of a trade union, Manuel concluded.

Pension **power** for the **people**

Nearly a trillion rand is invested in 27 500 local retirement funds, and for most South African workers, pensions are their major form of savings. However, employees are often ignorant of their rights and responsibilities when it comes to administering these funds. Millions of rands and man-hours are currently lost annually through inept or even fraudulent administration.

This situation has the potential to improve as the risk and accountability of trustees (many of whom have come up through the union ranks and now represent thousands of fellow workers) have greatly increased. Trustees increasingly have to show how they have safeguarded the interests of the fund members and fulfilled their duties. Good governance and proper procedures are no longer an option but a legal necessity.

In practice, however, many trustees are ill-prepared for their increasingly onerous duties: a recent Deloitte & Touche report on Retirement Fund Governance in SA showed that only 24% of pension funds provide formal training for trustees, and an average of only 10 hours per year is spent on trustee training.

This inadequate preparation means that investment returns are often negated by poor service, outdated IT systems, fines for late returns, and other administrative problems and

costs. This was highlighted by the same Deloitte & Touche report that found:

- Fund administrators' abilities to provide accurate and timely financial information were rated as extremely low.
- Two-thirds of funds surveyed had not submitted their annual financial statements to the Financial Services Board within the prescribed six months.
- 25% of the funds had no signed contracts in place with key service providers, being the administrator and investment manager.
- Over 20% of the funds did not comply with Regulation 28 of the Pension Funds Act.
- One of the three main reasons for funds not offering investment choice to members was because the administrator's systems were inadequate.
- 52% of respondents indicated they would change administrators if a suitable alternative administrator was available and the fund could migrate its data and records to the new administrator with minimal risk exposure and cost.

Such conditions are unacceptable, and it is only a matter of time before consumerism, which has highlighted inadequacies in banking and medical aid services and fees, hits pension funds too. Members of pension funds should keep in mind that they are

entitled to request:

- timeous, accurate and complete record keeping at a fund and member level;
- regular valuation of investment records, preferably daily;
- daily reconciliations of bank accounts and member transactions;
- competent financial management;
- valid, accurate and timeous benefit payments;
- effective communication and reporting;
- access to real-time information;
- effective risk management and compliance;
- tried and tested business continuity and disaster recovery plans.

In retirement fund management, the buck starts and stops with the trustees who should not be influenced by factors other than the delivery of an effective and efficient administration service. Trustees have to be clinical in their decisions to ensure that their members' interests are protected and that wealth is created and managed by disciplined and focused role players.

Employers and trustees must beware of selecting an administrator purely on price. It is essential to do your own investigating and interrogating at the administrator's premises. Ahead of the appointment of an administrator, it should be standard practice to review the proposed operating environment. Check that they are not promising more

*Finance Minister Trevor Manuel recently called on trade unionists – some of whom are pension fund trustees – to take their roles seriously and ensure pension fund managers are held accountable for how workers' savings are being invested. **Gavin Williams** and **Mustaq Parker** offer practical guidelines on effective retirement fund administration, and outline legislation that is in the offing to provide protection for workers and employers.*

than they can deliver. Obtain a written commitment that all of the proposed services on offer are currently in use by the administrator's existing clients.

Do not appoint an administrator whose proposed service offering depends on new and non-finalised operating systems. This could result in overtime and is bound to result in frustration and delays in or lack of delivery. A pension is usually an employee's biggest asset and must be optimally administered.

Be aware of hidden pension fund costs, which mount up from:

- Regular switching of pension fund investments: While the direct costs of switching investments may be nominal, the cost of chasing performance through regular switching may well result in disappointing performance for pension funds and their members. All too often an increasing number of intermediaries interpose themselves in the decision-making process, without adding any value. In many instances it would be possible to establish appropriate investment strategies without a high level of intermediary involvement.
- Routine annual increases in retirement fund administration fees: While administration fees could rise every year, inefficiencies may also grow because outdated, overburdened IT systems cannot

keep up with new requirements for greater member choice and transparency.

Penalties for late entries: The Registrar of Pension Funds 2000 Annual Report showed that 191 self-administered funds (including top corporations, charities and educational institutions) failed to submit financial returns on time. In addition, 43 of the total 256 self-administered funds listed as outstanding in the 1999 report were still in default when the 2000 report was completed. Penalty payments for late returns are deducted from member contributions and it is the employees who pay the price in the end.

- The general ledger should be integrated into the retirement fund administration application to ensure completeness, accuracy and validity of transactional updating, and that financial information is supplied on time.
- Payments to retirement fund trustees: It is becoming more common for trustees to be paid from the fund for time spent administering fund affairs. Trustees may not have the requisite pension fund knowledge and not add value for their fees. Worse still, they may make inappropriate or wrong decisions on fund issues.
- High staff costs: Answering member queries and handling administrative tasks manually adds up to time-

consuming, high labour costs. The administration system should instead provide relevant, regularly updated information electronically in a secure manner.

- A lack of investment choice: A one-size-fits-all policy could result in a portfolio that doesn't meet the member's needs and could ultimately cost the member due to the inappropriateness of the strategy. Retirement funds should have the functionality to stratify their membership groups and provide the appropriate risk-profiled investment portfolios to the different lifestage bands.
- Fraudulent administration: During 2000, there were 21 inspections of pension funds and three of fund administrators. The reports revealed 11 cases of employers not paying over contributions deducted from members' salaries as required in terms of section 13A of the Act. Nine of these cases were handed over for prosecution. Two employers were convicted and the other cases were pending at the time of the Registrar of Pension Funds 2000 Annual Report. While under-performing funds can be moved to a different fund manager, fraudulent administration could lead to the complete loss of employees' biggest assets.

All agreed procedures, performance

power people

standards and responsibilities must be covered in the administrator's Service Level Agreement. This includes receipt and investment of members' contributions, submission of Annual Financial Statements, payment of Retirement Funds Tax and RSC levies, etc. It is critical to establish the credibility of the people who will be involved in the affairs of the fund before appointing an administrator.

While professional qualifications are no guarantee of a cost-effective delivery, a combination of appropriately qualified persons, industry experience, in-house training, a limited staff turnover and a detailed understanding of the systems that support the retirement fund are bound to have considerable financial impact should problems be experienced. Finally, the agreement must be signed before the mandate commences.

The legal environment in which pension funds operate is also constantly evolving and there are numerous changes currently underway that will impact on employers and employees. Some of the most relevant include:

The Pension Surplus Bill

The bill was promulgated last year, but stakeholders are refining the finer practical details that will drive its implementation. This legislation will have far-reaching implications because any pension fund surplus built up since the early 1980s will have to be redistributed to former and present members within 18 months of the fund's next statutory actuarial valuation. This takes place every three years in the case of defined-benefit schemes. This will increase the workload because trustees will have to reach agreement on how to split the surplus, if there is

one, to ensure minimum benefit requirements are met and to track down previous members.

Income tax legislation

If a pension fund member is entitled to a benefit, the fund's administrator had to apply for a tax directive before the benefit could be paid to the member. In practice there were exemptions and frequently there was no need to apply for an assessment. Those whose taxable earnings did not exceed R60 000 were assessed in terms of a blanket tax directive. Under new legislation, every benefit is subject to a directive. This will increase fund administration costs and could delay the payment process.

Transfer of a pension to another retirement fund

Previously, the SA Revenue Services (SARS) was simply informed of the new location of the funds in terms of a Recognition of Transfer procedure. This led to abuse that resulted in benefits escaping the tax net. Now, to prevent any such abuse the administrator must apply for a directive before forwarding the monies. This requirement stands even if there is no tax owing. Again, this adds to costs and time involved.

Retirement funds tax

There are indications that SARS could review the retirement fund tax rate. An announcement was expected in the last Budget, and could be made next year. SARS might revisit the rate of tax on gross interest and net rental income earned by retirement funds, now 25%.

Regulation 28 of the Pension Fund Act

The finalisation of this draft is important because it will prevent

pension fund trustees from evading the responsibility of ensuring that an investment strategy is put in place to cater for the varied needs of pension fund members. The regulation moves away from setting specific investment limits and instead lays out the requirement that trustees give careful consideration to investment strategies and member choice. There will also be a greater need for effective communications and greater education to empower employees to make informed choices. Trustees may delegate these tasks, but will have to ensure that this is done efficiently and the necessary controls are in place.

Housing loans

A retirement fund may be asked to provide guarantees to a financial institution for providing housing loans. Who must then assess the value of the property and the risk? Trustees can delegate the responsibility of assessment to the financial institution, but must satisfy themselves that this is done responsibly.

Conclusion

The effective administration of pension funds is an increasingly complex issue, which will require robust IT systems and informed personnel to implement effectively. Handled efficiently by competent administrators, pension funds can be an added bonus for workers; poorly handled, they are a potential minefield for employee discontent.

Gavin Williams and Mustaq Parker from part of Ten50Six, an administrator of retirement funds. For further information they can be contacted on (021) 670-7300.



A shopsteward tackles the stigma of **HIV/AIDS** in the workplace

Bonakele Grootboom is a Samwu shopsteward who is working tirelessly to assist many in his community and workplace who are HIV positive. Grootboom spoke to the **Labour Bulletin** a mere two weeks after a fellow Samwu member he had assisted, died from the disease.

Bonakele Grootboom, a Samwu shopsteward, has been involved in HIV/AIDS work in his community of Bongulethu, a township just outside Oudtshoorn since 1997. He was instrumental in setting up the Bongulethu AIDS Group (BAG) – an organisation that includes representation and support from 90 community organisations, labour and the church. BAG, as it has become known, is involved in a range of interventions in the township from home-based care to providing DOTS (directly observed TB treatment) and voluntary counselling and testing. Grootboom explains that as the disease continues to spread and more and more people get infected, the township has had to begin to deal with HIV/AIDS orphans.

A key focus of the work done by BAG is to try and dispel the stigma around the disease. Grootboom says, this is something he feels very strongly about. He recounts the story of a Samwu

member who approached him about two years ago and informed him that he was HIV positive. The worker told Grootboom of his status on the basis that he would keep it secret, as he feared possible discrimination and the reaction of the workers.

However, time passed and Grootboom assisted the worker in receiving ongoing counselling so as to begin to accept his HIV status. He also provided support so that he was able to inform the workers in his department of his disease. Both worked for the Oudtshoorn municipality. Despite fears of rejection 'the workers were so sad when they heard the news but they loved Mr X even more after he told them of his status. This is despite the fact that he was scared that they would discriminate against him,' Grootboom says. Although the workers and management responded positively and assisted where they could, Grootboom acknowledges that the stigma is still there. 'In every shopstewards' meeting I

raise the issue and talk about health and safety issues and HIV/AIDS – the shopstewards do not however, ask me about the disease,' he adds.

Grootboom became involved in HIV/AIDS work after he saw how people with HIV/AIDS were being discriminated against. Since beginning to work in his community, he has seen a dramatic rise in the number of infections – especially within the 16 to 36 age group. He says an increasing number of young women are being infected. This could be partly due to the fact that sex work has become quite prevalent in the area due to the high rate of unemployment coupled with the close proximity of the military base in Oudtshoorn, where women are offered R500 for sex without a condom.

Grootboom will continue with his work in the community and put all his energies into ensuring that the work of BAG assists those infected and prevents further infections. 'I have children of my own, I need to be involved.'

LB

Provision of **affordable health care** in the face of HIV/AIDS

*The provision of primary health care at the workplace is critical in the fight against the spread of HIV/AIDS. The **Labour Bulletin** investigates the feasibility and the costs involved in delivering health care to ordinary workers.*

South Africa would go a long way in dealing with the spread of HIV/AIDS if sexually transmitted diseases (STDs) were properly treated. This is according to Capital Alliance Health MD Richard Malkin. He believes the country is debilitated by the disease because there is a very mobile employed population, which is no more promiscuous than any other society. The difference however, is the failure to properly treat STDs. The treatment of STDs is happening on the mines but it is questionable to what extent this is being duplicated in other workplaces. Malkin believes the proper treatment of STDs would go a long way towards halting the spread of HIV/AIDS.

Malkin says the easy access to STD treatment could happen in a confidential manner in workplace clinics. Education around the disease has its place. However, money spent on access to STD treatment would be more beneficial. 'All the education in the world will not result in a person who has been drinking to put on a condom for protection.'

Malkin and others believe that affordable health care can be delivered

to blue-collar workers at the workplace. Instead, employers are spending large sums of money on medical aid contributions for a small portion of the workforce while the remainder are without any form of cover. There are ways of giving equal benefits to everyone in a company. Primary health care could cost as little as R50 a worker per month.

The proper management of health care in the workplace should ensure integration between occupational health and safety and the treatment or prevention of the spread of HIV/AIDS,

Malkin says. This too is the view of the Solidarity Centre, which has initiated an extensive education programme amongst the main trade union federations.

Presently, employers are too scared to take on the long-term liability of keeping an employee alive on anti-retrovirals. However, eventually, companies could face mounting pressure in this regard. Under these circumstances, a sustainable primary health care delivery system is needed if companies are to eventually move towards providing anti-retrovirals. LB

Zambia uses music to fight the spread of HIV/AIDS

In Zambia, the music industry has become involved in the fight against HIV/AIDS. A local recording company – Mondo Music has, with donor funding, distributed tapes to (truck-drivers) on which popular songs are punctuated with a short AIDS-awareness segment. Chisha Folotiya, from Mondo Music explains that, as a through-road for goods across the SADC region, Zambia has been particularly vulnerable to the spread of HIV/AIDS. By targeting truckers directly, the initiative seeks to alert key role-players in the spread of the pandemic across the country and in the sub-region. (Quoted in 'Small Enterprise Development and Employment Creation in the Music Sector in the SADC Region', ILO's InFocus Programme on Boosting Employment through Small Enterprise Development' (IFP-SEED).

Financial crisis hits unions



*Trade unions are finding they have to embark on a cost cutting exercise to remain in business. **René Grawitzky** looks at the financial problems behind the unions.*

The country's largest trade union federations – Cosatu, Fedusa and Nactu – are feeling the effects of those affiliates who are unable to pay affiliation fees as they battle to sort out their financial problems.

Earlier this year Cosatu was owed in the region of R11m from affiliates who, for a variety of reasons, had been unable to pay their affiliation fees on time. Fedusa has also begun to feel the pinch, but because it has a smaller infrastructure seems able to weather the storm. Fedusa general secretary Chez Milani says that the smaller affiliates are struggling. The financial status of Nactu has been considered precarious for sometime.

Trade unions facing financial problems is not a new phenomenon. Throughout the relatively short history of the emergent black trade unions from the early to mid-1970s, this has been an issue. However, the

environment in which unions are now operating is potentially tougher than in the earlier years. Unions, in order to survive, are going to have to become sustainable and survive on subscription fees as they can no longer rely on foreign funding to the same extent as they were once able. (Perhaps some will benefit indirectly from activities of union investment companies or other financial arrangements such as the provision of a range of financial services?)

To survive on subscription fees alone, might prove difficult for some unions. This could be partly due to the nature of the industries in which they are operating – which might require a higher number of officials to members – or due to the following:

- The income in some unions, especially those recruiting in manufacturing is declining. Ironically, however, some unions that have experienced a dramatic

growth in membership in recent years, such as Nehawu, are facing huge financial difficulties.

- Some unions have argued they are not only losing members to retrenchments but as a result of casualisation as has been experienced in the retail sector. Unions such as Saccawu have borne the brunt of this trend.
- Unions continue to battle with ensuring that companies are passing on worker subscriptions to the relevant unions. Last year Numsa embarked on a campaign to tighten up on the collection of stop orders. Operation Bhatala was aimed at ensuring that shopstewards would begin to monitor and ensure that the companies in which they work are paying over the dues to the union. Numsa spokesperson Dumisani Ntuli says: 'The best people to monitor whether companies are

paying or not are the shopstewards.' Through this campaign the union found a number of companies who, over extended periods of time, have not paid over due to the union. Monitoring income is a big issue for

There is a sense that at the level of general secretary and even other senior officials there should be a certain standard they now need to uphold – this is draining the union's resources ...

most unions. Over the years millions have been spent by Cosatu and individual affiliates to develop computerised subscription monitoring systems. Few of these work effectively. This is not a purely local problem – unions in other countries have had similar difficulties with computer programmes. Often they are designed to be far too ambitious and then are really complex and costly to operate and maintain.

- The running costs of unions are continually rising but their incomes remain constant, if not declining, in some instances. Unions are having to pay higher salaries to get skilled staff. Hence unions are constantly facing an upward pressure on wages from their own staff who want to earn market related salaries. In addition to wage costs, there is also the fact that every union now has to deal with a broader range of issues, each of which is more complex. This generally requires more structures and committees. All these activities have escalated costs.
- Poor financial management and inadequate or insufficient financial checks and balances are a feature that has characterised some unions for many years. A union official says many unions continue to lack

proper financial systems. In the early days, the general secretaries used to be involved in all union activities including financial management. But these days they have so many other functions to perform that they rely on financial managers. Good financial managers, who understand unions and who have the necessary skills are very hard to come by at the salaries unions offer.

- Aside from poor financial systems being in place, unions continue to be hampered by fraud and corruption. 'This continues to be a factor but remains unresolved,' one union official says. Over the years, unions have expressed some interesting fraud cases. For example, officials opening bank accounts in the name of the union and stealing cheques. Numsa had a case where an individual opened a cheque account in the name of N Umsa. Satawu also had a case about six years ago in KwaZulu-Natal.
- Although a number of unions have been forced to embark on cost-cutting exercises, many officials have begun to expect a certain standard in terms of travel and accommodation. Unions spend millions per annum on air travel and accommodation while international allowances are seen by some to be exorbitant. 'Office bearers fly all over the place, at the drop of a hat and then accumulate voyager miles,' another official explains. The issue of voyager miles is becoming a problem in some unions where they are not pooled together and utilised by the organisation, but are kept by the individual. There is a sense that at the level of general

secretary and even other senior officials there should be a certain standard they now need to uphold – this is draining the union's resources. Another official adds that it is not only amongst top leadership that problems exist. When meetings are held there is a demand for reasonable hotel accommodation. Ultimately, however, unions are facing ever rising costs – a price to pay for operating in a modern fast environment. Unions have to contend with paying for flights, car hire, cell-phones, computers, Internet, e-mail, photocopiers etc. All these have added disproportionately to costs since the days of an office with a union-owned car, a fax machine (if lucky), a drawer full of stamps, a telephone, a roneo machine, and a manual typewriter.

Unions are being forced to re-align their expenditure with income coming in. In the absence of a higher degree of accountability and stricter financial controls this will not happen. But even this might not be sufficient to ensure unions are financially viable. Aside from cutting expenses, unions could try and increase income through subscriptions. Increasing subscriptions would be a hard thing for workers to accept. While there is no easy answer to the financial woes of unions, a failure to deal with the ever-incurring financial problems is bound to lead to the resurfacing of old tensions in some unions. In recent years such tensions have played themselves out in relation to how unions engage in the investment arena – with union investment companies and the provision of financial services. In the latter case, the involvement of unions in providing a range of financial services to members has brought to the fore some problematic practices (see p 53).

LB

Fedusa

A congress with a difference?

*Fedusa – the second largest trade union federation – recently held its second national congress. The **Labour Bulletin** was there ... along with President Thabo Mbeki and two cabinet ministers.*

Walking into Fedusa's second national congress felt vastly different from attending its first in 1999. The first surprise was seeing President Thabo Mbeki along with Labour Minister Membathisis Mdladlana and Finance Minister Trevor Manuel in attendance. Once one got over this, it was interesting to see how the composition of the delegates has changed. Fedusa is increasingly beginning to represent a broader category of workers. The federation has a strange mix of unions: from traditionally white unions to those more multi-racial and almost exclusively black unions. This diversity was far more evident at the congress than in previous years.

Whilst Fedusa members clambered to get a photograph with Manuel, one could see that the federation is hard at work seeking a higher degree of legitimacy both from within government and from amongst its fellow trade unionists in other federations such as Cosatu. The presence of such a high-level delegation from government certainly raised a few eyebrows. Comments ranged from: 'When was the last time such a delegation attended a Cosatu congress?' to 'Is this an attempt to get back at Cosatu?' and 'Is government trying to enter into new alliances?'

Fedusa general secretary Chez Milani rejects the notion of a 'winds of



Then and now ... the changing face of Fedusa



'The presence of such a high-level delegation from government certainly raised a few eyebrows ...'

change'. But rather explains that the attendance of Mbeki along with Mdladlana and Manuel is really an indication that Fedusa is beginning to add value to broad policy debates. 'The realisation is sinking in that Fedusa can make a difference within the current industrial relations climate. Government is beginning to see the value,' Milani says.

Since taking over the reins in 1997, Milani has attempted (despite some opposition in his ranks) to build-up the federation's intellectual capacity so that it can begin to engage in key policy debates. There are some more conservative elements in his ranks that have not always seen the benefits of the federation and its potential to impact on developments.

Having begun to put Fedusa 'on the map', Milani sees the federation as continuing to make more strategic interventions in the future and 'bring some sanity to the debate'.

If the federation is to make more 'strategic interventions' it will have to begin to increase its resource base. Alternatively, it could form alliances with research organisations and/or economists so that they can engage on broader policies affecting the labour market, such as the dti's proposed new manufacturing strategy.

As the federation's stature grows, it will be called upon to participate in an increasing number of activities and initiatives. This could put a strain on its

very small head-office staff. Milani runs a small tight organisation so as to limit overheads. He is not in favour of an expensive top-heavy structure. The federation has, in the past, been overlooked for participation in a number of initiatives such as the bipartite Millennium Labour Council (MLC). This structure was set up by a group of leading businessmen and senior Cosatu officials towards the end of 1999 and beginning of 2000. Fedusa was invited to participate in the structure last year.

The second national congress was held to review work done over the last three years (since the first congress in 1999) and to discuss various policy positions in relation to state asset restructuring, corporate governance, labour-based employment and the future of pension funds.

Resolutions adopted

State asset restructuring

The federation plans to build capacity within unions to engage more effectively on this issue. Fedusa indicated that the United Kingdom based DFID, which has assisted the Department of Public Enterprises with restructuring, had approached the federation to be engaged as a partner towards building capacity and research within labour. DFID has set aside £7.5m for funding this initiative, together with other stakeholders. Fedusa will make use of this partnership to engage in impact studies in order to determine how abandoned services and projects can be used to regenerate income in

poverty stricken regions and encourage job creation.

Labour-based employment

Fedusa believes that in excess of 400 000 jobs can be created through labour-based employment. Fedusa has called on government to ensure that tenders (for infrastructure development) are awarded to companies making use of labour-based methods, as opposed to machinery intensive methods – where costs and quality compare favourably. Business must also prioritise job creation and encourage the use of labour-based methods, where feasible.

Management morality/corporate governance

The role of labour with regards to the moral regeneration of society was highlighted during discussions on the resolution regarding management morality. Fedusa will campaign for ethical and moral conduct of employers and will expose employers who behave in an unacceptable manner. (One of Fedusa's affiliates was involved in blowing the whistle on Spoornet CEO Zandile Jakavula.)

Pension fund administration

The federation wants to kick start pension fund trustee training (in line with Manuel's call) as well as to commission research to determine the viability for pension funds to invest in social infrastructure. LB

For more information, Fedusa can be contacted on (011) 476-5188.

What's in a bag?

*The decision by Environmental Affairs and Tourism Minister Valli Moosa to ban the production of thin plastic bags to prevent the pollution of our beautiful country could have unintended consequences. Deputy general secretary of Ceppwawu **Bengeza Mthombeni** explains what the socioeconomic impact of this move could be.*



The Minister of Environment Affairs and Tourism Valli Moosa recently announced in Parliament new measures on the production of plastic bags. The intention of this move is to prevent people from polluting the environment with thin plastic bags that they throw away all too easily. The Chemical, Energy, Paper, Printing, Wood and Allied Workers Union (Ceppwawu) supports the vision of a cleaner, litter-free South Africa. However, there is always going to be tension between the need for a cleaner environment and development. It is our task therefore, to ensure we find a correct balance to achieve both.

Ceppwawu is very concerned about government's new regulation. We believe it has failed to establish a proper balance between a cleaner environment and the need for job retention and job creation. We predict enormous job losses unless

these regulations are amended. This is at a time when the South African economy is shedding jobs at an alarming rate and when the recent labour force survey has pointed out that unemployment is reaching catastrophic levels. Valli Moosa's intervention could lead to massive job loss, deindustrialisation and increased costs to consumers.

The new regulations will require local manufacturers to produce 30-micron plastic bags if they are unprinted and 80 micron, if printed. This poses some problems:

- Existing equipment to the value of about R120m will have to be scrapped.
- Significant capital investment will be required to convert current capacity in order to produce plastic bags of 30 microns.
- The consultants that did a jointly sponsored research by the Nedlac

constituencies pointed out that re-capitalisation may not take place because of the low margins in the industry.

Our major concerns about the regulations are as follows:

- Unless supplemented by other measures, the regulations will probably result in the larger retailers shifting to thicker plastic bags, since they cannot advertise on thin ones. Virtually no South African company can currently produce thick bags so retailers will have to import. The result could be an increase of over 1% in food prices – an unacceptable outcome, given the current devastating food inflation. Furthermore, if consumers then decide to re-use the bags (which is unlikely in the absence of any form of consumer or environmental education), we could lose up to

'We predict enormous job losses unless these regulations are amended. This is at a time when the South African economy is shedding jobs at an alarming rate and when the recent labour force survey has pointed out that unemployment is reaching catastrophic levels ...'



- 70 000 jobs for supermarket packers.
- A failure by the industry to recapitalise could result in some plastic manufactures simply going out of business. This will result in job losses and higher imports. The unions have questioned whether imported products will have to comply with this new standard. There have already been reports that a large number of the thin bags currently polluting the environment are in fact illegal imports.
- The process of deciding on the regulations was deeply flawed. Government rejected the Nedlac research. Yet it has never published any other evidence to support its own positions. The arguments of both business and labour have been consistently ignored. The minister's only concession was to allow unprinted bags of 30mm – but the research report pointed out that 25mm was the cut off for most of the existing machinery. Moreover, as noted above, this concession was undermined; by refusing to permit printing on the thinner bags, making them unattractive to the formal retail industry.
- Ceppwawu finds the costs of the regulation, especially for the poor through higher food prices and job losses, unacceptable. After all, the only expected benefits are reduced litter (but even this is questionable). Both business and labour have proposed specific plans for recycling, which would have a lower cost and create jobs.

Ceppwawu did present alternatives to the proposed regulation. We proposed that we should work within the

framework of the White Paper on Integrated Pollution and Waste Management. This document specifically integrates environmental considerations with social, political and economic justice and development in addressing the needs and rights of all communities, sectors and individuals. Further, we support the principle contained in the white paper that mandates the policy and institutional framework to take account of the need to protect and create employment. Our endeavours to improve our environment need to be seen in the context of our position as a developing country where unemployment, under employment, inequality and poverty levels are exceptionally high.

The removal of litter caused by plastic bags needs to be addressed through a multi-pronged approach that includes decreasing the amount of plastic bags entering the waste stream and encouraging recycling and re-use of plastic bags.

We believe such an approach will address the problems of litter and will limit job losses. This will go a long way to ensure that consumers, specifically the poor, are not paying more for goods and services.

Ceppwawu proposes a minimum thickness of no more than 24 microns, which is supported by the industry. The rationale behind this is that a thicker bag will contain more goods and thus fewer bags will be used; it is more viable for recycling; it can be reused a number of times; existing machinery can be modified to produce bags at 24 microns but not above; the value of the bag will increase without loss of production so existing jobs will be safeguarded and

finally, the increase in the cost of the bag will be lower than other options put forward.

In order to ensure that domestic producers of plastic bags at 24 microns are not undermined by imports of thinner bags, government must ensure that customs and excise gets increased capacity and resources to monitor imports.

If government wants to encourage a culture of recycling, it will have to set up recycling points for collection of plastic bags. In addition, we need to increase the demand for recycled products by:

- ensuring state procurement supports higher recycled content, eg refuse bags;
- legislating the type of ink that can be used and the amount of print allowed on the bag to promote recycling;
- improving collection mechanisms so that plastic bags can be better collected for recycling.

Conclusion

As a country we can and need to support the growth of the recycling industry specifically and the plastic industry more generally. This can be achieved through a sector summit, which can develop a vision to grow both sectors. Increasing municipal services, particularly in those areas most affected, must support collection of litter. (This would at the same time create employment while improving the quality of life of many South Africans.) Of equal importance, is to ensure that policies and regulations must always be sensitive to job creation and job retention.



From earth summit to **social summit**

Has the developing world hijacked what was supposed to be a bunny hugging exercise to deal with sustainable development?

Markus Reichardt explores this and other issues surrounding the WSSD.

Any commentary about the World Summit on Sustainable Development (WSSD) speaks about the tens of thousands of delegates, hundred plus heads of state, and the thousands of journalists who will descend on Johannesburg during August 2002.

On the surface it appears that the country is heading for a tourism bonanza as thousands flock to our most beautiful sites before or after the Summit, while the government will bask in the prestige of hosting this milestone event. But what is the agenda of the Summit and what can it truly deliver? Will what it delivers truly be of benefit to South and southern Africa?

Beyond the once-off (and thus unsustainable) tourist dollar, few actually know what the Summit will deliver for the people and the environment of the subcontinent.

Though many still refer to it as an 'Earth Summit' the agenda has changed and environmental issues are no longer the focus. There is a history to this and it is one that has plagued the earlier Earth Summits. One of the great popular misconceptions about

the Summit is that it will not be an event for individuals to present weighty issues in learned papers to a distinguished audience. The WSSD is a UN Summit and formally can only produce an agreement or declaration between or from governments. The statement or agreement can of course refer to or quote from other work. There is no mechanism for 'business' and/or the NGO sector collectively to agree or to commit to anything. In fact, neither business nor NGOs formally participate as players in the core Summit events. Instead they are relegated to side events.

Regardless of their role, an intergovernmental agreement or declaration could include exhortations to business or other groups to do this or that. This does not amount to a commitment from NGOs or business (nor really from governments). However, since the whole thrust of the private and non-profit sector' involvement is to participate as a partner in the move towards sustainable development, one must be seen to be participating. It would be up to business or NGOs to place themselves under moral obligation by

publicly committing to an agreement or by pushing a set of similar principles. This is a critical point since in the short-term, none of the declarations or conventions is likely to produce any substantive change. Where their impact will be felt is that these hefty works set the framework for future legislative developments in many (though by no means all) participating nations. It is thus understandable that stakeholders from all sides feel the need to participate in the Summit so as to influence its outcome.

But can the many thousands do this effectively? The Summit's agenda is set long beforehand at a series of preparatory committee meetings organised by the UN. That is where the real lobbying takes place. By the time the delegates get to Sandton, it will take a major event, indeed a crisis, for an item to get onto the agenda. Indeed the closing speeches have already been written. When Johannesburg was first confirmed as the host city the event was still being called the 'Rio plus ten Summit' or the 'Earth Summit'. More recently the WSSD has become the more accepted label.

There is a reason for this shift. After three preparatory committee meetings to discuss the WSSD agenda, there are comparatively few truly green (environmental) issues left. What is happening is a replay of the tug of war between the developed and developing nations over the purpose of the event. The same thing transpired at the 1972 Stockholm Earth Summit and the 1992 Rio Earth

The user-friendly nature of its definition ensured its survival.

In 1977 the International Union for the Conservation of Nature (IUCN) was commissioned to draft a document to present 'global perspectives on the myriad of conservation problems that beset the world and a means of identifying the most effective solutions to the priority problems.' This document, published in 1980 as the

forerunners, the WCS wanted to sell conservation to the development constituency, but it did not understand what the development constituency was like. Politically naïve, it did not accept development as the driving force in human affairs. This is the change the Brundtland Commission introduced successfully. It argued that the environment 'does not exist as a sphere separate from human actions,

After three preparatory committee meetings to discuss the WSSD agenda, there are comparatively few truly green (environmental) issues left. What is happening is a replay of the tug of war between the developed and developing nations over the purpose of the event.

Summit.

Initially, neither conference commanded support from the developing countries. They feared that environmental and developmental problems were being separated, and the sense of integration and of shared problems between the developed and developing world was being lost. In 1972 these developing country concerns about the detrimental economic effects of environmental protection policies had to be addressed for fear of a conference boycott on their part. In order to allay the fears of developing nations that environmental protection would not go against their interests and would not affect their positions in international trade, the organisers made a statement of faith that development and environment could be combined in some way that would optimise ecological and economic systems. They did so without explaining how. Out of this compromise grew the concept of sustainable development.

World Conservation Strategy (WCS), broke new ground in that it moved many major environmental NGOs to a position where for the first time 'development could be seen as a major means of achieving conservation, rather than an obstruction to it. In a significant repackaging of conservation, environmental modification became a natural and necessary part of development, even if only certain kinds of such modification would achieve the social and economic objectives of development. By this argument that development planning should not only be socially and economically sound but also fit conservation objectives, the Strategy established the basic triad of mainstream sustainable development thinking in the 1990s: economic, social and environmental sustainability. Unfortunately, it too stayed away from specifics; but the theoretical framework was there.

The sustainable development debate then stagnated because, like its

ambitions, and needs, and attempts to defend it in isolation from human concerns have given the very word "environment" a connotation of naiveté.'

The Brundtland Commission (named after a former Swedish Prime Minister who chaired the process) attempted to recapture the 'spirit of Stockholm' whose demise environmental groups lamented. It succeeded where the WCS failed. It managed to get its mandate from the UN General Assembly (rather than a specific agency or NGO) to debate environment and development as one issue. It was the legitimacy of this body that made the Brundtland definition for Sustainable Development, the standard that endures to this day: 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.

The Rio Summit built the compromise a different way, it simply

increased the number of green issues and rewrote some of them to accommodate some social concerns. At the time however, environmental sentiment in the developed world was sufficiently aroused so as to withstand developing nations' pressure more firmly. The tensions between developed and developing nations also shaped the texts of the Rio Documents themselves. The Rio Declaration was not the strong and sharp 'Earth Charter' originally conceived by the UN. Its 27 principles were diluted to 'a bland declaration that provides something for everyone'.

The main output of Rio, although it is probably the least read, was Agenda 21. This is a vast document, containing 40 separate chapters amounting to more than 600 pages. It was drafted and argued over minutely by government lawyers and officials. It is both a great compendium of sustainable development ideas and issues, as well as a hard-won agreement that gets as close as one can to a global consensus and political commitment at the highest level on development and environmental cooperation. Despite its size there are a few key themes worth noting:

- the 'revitalisation of growth with sustainability';
- Agenda 21 maintained all the familiar environmental issues of the World Conservation Strategy;
- it argues for growth to power, and for technology to direct, the evolution of policy towards more efficient use of the environment. Through a multi-lateral and participatory approach it sees this as the path to a more sustainable world economy.

Now ten years after the Rio Summit and the adoption of Agenda 21, conference organisers face a dilemma:

No matter how one dresses it up, virtually no country has developed its own national strategy for the implementation of Agenda 21, let alone attempted to pursue material implementation initiatives. Truth be told, it has been primarily NGO and private sector initiatives (sometimes in partnership with each other or governments) that have made some strides along the path charted in Agenda 21.

Governments of developing nations, who have, in part due to lack of capacity, been the most lacking in advancing concrete action on Agenda 21. They now have a reason to downgrade the importance of this key Rio document while at the same time advancing a larger agenda. As a result there has been a shift away from an environmental focus to matters of poverty alleviation and global equity. In line with this shift, the South African government now has developed the following list of Summit priorities:

- health
- education
- access to water and sanitation
- access to energy
- food and security
- technology.

This is a view of sustainable development that places human needs at the centre rather than seek the balance between environmental, social and economic needs.

No-one can deny that poverty is a key driver in human degradation of the environment. However, by refocusing the Summit's agenda on issues around these social issues the leaders of developing countries find it easier to distract those who may wish to question the lack of action on the earlier commitments made at Rio. It could also be argued that this need is also at the heart of the 'partnership concept' punted so heavily by many

governments and UN bodies. Alone stakeholders – and governments are no exception – have achieved little. By teaming up with those who have had more of an impact – the NGOs and the private sector – they can recover some high ground through delivery.

So the Summit is likely to produce some declaration on poverty alleviation and on global equity. By the time the various stakeholders among the thousands have had their say, there will be so much compromise in the documents, that they are likely to have the same impact as the Rio declarations and conventions before them. In order to avoid this some NGOs are calling on the UN and the Summit organisers to deliver a concrete programme of action with measurable outcomes that will make a difference to the lives of the world's poor. At present there is no indication that this will influence the debates at the preparatory committee sessions. **LB**

Reichardt is the manager for environmental affairs for AngloGold and will be co-coordinating the mining industries position at the Summit.

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Madiba **in disguise**

Capturing Mandela in different guises by Yiull Colombo Damaso.



This up and coming artist is currently exhibiting his works at the Clock Tower in the Cape Town Waterfront. This seems an appropriate venue for this artist's work, which is a collection of portraits of former President Nelson Mandela in different guises. Imagine Mandela with dreadlocks looking like Bob Marley?

One day Damaso was walking through Green Market Square in Cape Town and he saw a poster of Bob Marley standing next to a poster of Mandela. He thought it would be interesting to put the two ideas together. What emerged is Mandela with dreadlocks. This started Damaso on a series of Mandela portraits – reflecting different emotions and guises. The different emotions are those of the artist, who uses the Mandela image to express his own

feelings and emotions. Damaso describes the series of paintings as 'emotional self-portraits' using Mandela. Everyone, he says, can relate to the thought processes reflected in the paintings.

'The images I paint, I do not choose. My paintings are but a single frame of the three-dimensional film that my mind perceives. These images come to me through the emotions I am experiencing and feeling. Through this cinematic process I create my world, my universe.'

Following on from Mandela in dreadlocks – 'the dreaded Madiba', Damaso painted Mandela in a cell wearing a diesel shirt. The painting entitled: 'Someday they'll understand' is an attempt by the artist to show how he feels imprisoned by societies attitudes and value system.

Damaso says making it as an artist today is not about talent but about marketing. 'People only begin to accept you when you do what they want,' he says.

After that followed Mandela depicted as a boxer – Nelson 'Ali' Mandela. The picture is symbolic of the fact that despite Mandela's age he still has some fight left in him. He still can go a few more rounds, in the same way the artist feels that he is ready to fight to 'take society on.'

There are a number of other portraits including another scene of Mandela in prison. He is clasping his hands with an almost pleading gesture. (He is wearing an AIDS ribbon.) The prison scene is to reflect what has been done to those suffering with HIV/AIDS – how they are in their own prisons.

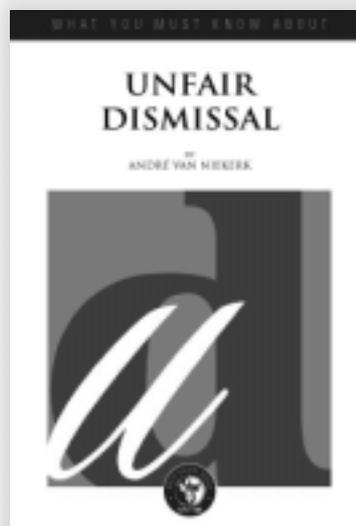
LB

The **how to** or not on dismissals

Craig Bosch reviews a recent book on unfair dismissals surprisingly entitled 'Unfair Dismissal' by André van Niekerk.

According to the CCMA's annual report of 2000/2001, a total of 103 096 disputes was referred to the CCMA. That is an average of 414 disputes every working day. And 74% of those were dismissal disputes. These figures reflect only what is happening in the CCMA and do not give us insight into the number of dismissal disputes dealt with in private arbitration and bargaining councils. It is safe to assume, however, that in those fora too the large majority of disputes arise from allegedly unfair dismissals. The prevalence of dismissal disputes indicates that the issues arising from them affect a large number of employers, employees, advisers, practitioners and arbiters. It is clear from the emerging case law that many of those involved in effecting dismissals, or being dismissed, or having to represent those who stand exposed to dismissal, do not have a firm grasp of the fundamental principles of this crucial area of labour law.

André van Niekerk's *Unfair Dismissal* is part of the 'what you must know' series of books published by Siber Ink. The author is someone who is well placed to write such a book. He is the co-author of the seminal *South African Law of Unfair Dismissal*, and has formed part of the drafting teams of the 1995 Labour Relations Act and the pending amendments to both the LRA and Basic Conditions of Employment Act. In the preface to the book the author informs us that he 'attempts to



consolidate the law of unfair dismissal into an accessible resource for both employers and employees.' The book is styled as a 'practical guide for readers who wish to acquaint themselves with basic principles.' He has achieved both of these objectives and more. The book is unique in that it has been written as if the 2002 amendments are already in force. Readers can equip themselves with a working knowledge of the amendments prior to their taking effect.

Unfair Dismissal is logically constructed, essentially following the course of a dismissal dispute from initial, jurisdictional, considerations through to dispute resolution processes and appropriate remedies for unfair dismissals. The author manages, within the space and style constraints

of a 'practical guide', to cover the basic principles in each area of discussion yet also touches on areas that are contentious and engages in some, albeit necessarily limited, debate.

This book is a very welcome addition to the ranks of texts on labour law. It is highly recommended for employers, employees and trade unions and others who need a sound guide to the prevailing principles on dismissal. It will also prove useful to legal practitioners who need to brush up on, or need a quick reference source for, the very latest law on dismissal. LB

Craig Bosch is a lecturer at the Institute of Development and Labour Law, UCT. The book is published by Siber Ink, Claremont, CT (www.siberink.co.za)

WSSD: sustainable for whom?

Red socks get support from unlikely quarters

NUM general secretary Gwede Mantashe has become synonymous with red socks. Recent developments have shown that he might be facing some competition in this regard – and from some unlikely quarters. Editor turned politician, DA MP Nigel Bruce attended the recent parliamentary hearings on the dti's proposed integrated manufacturing strategy (IMS) wearing red socks. This arch supporter of capitalism happened to be wearing his red socks on the day SA Communist Party general secretary Blade Nzimande was giving evidence. Asked about his socks, Bruce attempted to detract from their significance and announced he was off to lunch with a capitalist just in case anyone should doubt his allegiance.

WSSD: what's for sale?

The upcoming World Summit on Sustainable Development is expected to lead to many 'sustainable projects' for promotional companies, conference organisers and the like. Redeye heard that the National Women's Coalition, being concerned about sustainable development, approached the Gauteng government for some assistance around the summit. One would, of

course, have presumed that the assistance was in relation to ensuring that gender issues were raised in relationship to sustainability and development. The Coalition were upset that they had been overlooked for a number of tenders in relationship to the provision of promotional items such as T-shirts, bags etc. They are now exploring alternative options for sustainable development?

Production now – sex later

Redeye heard that a female employee was being sexually harassed by her male shopsteward. She laid a complaint, which was taken up by the company. The shopsteward was subsequently dismissed. The union, not one to pay lip service to sexual harassment issues, then approached the company with a deal. The union

would ensure production was increased to international standards if the shopsteward was retained. The company obviously could not refuse such an offer.

The depths mining men will sink to

Mining has not always been known to attract the best of mankind. The recent developments between the Kebble family and Durban Roodepoort Deep can bear witness to this. Redeye was informed that the Kebble family's spin doctor (the same one used by Coleman Andrews and his ilk) approached a journalist to give a 'tip' that the mining inspector had temporarily closed one of DRD's mines following a mining accident. It's commendable that this spin-doctor wants open and transparent media. **LB**

Shopstewards support privatisation

Cosatu's anti-privatisation campaign has faced some tough moments. Not least of which have emerged from amongst its own ranks. Redeye heard that in a recent case the shopstewards colluded with their management to privatize their own services. With shopstewards like that who needs management, one could well ask!!

Undermining Cosatu's privatisation campaign has not been limited to shopstewards, who at times, benefit from the process. Union investment companies too have played their part. In a recent move Kopano ke Matla, Cosatu's investment arm formed part of a consortium, which is bidding for a stake in the second national operator. This is despite the fact that Cosatu's Communication Workers Union opposed the privatisation of Telkom and threatened to disrupt Telkom's listing.