

Grant Agreement G7-27205-139
between *the Centre for International Private Enterprise*
and the *Free Market Foundation of Southern Africa*

Evaluation Report
1 March 1997 - 31 May 1998

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|----------|---|
| ACDP | – African Christian Democratic Party |
| ACHIB | – African Council of Hawkers and Informal Business |
| AEISEC | – International Association of Commerce Students |
| AGM | – Annual General Meeting |
| AHI | – Afrikaanse Handelsinstituut |
| AMCHAM | – American Chamber of Commerce |
| ANC | – African National Congress |
| BAM | – <i>Black Advancement Monitor</i> |
| BEDOSA | – Business and Economic Directory of Southern Africa |
| BIFSA | – Building Industries Federation of South Africa |
| CACHIB | – Cape Chamber of Hawkers and Informal Businesses |
| CBD | – Central Business District |
| CGS | – Council for GeoScience |
| CIPE | – Centre for International Private Enterprise |
| COSAB | – Council of South African Banks |
| COSATU | – Congress of South African Trade Unions |
| DBSA | – Development Bank of South Africa |
| DENCSA | – Dental Council of South Africa |
| DP | – Democratic Party |
| DTI | – Department of Trade and Industry |
| EBF | – Emerging Business Front |
| EFN | – Economic Freedom Network |
| EFW | – <i>Economic Freedom of the World (1975-1995 & 1997 Report)</i> |
| FABCOS | – Foundation for African Business and Consumer Services |
| FEBDEV | – Foundation for Economic and Business Development |
| FEDHASA | – Federated Hotel Association of South Africa |
| FF | – Freedom Front |
| FIBASA | – Federation of Independent Business Associations of South Africa |
| FMF | – Free Market Foundation |
| FNB | – First National Bank |
| FNS | – Friedrich-Naumann-Stiftung |
| FXI | – Freedom of Expression Institute |
| GEAR | – Growth, Employment and Redistribution (Govt's macroeconomic policy) |
| Hospersa | – Hospital Personnel Trade Union of South Africa |
| HRC | – Human Rights Commission |
| IDASA | – Institute for a Democratic Alternative for South Africa |
| IFP | – Inkatha Freedom Party |
| JCCI | – Johannesburg Chamber of Commerce and Industry |
| LASB | – Laws Affecting Small Business |
| LII | – Liquor Industry Initiative |
| LRP | – Law Review Project |
| MANCO | – Manpower Cooperation |
| MP | – Member of Parliament |
| MPS | – Mont Pelerin Society |
| NAFCOC | – National African Federated Chamber of Commerce |
| NAFEDA | – National Foundation for the Development of African Entrepreneurship |
| NAFU | – National African Farmers Union |
| NAMC | – National Agricultural Marketing Council |
| NEDLAC | – National Economic Development and Labour Council |
| NEHAWU | – National Education Health and Allied Workers Union |
| NEPA | – Ntsika Enterprise Promotion Agency |
| NIC | – National Industrial Chamber |

| | |
|--------|---|
| NP | – National Party |
| NPPHCN | – National Progressive Primary Health Care Network |
| OLP | – Organisation of Livestock Producers |
| PAC | – Pan Africanist Congress |
| RAU | – Rand Afrikaans University |
| RDP | – Reconstruction and Development Programme |
| SA | – South Africa |
| SAB | – South African Breweries |
| SABC | – South African Broadcasting Corporation |
| SACOB | – South African Chamber of Business |
| SACP | – South African Communist Party |
| SAF | – South Africa Foundation |
| SAHSSO | – South African Health and Social Services Organisation |
| SAIRR | – South African Institute of Race Relations |
| SALSA | – South African Liberal Students Association |
| SALTA | – South African Liquor Traders Association |
| SAPIA | – South African Petroleum Industry Association |
| SARB | – South African Reserve Bank |
| SATA | – South African Taverners Association |
| SAYC | – South African Youth Congress |
| SBP | – Small Business Project |
| SMMEs | – Small Medium and Micro Enterprises |
| UCT | – University of Cape Town |
| UDM | – United Democratic Movement |
| UK | – United Kingdom |
| UNISA | – University of South Africa |
| USAID | – United States Agency for International Development |
| Wits | – University of the Witwatersrand |
| YEF | – Young Entrepreneur Foundation |

1 *Privatisation*

1.1 Evidence

- Eustace Davie prepared information for the DP on local authority privatisation on *24 August 1997*.
- The FMF completed work on the DP's policy pages this quarter (see First Report). Topics included privatisation, tax, exchange controls, inflation, deregulation, and government spending and trade. The pages were handed to the DP for inclusion in their national policy documents (see Attachment 1.)

1.2 Workshops

(See 3.2 re *EFW* workshops.)

- Leon Louw, representing NAFU, attended a FNS workshop on the upgrading of land title for black farmers.
- Eustace Davie gave a presentation on contracting out to DP councillors on *30 August 1997*.
- Leon Louw addressed a conference for DP city councillors on *25 October 1997* on the privatisation of local government services.
- Terry Markman ran a workshop for three Pietermaritzburg DP members on local authority privatisation policy and its application in Pietermaritzburg on *11 December 1997*. Eustace Davie joined their discussions for part of the day.
- On *20 January 1998* Leon Louw attended a presentation to the Department for Development Facilitation by the Director-General of Land Affairs, Geoff Budlander, regarding the creation of land ownership for businesses in tribal areas.
- Leon Louw ran a workshop for DP representatives on *11 March 1998* on local government privatisation and outsourcing (see 1.5).
- On *31 March 1998* Leon Louw ran a workshop on local government privatisation for dignitaries from the Pietermaritzburg region (see 1.5).

1.3 Comments / Briefing Papers

- Mike Truu wrote *Universities: Conservation or Transformation?* during this quarter.
- Leon Louw and Jim Harris adapted *Land Reform — and Rapidly!* from the *Laws Affecting Small Business* series *Land* booklet during this quarter.

1.4 Monographs

- In *June 1997* the FMF published *Is privatisation a public good? A review of recent literature* by Candice S Perlmann and Harry Zarenda (see 1.8).

1.5 Meetings

- On *16 March 1997* Leon Louw met with Ms Ngoma, Department of Land Affairs, re liberalisation of land laws in tribal areas.
- On *17 March 1997* Leon Louw met with the Baralong Balenunu Community Volkstrust Department of Land Affairs re a pilot project / test case area for land reform.
- Leon Louw met with the Ukukanye Rural Development Project, consultants to the Mpumalanga and Kwazulu / Natal provincial governments, on *25 March 1997* to assist them formulate their land reform policy.
- On *29 March 1997* Leon Louw, Eustace Davie and Terry Markman met with Frances Kendall, local Councillor and person responsible for formulating the DP's policy, to discuss the FMF producing one-page policy documents for the DP on the following topics: privatisation, tax, exchange controls, inflation, deregulation, government spending and trade. This was followed by a second meeting on *30 April 1997* that also included Jack Bloom (DP), Richard Grant (independent economic consultant) and Jim Harris to whom the initial writing was contracted out.

- On *14 April 1997* Temba Nolutshungu met with Telecommunications Minister, Jay Naidoo, to discuss the privatisation of Telkom.
- On *23 April 1997* Leon Louw met with representatives from the Department of Land Affairs, Northwestern Province, the Department of Sociology at Northwestern University and the Department of Agriculture, Potchefstroom University, to discuss a project to privatise tribal land.
- On *15 May 1997* Eustace Davie met with Jack Bloom (DP) to provide information for his speeches to the Gauteng Legislature on the privatisation of housing provision and education.
- On *25 June 1997* Leon Louw met with representative from the Northwest Province Department of Land Affairs to discuss land reform policy.
- Leon Louw met with Aninka Claassens, ANC special advisor on land policy to the Minister of Land Affairs, on *4 July 1997* regarding the government's proposed legislation for upgrading land title.
- On *21 August 1997* Leon Louw met with the Department of Land Affairs and the Bakgatla Ba Mocha tribe on resolving land disputes in the Moretele area of Mpumalanga and creating secure and upgraded title.
- Leon Louw met with Mr Gaberone from the Mmabatho Department of Land Affairs to discuss upgrading land title on *24 August 1997*.
- Leon Louw met with the Director-General of Land Affairs Jeff Budlander on *29 August 1997*. He was acting for NAFCOC and making the case for upgrading land title.
- On *31 August 1997* Leon Louw met with Mr Skhosana, Mpumalanga Department of Land Affairs, re upgrading land title.
- On *18 September 1997* Leon Louw met with the Mpumalanga Department of Land Affairs to advise them on land reform policy.
- Leon Louw met with Fort Hare University staff and unions on *25 September 1997*, *26 September 1997* and *24 October 1997* regarding the restructuring of the university and the outsourcing / privatisation of its functions (see First Report, 2.2).
- Temba Nolutshungu met with PAC MP Patricia de Lille on *9 October 1997* to inform and interest her in the IEA's *Airports 97 Commercialisation, Privatisation and Development Conference*. Ms de Lille is the chairman of the Parliamentary Portfolio Committee on Transport.
- On *17 October 1997* Leon Louw met with both tribal and Department of Land Affairs representatives in the Moretele area of Mpumalanga re resolving land disputes and registering land title.
- Leon Louw met with the Northern Province's Director-General of Land Affairs and prominent South African expert on land tenure, Esse Letsoalo, on *22 October 1997*.
On *3 December 1997* Leon Louw met with the Bakgatla Ba Mocha tribe regarding land reform in the Moretele area of Mpumalanga.
- Eustace Davie held telephonic discussions with Dr Kobus Vorster of the Department of State Enterprises on *19 December 1997* regarding the privatisation of abattoirs.
- Leon Louw met with the Mpumalanga Department of Land Affairs on *6 January 1998* regarding the Bakgatla Ba Mocha tribe's land reform.
- Leon Louw met with town planner Kleinste van Rensburg on *14 January 1998* regarding land reform in Mpumalanga.
- On *28 January 1998* Leon Louw met with Bakgatla Ba Mocha tribal chiefs, researchers, Land Affairs department heads and the Land Tenure Reform Project Committee regarding land reform in Mpumalanga.
- Terry Markman and Jim Harris (consultant and author) met with DP representatives in Pietermaritzburg on *24 February 1998* through *25 February 1998* to discuss the Pietermaritzburg local authority privatisation project (see 1.2).
- During *March, April and May 1998* Terry Markman, Leon Louw and Eustace Davie met on numerous occasions with Dr Jim Harris (consultant and author) to discuss the DP local authority privatisation project which now covers three regions: Pietermaritzburg, Johannesburg and the East

Rand (see Attachment 1, p. 14, and Attachments 1a, 1b and 1c, enclosed.) The following meetings were held with DP representatives regarding the project:

- Keith Olivier and Mike Bond on *11 March 1998*.
- Mike Bond on *12 March 1998*.
- Judy Stockhill and Mike Moriarty on *22 April 1998*.
- Mike Moriarty on *8 April 1998*.
- Judy Stockhill, Anchan Dreyer and Pat Richards on *29 April 1998*.
- Mike Waters (and other councillors) on *21 May 1998*.
- (see also 1.2).
- On *10 March 1998* Leon Louw met with the Department of Land Affairs and the Bakgatla Ba Mocha tribe on resolving land disputes in the Moretele area of Mpumalanga and creating secure and upgraded title. On *20 March 1998* Leon Louw met with the following in the Moretele area of Mpumalanga regarding land reform: the Department of Land Affairs, Earth Space Development consultants, and Obed Ntuli (on the legal aspects of historic land claims by dispossessed black South Africans). Further meetings were held on *19 April 1998*, *7 May 1998* and *19 May 1998*.
- Leon Louw met with Fort Hare University staff on *13 March 1998* regarding the restructuring of the university and the outsourcing / privatisation of its functions (see First Report, 2.2). On *20 April 1998* and *8 May 1998* he met with the audit and finance committees re same. At a special function held on *23 April 1998* Leon Louw networked with Fort Hare dignitaries that included Nelson Mandela, Thabo Mbeki and Julius Nyerere.
- Leon Louw met with representatives of the Baralong Balamirui tribe in the Vryburg district on *3 April 1998* to workshop issues regarding land reform and acquisition.
- On *4 April 1998* Leon Louw met with Chief Mgoko and his Council in the Mathandjana district regarding accessing and utilising government land finance for optimal development of the tribal area.

1.6 Articles / Media (enclosed)

- Eustace Davie's article *Open education to entrepreneurs* was published in the *Star Business Report* on *16 April 1997*.
- Jim Peron's article *Only a free trade policy will give the post office the stamp of class* appeared in the *Star Business Report* on *23 April 1997* and dealt with the privatisation of the post office. Jim Peron writes both in his private capacity and for the FMF.
- On *7 May 1997* Jim Peron wrote *Let private insurers issue drivers' licences* for the *Star Business Report*.
- On *27 May 1997* the *Star Business Report* published *Don't waste your energy or ours*, also by Jim Peron.
- Leon Louw was quoted in a tongue-in-cheek paragraph in the *Cape Times* on *5 June 1997* regarding privatisation and the ANC.
- *Privatisation not a magic recipe* quoted from a FMF monograph and appeared in the *F&T Weekly* on *18 July 1997*.
- The following coverage resulted from the FMF's work with the DP regarding privatisation / outsourcing at local government level (see 1.5):
 - *DP has plan to reduce rates by 50%* was published in the *Natal Witness* on *1 April 1998*.
 - *Outsourcing municipal services 'will be major saving'* appeared in *Business Day* on *2 April 1998*.
 - *DP has plan to rescue Jo'burg from disaster* was published in the *Sunday Times Metro* on *10 May 1998*.
- Eustace Davie was interviewed by Paul Perreira of *Finance Week* on *17 April 1998* for an article on land and housing.
- Eustace Davie was quoted in an article on housing policy that appeared in the *April 30 – May 6 1998 Finance Week*.

1.7 Networking

- Leon Louw met with Ina Strydom (Public Affairs Manager, SACOB) on 2 March 1997 to discuss co-operation between the FMF's Cape Town office and SACOB's Cape Town office.
- On 7 March 1997 Eustace Davie and Leon Louw met with Mr Babicky of the Czech Embassy. They were briefed on the economic reforms that have taken place in Czechoslovakia and especially on the pros and cons of its privatisation methods.
- Eustace Davie met with Nils Dittmer of the OLP to assist him with his submission to the National Agricultural Marketing Board on the liberalisation of the meat industry and abolition of the Control Board on 11 April 1997, 14 May 1997, 15 May 1997, 19 May 1997, 22 May 1997, 23 May 1997 and 30 May 1997.
- On 15 April 1997 Eustace Davie met with MBA student Mategale Mgatane to provide information and references on privatisation.
- Leon Louw met with Abram Napo, President of the Nebo Chamber of Commerce and senior member of NAFCOG, on 16 May 1997 re land tenure reform in Northern Province.
- Leon Louw met with Abram Napo and Mr Matsetela of NAFU on 2 June 1997 to discuss ways in which to upgrade black land title in the former homelands to make the land tradeable and mortgageable.
- On 2 June 1997 Leon Louw met with John Ledger, Chief Executive of the Endangered Wildlife Trust, and leading conservationist Howard Geach, to discuss how best to harness free market forces for conservation – including through private game reserves.
- Leon Louw met with representatives of the Safe Water Association on 2 June 1997 and on 24 July 1997 re fluoridation policy.
- On 4 July 1997 Leon Louw met with Bob Tucker of COSAB regarding the reform of usury laws and the problems faced by banks because of poor land title in former black areas.
- On 21 August 1997 Eustace Davie met with Jean McKenzie of the Association of Private Colleges regarding the regulation of tertiary education.
- In September 1997 Temba Nolutshungu attended the public hearings on the *Water Services Bill*: *“The FMF did not make a submission (written or oral). However, I decided to attend the proceedings in order to acquaint myself with the arguments of the various interests making submissions and when opportunities availed, to lobby on the sidelines. The positions advanced by the labour organisations called for water services to be a public sector responsibility with the capacity for government to deliver enhanced and the private sector playing a complimentary role. The chairperson invited anybody other than the committee members to comment on the presentations by the various organisations whereupon a spokesperson for Water and Sanitation Services South Africa (Pty) Ltd took issue with the Cosatu presenters on the basis that their submission amounted to ‘cherry picking’ with the tendency to gloss over the realities. Whilst I had indicated my intention to comment on the Cosatu presentation and others before that, it was not possible for me to do so as the meeting had gone way beyond the time allotted. However, I commented to Laurraine Lotter, Executive Director, Chemical and Allied Industries Association as to what FMF’s position was on the Bill. This was in the presence of two committee members. The chairperson in conclusion had indicated that where they might deem it necessary they would invite more comments from interested parties and that they might call upon those who had already made submissions to elaborate on aspects of their submissions that might need some clarity.”*
- On 11 September 1997 and 29 October 1997 Eustace Davie met with Mike Watermeyer of Wits University to discuss his privatisation thesis.
- Terry Markman and Leon Louw met with Bernard Nackan of Sage Life on 15 September 1997 and with S Mills on 16 September 1997 to discuss the work of the FMF, property rights and privatisation.
- On 22 September 1997 Leon Louw met with the Nebo Chamber of Commerce to discuss securing land ownership for traders sites in the former homelands.

- Temba Nolutshungu was elected to the Executive Committee of the Telephone Action Group on *29 September 1997*. This pro-privatisation and deregulation group plan to involve other players in the telecommunications industry in their efforts to deregulate the industry.
- Terry Markman met with Mr P Goodwin, Executive Director of the Chartered Institute of Transport in New Zealand, to discuss New Zealand's transport policy and in particular the privatisation of road infrastructure on *14 October 1997*.
- On *29 October 1997* Terry Markman attended a meeting at JCCI to discuss the privatisation of ports.
- Terry Markman met with Bill Brunjes of Group Five on *7 November 1997* regarding the privatisation of infrastructure.
- On *12 November 1997* Terry Markman met with John Williamson, MD of Grindrod, and Captain Eric Bubeer to discuss the privatisation of ports and the possibility of establishing a Focus Team to deal with the issue.
- Terry Markman attended SACOB's Transport Committee meeting on *18 November 1997*.
- Leon Louw met with Mandla Mutease, SAB, on *19 November 1997* regarding the new zoning laws at local government level which have the effect of closing businesses with liquor licenses.
- On *26 November 1997* Leon Louw met with Ria and Andries Greyling to discuss the privatisation of caravan parks on the South African coast.
- On *3 December 1997* Leon Louw met with the Nebo Chamber of Commerce to discuss the conversion of business sites to freehold in the former homelands.
- Eustace Davie met with the OLP's Nils Dittmer on *19 December 1998* regarding the privatisation of abattoirs.
- On *30 January 1998* Eustace Davie met with Johan Louw of FNB regarding local authority privatisation.
- Eustace Davie, Terry Markman and Leon Louw met with Uwe Sturmman and Helgar Bünning of FNS on *6 February 1998* to discuss the Pietermaritzburg local authority privatisation project (see 1.2).
- On *2 March 1998* Leon Louw met with representatives of the CGS regarding the restructuring and commercialisation of the Council. Further meetings were held on *12 March 1998* (with Dr Japie du Plessis), on *17 March 1998* (with the NorthWest Province branch), on *24 March 1998* (with Dorrie Weil and Ina Rosenberg), on *28 March 1998* (with Mr du Plessis and Mr Sakonkole), on *6 April 1998* (with all employees), on *25 April 1998* (with Dorrie Weil and Lauren Cohen), on *5 May 1998* (Belville branch staff), on *11 May 1998* (Durban and Pietermaritzburg branch staff).
- Terry Markman met with David Sekgobebe of Autonet on *3 March 1998* to discuss especially the privatisation of Autonet.
- On *17 March 1998* Eustace Davie met with Dr Paul Hendler of Housing Solutions regarding the privatisation of housing delivery.
- Terry Markman met with John Bradbury on *17 March 1998* regarding electricity privatisation.
- Terry Markman met with SACOB's Transport Committee on *9 April 1998* to review their policy on road funding, and on *21 April 1998* regarding privatisation and toll roads.
- Eustace Davie met with Mahlape Sello of Barlow Ltd regarding housing policy on *25 May 1998*.
 ⇒ On *26 May 1998* Eustace Davie met with Stanley Hove of the Wits Business School regarding privatisation.

1.8 Dissemination

- 142 copies of *Is privatisation a public good? A review of recent literature* were disseminated to FMF corporate and organisational members (see 1.4). (Enclosed.)
- Copies of *Universities: Conservation or Transformation?* were distributed to 1 400 people on the FMF mail list (see 1.3). (Enclosed.)
- 10 copies of James Tooley's *Education Without the State* were disseminated to the Minister of Education and the nine provincial education MECs in May 1998.

2 *Competition Policy*

2.1 **Evidence**

- On *16 April 1997* Temba Nolutshungu led evidence to the Parliamentary Portfolio Committee on Mineral and Energy Affairs (see Attachment 1, p 17).
- Leon Louw led evidence to the Business Practices Committee on multi-level marketing on *24 June 1997, 8 July 1997* and *5 August 1997*.
- Temba Nolutshungu led evidence to the Parliamentary Portfolio Committee on Housing on the *National Homebuilders Registration Council Bill* on *18 August 1997* (see Attachment 2, p. 15). Also leading evidence (jointly) were the Peoples Dialogue and the Homeless Federation who quoted from FMF documentation they had apparently received from Dominic Tweedie of BIFSA.
- Leon Louw prepared a document on housing delivery in response to a request for alternative suggestions from AG Mohamed (NP) which was delivered by Temba Nolutshungu in *August 1997* (see Attachment 3, p. 17).
- On *15 October 1997* Temba Nolutshungu and attorney Gary Moore led evidence to the Commission of Enquiry into the Diamond Industry (see Attachment 1, p. 16).
- Temba Nolutshungu wrote a letter at the request of the SAIRR to the Parliamentary Portfolio Committee on Welfare on *15 October 1997* in opposition to the *Nonprofit Organisations Bill* (see Attachment 2, enclosed).
- In *October 1997* Temba Nolutshungu, Terry Markman and Eustace Davie wrote a comment at the request of the DP researcher regarding the proposed training levy (see Attachment 3, p. 17).
- On *20 October 1997* Temba Nolutshungu submitted written evidence on the *Skills Development Bill* to the Department of Labour (see Attachment 4, p. 19).
- Leon Louw led evidence to the Business Practices Committee on multi-level marketing and what the law should be on *27 October 1997* and again on *19 November 1997*.
- Temba Nolutshungu gave evidence before the Parliamentary Portfolio Committee on Mineral and Energy Affairs public hearing on the *Green Paper: A Mineral and Mining Policy for SA* on *10 March 1998*. The FMF's presentation focused primarily on the proposed nationalisation of mineral rights (see Attachment 2, p. 15 and Attachment 2a, enclosed).
- On *25 May 1998* Leon Louw did a presentation to the Parliamentary Portfolio Committee on Trade and Industry on the *Estate Agents Bill* to discourage the increased intervention proposed in the bill.

2.2 **Workshops**

- Leon Louw acted as facilitator at a FEDHASA workshop on liquor, hotel and catering industry policy on *3 April 1997*.
- On *5 May 1997* Leon Louw participated in an Economic Society workshop on international trade at RAU. The workshop was attended by academics and government officials.
- Leon Louw has played a key role in the step toward privatisation taken by Fort Hare University. At meetings conducted on *20 May 1997* with students, academics, workers, and administration representatives, far-reaching decisions were taken to outsource or privatise all functions not related to teaching to which the university will confine itself in future.
- Leon Louw was a speaker and delegate at the annual entrepreneurship forum on *17 July 1997*.
- On *22 July 1997* Temba Nolutshungu addressed approximately 45 captains of industry at the launch of a new series of entrepreneurship seminars and workshops. His topic: *The mindset of South African entrepreneurs*. He shared a platform with Western Cape Minister of Economic Affairs and the RDP, Chris Nissen.
- Temba Nolutshungu gave a presentation on *24 July 1997* to Rustenberg Wine Estate senior and first line management on *Global and industry competitiveness*.

- Leon Louw attended and participated in a timeshare industry conference in Portugal from 29 October 1997 through 31 October 1997 on the South African government's policy regarding network marketing of timeshare.
- From 3 November 1997 through 6 November 1997 Leon Louw attended and gave presentations to the State President's National Small Business Conference. He gave 10 presentations to, on average, 300 people, on local and provincial bylaws and regulations that impact on small business.
- Leon Louw gave a presentation at a conference on multi-level marketing on 10 November 1997.
- Leon Louw addressed an Alufohai seminar on 23 April 1998 on entrepreneurial training and development.
- Leon Louw addressed a Sun City audience on 2 May 1998 on legislative developments regarding multi-level marketing.
- Temba Nolutshungu addressed approximately 100 members of the Cape Pomological Association's Business Management Symposium on *Managing change in the SA business environment and the challenges ahead* on 7 May 1998. *Presentation well received. Having outlined the macro economic rules of the game as defined by government and their impact on business it was understood that the role of the government in this context was to ensure that an enabling environment was in place in which business can thrive.*

2.3 Comments / Briefing Papers

- Duncan Reekie wrote *Forcing universities to compete* during this quarter.
- Richard Grant wrote *A future for tradeable water rights* during this quarter.
- Duncan Reekie's *Competition versus policy* was re-published during this quarter.
- On 21 September 1997 Eustace Davie helped OLP Chairman Nils Dittmer to prepare notes on agricultural intervention for a presentation on economic freedom to the AIC conference.
- *Is this how the DTI views "competition"?* was written by Duncan Reekie and Harry Zarenda during this quarter.

2.4 Monographs

- During January 1998 and February 1998 Eustace Davie assisted The Banking Council of South Africa with their annual review which aimed at promoting liberalisation of banking in SA. (Note: Times on this project are not charged against CIPE as they were paid for by The Banking Council.)

2.5 Meetings

- On 3 March 1997 Leon Louw, in his role as Chairman of the Liquor Initiative, met with DTI officials to promote an interim amendment to the liquor act requirements to register and thus decriminalise black liquor traders.
- Leon Louw met with Trade and Industry Minister Alec Irwin (ANC) on 7 March 1997 to discuss an increase in exemption from the usury act (interest rate ceilings) for small business loans. They also discussed the liberalisation of the liquor trade.
- On 25 March 1997 Leon Louw met with Collette Cain, a DTI director and provincial co-ordinator for consumer and liquor policy, re liquor and consumer affairs legislation. He also met on this day with Dunbar Bucknall, SAB Group Corporate Affairs Manager, to discuss the problems of transition regarding liquor legislation.
- (See 1.5 re DP meeting on 29 March 1997 and 30 April 1997.)
- On 2 April 1997 Leon Louw met with Mr Voges, chief legal advisor to the Cape DTI re law reform in the Western Cape. They discussed especially the informal sector, liquor, housing and transport.
- Between 12 & 18 April 1997 Leon Louw met with the following re liquor policy: Collette Cain, a DTI director and provincial co-ordinator for consumer and liquor policy; Johan Strydom,

departmental director responsible for drafting the new liquor act; Eugene Kruger, legal advisor to the LII; and the police chief responsible for enforcing liquor law countrywide.

- On 24 April 1997 Leon Louw met with Churchill Mraši, National President of SALTA, and Sam Buthelezi, National President of SATA, to discuss the need to liberalise liquor legislation.
 - Leon Louw attended a luncheon meeting hosted by Alpha Cement on 25 April 1997 with Penuel Maduna, Minister of Mineral and Energy Affairs. The discussion revolved around mineral, energy and environmental policy from a macroeconomic and competition policy viewpoint. The impact of applying developed economy standards to a developing economy was debated as well as ways to commercialise and privatise Mossgas (government-owned oil from gas producer).
 - On 8 May 1997 Leon Louw met with Clare Gordon-Brown of SATA re the decriminalisation of liquor and the proposed new legislation.
 - Eustace Davie and Leon Louw met with Dr Pierre Brooks, Chairman of the Competition Board, on 4 July 1997 to suggest that the Board should work toward the removal of regulatory barriers to entry into business (many barriers, created under apartheid, remain on the statute books).
 - On 17 July 1997 Leon Louw was a guest at a dinner with Minister of Education, Sibusiso Bengu, at which economic education and the privatisation of education institutions was discussed.
 - On 30 July 1997 Eustace Davie and Nils Dittmer (OLP) attended a meeting of the NAMC to protest the continuation of levies on meat sales.
 - Leon Louw met with Lana van Zyl of the DTI on 4 August 1997 regarding multi-level marketing policy.
 - On 19 August 1997 and 27 August 1997 Temba Nolutshungu did “corridor lobbying” in parliament re the *National Homebuilders Registration Council Bill*.
 - During the State President’s National Small Business Conference (see 2.2) Leon Louw met and networked with the following: Alec Erwin, Minister of Trade and Industry; Mr Soeklal, DTI director in charge of small business promotion; Steve Skhosana, Chairman of the National Small Business Council; and Lawrence Mavundla of ACHIB.
 - On 18 November 1997 Leon Louw met with Tinkie Shete, senior legal advisor to the DTI, and his assistant, Helgaard Welgemoed, to discuss the laws affecting small business. (Note: The FMF is encouraging the DTI to undertake a study on the laws affecting small business at local and provincial level.)
- On 2 March 1998, 29 April 1998 and 15 May 1998 Leon Louw met with the KwaZulu-Natal provincial government Health Deregulation Committee to discuss which laws can be deregulated at provincial level and how to influence the deregulation of national laws.
- Leon Louw met with DTI Director Alistair Ruiters on 3 March 1998 to review the government’s position on usury.
 - On 5 March 1998 Leon Louw met with Mr Soeklal, DTI director in charge of small business promotion, to discuss liquor policy and the proposed new liquor act.
 - On 12 March 1998 Leon Louw met with the DTI representative responsible for the estate agent’s bill, Lana van Zyl, to discuss ways in which to make the bill less restrictive thus opening the door to disadvantaged South Africans.
 - Leon Louw met with Dr Decker, the DTI’s special consultant on multi-level marketing, on 25 April 1998.

2.6 Articles / Media (enclosed)

- Two articles appeared in the Afrikaans press as a result of the evidence led by Temba Nolutshungu and Leon Louw to the Parliamentary Portfolio Committee on Mineral and Energy Affairs (see 2.1):
 - *SA se ekonomiese beleid boesem nie vertroue in nie – Vryemarkstigting (SA’s economic policy does not engender confidence – Free Market Foundation)* was printed in *Volksblad* on 15 May 1997

- *Regering doen nie genoeg vir 'n vryer ekonomie – Leon Louw (Government doesn't do enough for a freer economy)* was printed in *Beeld* on 16 May 1997
- On 22 May 1997 *Hotelier & Caterer* carried a story entitled *What new law may have in store* which quoted Leon Louw on the Liquor Act.
- The FMF was mentioned in an article entitled *Builders' bill a draconian monster maintains BIFSA* that was published in *The Star* on 21 August 1997.
- On 29 August 1997 the FMF was quoted as opposing the National Home Builders Registration Council Bill in a *Sunday Times Business Times* article called *Homes bill in firing line*.
- Leon Louw participated in a press conference hosted by Newport regarding multi-level marketing on 1 October 1997.
- Leon Louw was quoted in *Business Day* on 2 October 1997 in an article entitled *Newport Business Club vows to fight suspension*.
- *Possible relief for Newport investors*, which appeared in the *Business Day* on 3 October 1997, quoted Leon Louw who led evidence at a hearing on pyramid schemes.
- Eustace Davie was interviewed by Cape Argus journalist Edward West on 4 December 1997 regarding competition policy.
- On 2 February 1998 Eustace Davie held a telephonic discussion with journalist Kurt von Keyserlingk of *Beeld* regarding the *World Competitiveness Report*.
- Leon Louw met with journalist David Hawkins on 10 March 1998 and again on 11 March 1998 to discuss the usury law reform process.
- Leon Louw was quoted in the *Natal Mercury* on 29 April 1998 in an article regarding liquor legislation entitled *Supermarkets to get a free hand*.
- On 19 May 1998 a paragraph entitled *Anglo, De Beers support enterprise* (on the FMF's training division) appeared in *Business Day*.
- Leon Louw was interviewed on *SABC TV* on 20 May 1998 regarding usury law reform.

2.7 Networking

- On 3 March 1997 Leon Louw met with Eugene Kruger (attorney) who specialises in black liquor law.
- Leon Louw met with a SALTA delegation (NAFCOC's liquor section) on 6 March 1997 re drafting a new liquor act and strategies for success.
- On 10 March 1997 Leon Louw met with prominent SA social psychologist and radio talk show host, Dr Dorriane Weil, to discuss what factors explain phenomenon of propensity toward over-regulation.
- On 13 March 1997 Eustace Davie met with Nils Dittmer, Chairman of OLP, to discuss the deregulation of agriculture.
- Leon Louw met with Richard Chance (SAB) regarding strategies for changing and improving the proposed new Liquor Act on 19 March 1997.
- On 25 March 1997 Leon Louw met with Alan Schneeberger, Chief Executive of Balltron, re the government's proposed law reform re multi-level marketing.
- On 3 April 1997 Eustace Davie alerted and discussed the *Government Gazette* notice requiring direct marketing organisations to register as banks with the following: Ray Hawkins of Omega Trust; Brian Benfield of Clientele Insurance; and Alan Tomlinson of the Direct Selling Association.
- On 8 April 1997 Eustace Davie met with Advocate Henning, the law firm Webber Wentzel, and Brian Benfield, Alan Tomlinson and Allison Sneeberger of the Direct Selling Association to obtain the advocates' opinion on the *Government Gazette* notice.
- Leon Louw met with the Newclare Liquor Traders Association (an affiliate of SALTA) to discuss liquor law interpretation and enforcement.

- On 20 May 1997 Temba Nolutshungu met with Andre Bedeker, Director of SASOL (oil from coal producer), regarding the deregulation of the fuel industry. This meeting resulted from evidence led on 16 April 1997 (see 2.1).
- Leon Louw and Norma James (FEBDEV) met with Peter Morrison and Dorothy Blacklaws of the Small Business Advice Centre (Empangeni, Kwazulu-Natal) to discuss the implementation of entrepreneurship training by the Department of Education.
- On 7 May 1997 and 23 May 1997 Eustace Davie and Leon Louw met with Mark Joffe of the National Productivity Institute re their potential *Economic Life Skills* programme for training the SA workforce.
- Leon Louw met with Thea Wessels, head of the Child Welfare Society, and other representatives in the welfare community on 7 May 1997 to discuss the removal of legislative barriers to child-minding in the informal sector.
- On 8 May 1997 Leon Louw met with Alan Schneeberger, Chief Executive of Balltron, and Brian Benfield of Clientele Insurance, re the formulation of new laws and policies affecting multi-level marketing. A further meeting was held on 9 May 1997 and this time included Peter Leon (attorney) and others involved in policy formulation.
- Leon Louw met with representatives of the weight loss industry on 19 May 1997 and again on 22 May 1997 to assist them in drawing up a code of practise in conjunction with government which was represented by the Business Practices Committee.
- On 23 May 1997 Leon Louw and Eustace Davie held discussions with Prof Don Lavoie, Institute for Managerial Learning at George Mason University, re the development of management skills in SA.
- On 2 June 1997 Eustace Davie provided information to prominent lawyer George Negota on economics and small business in Taiwan and Malaysia.
- Leon Louw met with John Cuzen and Alex Freund on 4 June 1997 to discuss submissions to the Business Practices Committee regarding multi-level marketing (see 2.1).
- On 5 June 1997 Leon Louw met with Mark Joffe of the National Productivity Institute to discuss the inclusion of free market principles in the Institute's productivity training programmes.
- Eustace Davie and Leon Louw met with Uwe Sturmman (FNS) to discuss laws affecting small business on 3 July 1997.
- On 10 July 1997 Temba Nolutshungu and Leon Louw met with Niall Kramer of Caltex and later the same day with Peter Peterson of BP to discuss the deregulation of fuel.
- Temba Nolutshungu met with Mr Katz of Triple-S on 16 July 1997 to discuss the work of the FMF and EFW findings (see Attachment 2, First Report). They discussed in particular competition policy.
- Leon Louw met with Peter Morrison and Dorothy Blacklaws of the Small Business Advice Centre (Empangeni, Kwazulu-Natal) to discuss the implementation of entrepreneurship training by the Department of Education on 17 July 1997.
- On 18 July 1997 Eustace Davie met with Zwelakha Mkhafibe of the National Small Business Council to discuss how to improve economic conditions for small business.
- Eustace Davie and Leon Louw met with Oliver Murare (NAFCOC) and Uwe Sturmman (FNS) to discuss laws affecting small business on 31 July 1997.
- On 10 August 1997 Leon Louw met with prominent SA social psychologist and radio talk show host, Dr Dorriane Weil, to discuss the sociological and psychological determinants of public policy.
- Leon Louw met with representatives of the weight loss industry on 20 August 1997 to assist them in drawing up a code of practice.
- On 28 August 1997 Temba Nolutshungu met with Ronnie Seeber of Motorola to discuss the deregulation of the telecommunications industry and a proposal to government in this regard.

- On 4 September 1997 Leon Louw met with Norma James of FEBDEV regarding an entrepreneurship syllabus for schools. This was followed by a meeting with Marc Swanepoel, also of FEBDEV, on 5 September 1997.
- Leon Louw and Prof Patrick Minford (see 5.5) met with a group of lawyers regarding multi-level marketing on 9 September 1997.
- Leon Louw met with Dorothy Blacklaws of the Small Business Advice Centre (Empangeni, Kwazulu-Natal) to discuss small business education and training on 9 September 1997.
- On 25 September 1997 and 26 September 1997 Eustace Davie met with De Beers directors and executives to discuss economic freedom and the deregulation of the diamond industry.
- Eustace Davie met with attorney Gary Moore regarding the *Diamond Act* on 6 September 1997.
- Leon Louw met with Allison Dwyer, a representative of the weight loss industry, on 8 October 1997 to assist her in drawing up a code of practice.
- Temba Nolutshungu met with attorney Gary Moore on 14 October 1997 regarding their presentation to the Commission of Enquiry into the Diamond Industry (see Attachment 1, p. 16).
- On 29 October 1997 Eustace Davie met with Nils Dittmer (OLP) to discuss the agricultural marketing levy.
- Leon Louw met with Johan Coetzee and Leon Wessels of AHI on 17 November 1997 to discuss the laws affecting small business.
- On 18 November 1997 Leon Louw met with Gary Moore (attorney) to discuss NIC's request to draw up a new small business bill.
- Leon Louw chaired a meeting of the Weight Management Committee on 2 December 1997 and again on 12 January 1998 re their code of conduct.
- On 12 January 1998 Eustace Davie had a telephonic discussion with Nils Dittmer of the OLP regarding a referendum amongst wool farmers on the compulsory levy.
- On 11 February 1998 Leon Louw, Eustace Davie and Brian Benfield (the FMF's new Vice-President) met with Marc Swanepoel and Norma James of FEBDEV regarding the development of a course on basic economic and business principles for government officials.
- Leon Louw met with Ray Hawkins of the Omega Trust on 12 February 1998. They are consulting the FMF regarding government policy on multi-level marketing.
- On 4 March 1998 Leon Louw met with the executive of NAFEDA to discuss the promotion of African entrepreneurship including finance, training and government procurement.
- Leon Louw met with attorney Gary Moore on 17 March 1998 regarding the government enquiry into multi-level marketing and pyramid schemes and pending legislation re same.
- Temba Nolutshungu met with Roddie Herman of the Communications Group on 20 March 1998 and again on 26 March 1998 (this time with Leon Louw) to discuss liquor regulations and lobbying re same. Leon Louw met again with Mr Herman on 25 May 1998.
- Leon Louw chaired a meeting of the Weight Management Committee on 23 March 1998 re their code of conduct. The meeting also reviewed legislation governing the industry. Further meetings were held on 15 April 1998 and 15 May 1998.
- On 30 March 1998 Leon Louw met with the following regarding liquor policy: Dr Barnard of KWV and Rian Kruger of the Cape Wine and Spirit Institute.
- On 1 April 1998 Eustace Davie and Leon Louw met with Bert Wessels of Toyota to discuss the work of the FMF and EFW findings. They discussed especially labour policy and protectionism with regard to the motor industry.
- On 6 April 1998, 16 April 1998 and 14 May 1998 Leon Louw met with the Omega Trust regarding multi-level marketing and pyramid schemes and legislation re same.
- Leon Louw met with the directors and managers of Richards Bay Minerals on 8 April 1998 to discuss mining and environmental issues in St Lucia Bay.
- Leon Louw met with attorney Gary Moore on 24 April 1998 to strategise re the regulation of communal property associations.

- Leon Louw attended a meeting of the Johannesburg Inner City Street Trading Committee on 13 May 1998 regarding the threatened clamp-down on traders. On the same date he met with Lee Peregrine, legal advisor on street trading.
- Terry Markman and Leon Louw met with Anglo American's Michael Spicer on 29 May 1998 regarding the nationalisation of mineral rights and competition policy.

2.8 Dissemination

- Copies of the *Open education to entrepreneurs* article were distributed to 1 400 people on the FMF mail list.
- Copies of *Forcing universities to compete* were distributed to 1 400 people on the FMF mail list (see 2.3). (Enclosed.)
- Copies of *A future for tradeable water rights* were distributed to 1 400 people on the FMF mail list (see 2.3). (Enclosed.)
- Sixty-two copies of Duncan Reekie's *On industrial policy* monograph were disseminated to individual FMF members. (Enclosed.)
- Copies of *Competition versus policy* were distributed to 500 parliamentarians and government officials (see 2.3). (Enclosed.)

3 *Macroeconomic Policy*

3.1 Evidence

- During *July* and *August 1997* Eustace Davie prepared a confidential document on macroeconomic policy for FMF Council Member, Prof Themba Sono, to present to the ANC.
- Eustace Davie and Temba Nolutshungu prepared notes for the ACDP on Fiscal and Monetary Policy on *15 August 1997* at the request of ACDP researcher, Johan Baard (see Attachment 4, p. 20).
- Eustace Davie and Temba Nolutshungu commented on an ACDP document on GEAR on *7 October 1997* at the request of ACDP researcher, Johan Baard (see Attachment 5, p. 21).
- Eustace Davie, Temba Nolutshungu and Prof Hugh High prepared written evidence on the *Tax Bill* to the Parliamentary Portfolio Committee on Finance in *October 1997* (see Attachment 6, p. 23).
- On *20 April 1998* Temba Nolutshungu led evidence to the Parliamentary Portfolio Committee on Labour on the *Labour Budget Vote No. 22* (see Attachment 3, p. 19).

3.2 Workshops

- On *4 April 1997* Leon Louw presented the *EFW* findings to a group of businessmen at Afrox.
- Leon Louw attended a special MPS meeting in Switzerland from *9-12 April 1997* (see Attachment 3, p31).
- Terry Markman addressed 40 businessmen at the Pretoria Rotary Club on *17 April 1997* on *EFW*.
- On *22 April 1997* Leon Louw addressed the Danish Business Chamber on *EFW*. Also on this date Leon Louw addressed a business group of approximately 50 at a function hosted by Jensen Electronics on *EFW*.
- Leon Louw conducted a seminar for political science students from Wits on the role of charismatic leaders in promoting democracy and growth on *9 May 1997*.
- On *13 May 1997* Temba Nolutshungu and Leon Louw ran a workshop on *EFW* for 10 Western Cape DTI Economic Affairs members at the request of Chris Nissen, Minister of Economic Affairs and RDP – Western Cape.
- Temba Nolutshungu and Leon Louw presented the *EFW* findings to both the Public Works Portfolio Committee and the Mineral and Energy Portfolio Committee on *14 May 1997* (see Attachment 2, p 19) and commented on the implications for those departments of government.
- On *15 May 1997* Temba Nolutshungu and Leon Louw presented the *EFW* findings to the following caucuses: DP, ACDP and FF (see Attachment 2, p 19).
- On *18 May 1997* Leon Louw conducted a workshop on *Economics for Technology Decision-Making* for Stratek's Technology Leadership Programme.
- Leon Louw participated in a top level DTI workshop hosted by the Reserve Bank on *28 May 1997* on the government's industrial cluster strategy.
- On *30 May 1997* Leon Louw delivered a paper based on *EFW* findings, entitled *The role of free markets in economic growth*, to the University of Stellenbosch's Bureau for Economic Research. The approximately 100 delegates included economists from business, academia and media as well as government economic advisors. (Programme enclosed.)
- On *1 June 1997* and again on *17 August 1997* Leon Louw conducted a workshop on *Economics for Technology Decision-Making* for Stratek's Technology Leadership Programme.
- Leon Louw conducted a seminar for AEISEC students at UCT on *30 June 1997* regarding the findings contained in *EFW*.
- On *7 August 1997* Leon Louw facilitated and spoke at a seminar hosted by ICL and Mercedes Benz on economic and political scenarios.
- Leon Louw addressed the Credit Industry Conference on *14 August 1997* on the state of the nation – an economic analysis.

- Leon Louw addressed the Kempton Park Chamber of Commerce on the state of the nation on *21 August 1997*.
- On *26 August 1997* Temba Nolutshungu and Leon Louw did a presentation to SAPIA representatives (financial, planning and technical management) on the *EFW* findings. They also discussed fuel policy, especially the deregulation of prices and the removal of limited licensing.
- On *27 August 1997* Temba Nolutshungu and Leon Louw presented the *EFW* findings to the NP's finance committee. The presentation was attended by 16 NP members and was well received.
- On *2 September 1997* Temba Nolutshungu and Leon Louw gave an *EFW / High Growth Economies* presentation (see First Report, Attachment 2) to 12 members of the Parliamentary Portfolio Committee on Finance.
"The presentation by Leon went down well but it was marred by red herring interjections by a member of the committee who insisted that the findings of the EFW book were subjective interpretations of the facts. At some point he alleged that the ANC had never committed itself to socialism and challenged us to prove that the contrary was true. Thereafter the member left having mentioned in no uncertain terms as to why he was leaving before the presentation was over. However, thereafter searching questions were fielded by members of the committee with the chairperson asking a number of questions which all related to the contents of the presentation / book, and which he tried to get us to relate to the RDP. Our responses to those questions met with approval and the meeting was concluded well beyond the time that had been allotted."
- On *18 September 1997* Temba Nolutshungu gave an *EFW* presentation to SALSA's education committee.
- Leon Louw presented a paper at an IDASA seminar on *29 September 1997* to approximately 30 local government representatives on local government policy.
- From *10 October 1997* through *15 October 1997* Leon Louw attended an *EFW* workshop in Berlin, Germany (see Attachment 7, p. 25).
- Temba Nolutshungu gave an *EFW / High Growth Economies* presentation to the AIC conference *Value Added Agriculture 1997* on *14 October 1997*.
- Leon Louw addressed the Lever Bros management and their customers on *20 October 1997* on South Africa's political and economic outlook.
- On *22 October 1997* Leon Louw conducted a workshop on *Economics for Technology Decision-Making* for Stratek's Technology Leadership Programme.
- Leon Louw gave a presentation on the government's macroeconomic policy at a conference hosted by the DTI on *19 November 1997*.
- On *24 November 1997* Terry Markman gave an *EFW* presentation to nine senior staff of Future Bank.
- On *27 February 1998* Leon Louw did a political and economic analysis to the Oxford Club, a group of international investors on a fact-finding trip to SA.
- On *22 March 1998* Temba Nolutshungu addressed 20 members of the SAYC on issues relating to their input to the Job Summit to be hosted by NEDLAC in late-July.
- Temba Nolutshungu attended the SAIRR's presentation on the *Employment Equity Bill* on *26 March 1998*.

3.3 Comments / Briefing Papers

- Henry Kenney wrote *The power of freedom* during this quarter.
- Themba Sono wrote *The Market, Justice & Morality* during this quarter.

3.4 Monographs

- In *May 1998* the FMF published *Labour markets and economic growth: Lessons from the UK* by Patrick Minford (see 3.8).

- In May 1998 the FMF published *Chronically large federal budget deficits: The American Experience* by Roger Garrison (see 3.8).

3.5 Meetings

- On 16 March 1997 Temba Nolutshungu attended the SACP Nkonki-Langa branch meeting to acquaint himself with current SACP issues and to learn more about the ANC-SACP-COSATU alliance.
- Temba Nolutshungu met with Senator Tinto (ANC) to discuss high growth economies on 17 March 1997 and 1 April 1997.
- (See 1.5 re DP meeting on 29 March 1997 and 30 April 1997.)
- Temba Nolutshungu met with Z Kota, SACP member of parliament, to discuss *EFW* findings on 2 April 1997.
- On 7 April 1997 Temba Nolutshungu met with Chris Nissen (Minister of Economic Affairs and RDP – Western Cape) to discuss *EFW* findings.
- Temba Nolutshungu met with Adelaide Tambo (ANC MP) to motivate the FMF advocacy office as a resource facility on 6 May 1997 and on 12 May 1997 with MP M Njobe (ANC) for the same reason.
- On 27 May 1997 Eustace Davie and Temba Nolutshungu prepared an economic policy document for the ACDP.
- On 26 July 1997 and 27 July 1997 Leon Louw attended a reunion of the Dakar delegates. In September 1987 a group of “rebellious Afrikaners” met in Dakar with the ANC leadership in exile. Many regard this meeting as a turning point in South Africa’s transitional process. Most of those in exile who attended the one-week meeting are now cabinet ministers. During the course of the reunion weekend Leon Louw had *ad hoc* meetings with, *inter alia*, Deputy-President Thabo Mbeki, Deputy Minister Essop Pahad, and Minister Kadar Asmal. Discussions ranged around the successes and failures of transition. Leon Louw argued that there was inadequate critical review of the laws restricting economic activity.
- On 11 August 1997 Temba Nolutshungu and Eustace Davie met with Johan Baard, ACDP Researcher, to discuss the ACDP’s economic policy (see 5.1).
- The Free Market Foundation arranged for overseas visitor Prof Patrick Minford to meet with Dr Chris Stals, SARB governor, on 9 September 1997 to discuss monetary policy. This meeting was followed by a luncheon hosted by Dr Stals and attended by FMF representatives Leon Louw, Eustace Davie and Prof Themba Sono, and by three SARB deputy governors, the advisor to the governors, and the following general managers: money and capital marketing, management services and bank supervision (see enclosed *FMF News November 1997*).
- Temba Nolutshungu met with Serake Leeuw, MP and Finance Portfolio Committee member, on 10 September 1997 to get feedback on the *EFW* presentation (see 3.2).
- On 10 September 1997 Temba Nolutshungu met with the ANC’s Chief Whip, Max Sisulu: “Max expressed regret at the unavailability of the ANC caucus for the *EFW* / High Growth Economies presentation adding that this was not a reflection of lack of interest but rather that they had too much to handle and he hoped that would we be appreciative of that. He mentioned that for that reason he had suggested that we do the presentation to the Portfolio Committee on Finance and other committees in which a significant number of members of the ANC were involved. I nevertheless expressed regret that we would not be able to do the presentation to the ANC caucus but in the same breath impressed on Max that we would not want anyone to labour under the misconception that the only bodies that we did the presentations to had been selected on a most favoured basis. Max made it quite clear that nobody would entertain the idea.”
- Temba Nolutshungu met with Hennie Bester, Minister for Economic Affairs in the Western Cape, on 6 January 1998 to discuss *EFW* and high growth economies.
- On 9 March 1998 Temba Nolutshungu met with Jean Mearns of WH Circuit to discuss the *Employment Equity Bill* and to assist her with her preparations for a radio interview re same.

- On 13 March 1998 Temba Nolutshungu met with ANC MP R Skakane to discuss a variety of FMF issues. Mr Skakane is the Chairperson of the *ad hoc* committee to appoint the Public Service Commission, a member of the Parliamentary Portfolio Committee on Public Service, and a member of the Parliamentary Portfolio Committee on Home Affairs.
- Leon Louw met with the DTI's Kennedy Maloi on 2 April 1998 to review the laws affecting small business and discuss the removal of red tape.
- On 25 May 1998 Eustace Davie met with Dr Ruth Rabinowitz, IFP MP, to discuss economic policy options.

3.6 Articles / Media (enclosed)

- On 5 March 1997 Leon Louw participated in a phone-in programme on *Radio Volkstem* covering a broad spectrum of *economic and political issues*.
- On 19 March 1997 Leon Louw answered questions on *The reasons for Africa's poor economic performance: history, culture, race or bad policies* on the *Microphonein* radio show.
- Martin Spring, FMF member, had an article entitled *How reading Big Brother's mind can grow your nest egg* published in the *Sunday Times Business Times* on 18 May 1997. The article reviewed *Economic freedom of the world 1975 - 1995* which is co-published by the FMF.
- On 28 May 1997 *The Star Business Report* carried an article called *SA ranks 50th in economic freedom* which quoted from *Economic freedom of the world 1997 annual report* launched world wide on May 27.
- On 30 May 1997 (article not included in First Report) an article, *Valutabeheer moet weg, wys ervaring in ander lande (Exchange controls must go, experience in other countries shows)* which outlined the findings contained in *EFW* appeared in *Beeld*.
- *Triumph of capitalism*, which reviewed Michael O'Dowd's book *The O'Dowd Thesis and the Triumph of Democratic Capitalism* (published by the FMF), was printed in *The Citizen* on 9 June 1997.
- On 19 June 1997 Leon Louw was Gauteng Premier Tokyo Sexwale's guest on his *Radio 702* talk show dealing with economic development.
- On 29 June 1997 Leon Louw recorded an SABC TV *Future Imperfect* show on whether or not socialism could work in SA.
- Leon Louw participated in a live Satellite Telebridge with Brian Atwood on 21 July 1997 on Clinton's policy to promote trade and economic development in SA.
- On 1 July 1997 the *Business Report* carried an article detailing the *EFW* findings called *At last SA joins the ranks of the free*.
- Also on 1 July 1997 Eustace Davie's article, *Controls exist for overvalued currencies*, was printed in the *Business Report*.
- Leon Louw was interviewed on the radio station, *Channel Africa*, regarding free markets in southern Africa on 7 November 1997.
- Jim Peron was commissioned by the Free Market Foundation to write a series of columns entitled *Economics for the faint of heart*. These were offered first to the *Sandton Chronicle* and the *Rosebank / Killarney Gazette* and will be offered to other community papers in the near future. The following articles have been published in the *Sandton Chronicle* and the *Rosebank / Killarney Gazette* since January 1998:
 - *Economics and gossip have a great deal in common*
 - *Government ban gives Telkom a 'licence to steal'*
 - *Owning something makes it precious*
 - *Throwing money at a problem makes it worse*
 - *Votes only valuable in small districts*
 - *Beware of wrong incentives.*
- The following articles by Jim Peron (see Fourth Report, 3.6) have been published in the *Sandton Chronicle* and/or the *Rosebank / Killarney Gazette* since March 1998:

- *Right incentives work, wrong incentives boomerang*
- *Free market magic increases wealth*
- *Property rights hit poachers in the pocket*
- The *Sandton Chronicle* also carried an article on Jim Peron in their week ending 15 May 1998 edition called *Author's insight explodes myths and ignorance*.
- Leon Louw was interviewed by the *Voice of Soweto* radio station on 23 March 1998 regarding the 98/99 budget and again on 25 March 1998 regarding economic policy.
- On 1 April 1998 Leon Louw was interviewed on *Punt* radio on job creation.
- On 17 April 1998 Leon Louw was interviewed on *SABC TV* regarding migratory labour policy.
- Leon Louw was interviewed by Alan Matthews on Radio 702 on 17 April 1998 regarding labour policy.
- *Effective Farming Directory 1998* (published in May 1998) quoted Temba Nolutshungu in an article on labour called *What the Bill will actually do*.
- Eustace Davie's article *Spend less and grow faster* was published in the *May 28 – June 3 1998 Finance Week*.
- Leon Louw was interviewed by Peet Botma on *Radio sonder grense (Radio without borders)* on 15 May 1998 regarding the *Employment Equity Bill*.

3.7 Networking

- Temba Nolutshungu met with Marc Philander, the Portfolio Committees' secretary, and Edgar de Koker, the Portfolio Committees' clerk, on 5 March 1997 and 6 March 1997 to discuss parliamentary and legislative processes.
- On 11 March 1997 and on 2 April 1997 Temba Nolutshungu met with M Khumalo, outgoing DTI Portfolio Committee secretary, to discuss legislative processes and workshops with the committee and to ask him for an introduction to his successor.
- Temba Nolutshungu met with Peter Lebelo, parliament's Clerk of Papers, to discuss dissemination of information.
- Temba Nolutshungu attended the budget speech on 12 March 1997 and networked with those present.
- On 13 March 1997 Temba Nolutshungu met with Mark Hoffman of Spazatainer to discuss the work of the FMF advocacy office and *EFW* findings.
- Temba Nolutshungu spent a couple of hours in parliament on 18 March 1997 meeting with people on an *ad hoc* basis. They included Zou Kota (SACP MP).
- On 19 March 1997 Temba Nolutshungu met with Hans Middelman of the Open Society Foundation to explore common ground and possible joint projects.
- Leon Louw lunched with leading economics journalist and radio and TV commentator Tanja Glavovich on 1 April 1997 to brief her on *EFW*.
- On 2 April 1997 Leon Louw met with academics from the School of Economics, UCT, to convince them of the important role they could be playing in influencing the legislative process.
- Temba Nolutshungu met with Dr van As Jordaan, formerly of the Education Department, on 3 April 1997 to explore contacts within the Civil Service.
- Temba Nolutshungu met with Hans Middelman (Open Society Foundation) and Rachel Jafta (economics lecturer at Stellenbosch University) to discuss possible joint projects.
- On 22 April 1997 Terry Markman met with Martin Spring, Director of Prescon Publishing and editor of *Personal Finance Newsletter*, to promote *EFW*. This meeting resulted in the *Sunday Times Business Times* article on 18 May 1997 (see 3.6).
- Terry Markman and Eustace Davie met with Carmel Musiker of Standard Bank on 30 April 1997 to discuss, *inter alia*, the *EFW* findings.
- On 30 April 1997 Leon Louw and Terry Markman met with BMW's new MD Peter Foster to discuss the work of the FMF and *EFW* findings.

- Leon Louw and Terry Markman met with Jack Saulez of Grinaker on 2 *May 1997* to discuss the work of the FMF and *EFW* findings.
- Terry Markman and Leon Louw met with Neil van Heerden (SAF) on 5 *May 1997* to discuss strategy for disseminating and promoting *EFW* findings. Also the establishment of *BAM* through which to monitor the economic progress of black South Africans.
- Leon Louw and Terry Markman met with Evan van Zyl, Chief Executive of Delta Electrical, and Peter Joubert, Chairman, to discuss the role of business in influencing economic policy on 5 *May 1997*.
- Temba Nolutshungu met with Joao Honwana from the Centre for Conflict Resolution to discuss areas of mutual interest on 5 *May 1997*.
- Terry Markman and Leon Louw met with Marsia Hall-Green, Marketing Director of SA's biggest chemical company Sentrachem, to discuss the work of the FMF and *EFW* findings on 6 *May 1997*.
- On 14 *May 1997* Temba Nolutshungu and Leon Louw met with Jean Brown of Sanlam to discuss the work of the FMF and *EFW* findings.
- On 15 *May 1997* Temba Nolutshungu and Leon Louw met with Mr van Gesau of Southern Life to discuss the work of the FMF and *EFW* findings.
- Temba Nolutshungu met with the NP's media liaison officer, Steve Ntsane, on 20 *May 1997* to discuss what approach to use with the NP and to establish links with the public relations desk.
- Terry Markman and Leon Louw met with Mervyn Chipkin of Bidvest on 22 *May 1997* to discuss the work of the FMF and *EFW* findings.
- On 27 *May 1997* Terry Markman and Leon Louw met with Gerald Katzeff of Delmonte and later with John Hopwood of Goldfields to discuss the work of the FMF and *EFW* findings.
- Leon Louw and Terry Markman met with Pieter Cox and Robin Hugo of Sasol to discuss the work of the FMF and *EFW* findings on 28 *May 1997*.
- On 2 *June 1997* Temba Nolutshungu met with Mike Rademeyer, Managing Director and Chairman of Caltex to discuss the work of the FMF, *EFW* findings and Fuel Industry Policy.
- Terry Markman and Leon Louw met with Laurie Dippenaar, Executive Chairman of Momentum Life, to discuss the promotion of free market policies through the Afrikaans business community on 3 *June 1997*.
- Temba Nolutshungu met with D Kourie of Readers' Digest on 6 *June 1997* to discuss the work of the FMF and *EFW* findings.
- Terry Markman and Leon Louw met with Nedcor Executive Director Geoff Richardson on 26 *June 1997* to discuss the work of the FMF and *EFW* findings.
- On 1 *July 1997* Terry Markman and Leon Louw met with Winnie Kunene of Liberty Life to discuss the work of the FMF and *EFW* findings.
- On 2 *July 1997* Eustace Davie and Terry Markman met with Luanne Grant, AMCHAM's Executive Director, to discuss issues of mutual concern.
- Temba Nolutshungu met with representatives of SALSAs on 5 *July 1997* to discuss issues of common concern.
- Terry Markman and Leon Louw met with Ivor Matthee of Afrox to discuss the work of the FMF and *EFW* findings on 7 *July 1997*.
- Leon Louw met with Brandt Pretorius of McCarthy's on 16 *July 1997* to discuss the work of the FMF and *EFW* findings.
- On 21 *July 1997* Terry Markman and Leon Louw met with Jac Messerschmidt of Eskom to discuss the work of the FMF and *EFW* findings.
- Leon Louw met with Don Macey of Standard Bank on 22 *July 1997* to discuss the work of the FMF and *EFW* findings.
- Terry Markman met with Graham Hayward of Nampak, on 24 *July 1997* to discuss the work of the FMF and *EFW* findings.

- On 8 August 1997 Terry Markman and Leon Louw met with Elliot Schwartz of SBBW to discuss the work of the FMF and *EFW* findings. They met later with Dawie Botha of Saambou on the same issues.
- Eustace Davie and Temba Nolutshungu met with Harry Bloch of the West Coast Chamber of Commerce on 15 August 1997 to discuss issues of mutual concern regarding the Basic Conditions of Employment Bill.
- On 18 August 1997 Eustace Davie met with Sven Lunsch, Editor of the *Business Times*, to give background information on the findings contained in *EFW*.
- Eustace Davie met with Magnus Heystek, print and radio financial journalist, on 21 August 1997 to give background information on the findings contained in *EFW*.
- On 27 August 1997 Eustace Davie met with Curt von Keyserlingk, journalist with *Beeld*, to give background information on the findings contained in *EFW* – especially re the impact of inflation on economic growth.
- On 28 August 1997 Temba Nolutshungu and Leon Louw met with Ursula Johnson of IBM to discuss the work of the FMF and *EFW* findings.
- Terry Markman met with Alan Lishman of Imperial Truck Systems on 15 September 1997 to discuss the work of the FMF and *EFW* findings.
- On 16 September 1997 Leon Louw, Eustace Davie and Terry Markman met with SBBW's Elliot Schwartz to discuss strategy and the marketing of free market ideas.
- Terry Markman and Leon Louw met with Basil Hersov of Anglovaal on 17 September 1997 to discuss the work of the FMF and *EFW* findings (see Attachment 2, First Report). Later on the same day they met with Trevor Fourie of Future Bank for the same reason.
- Terry Markman met with Joggie Vermooten of Rentsure Holdings on 22 September 1997 to discuss the work of the FMF and *EFW* findings.
- On 25 September 1997 Terry Markman and Leon Louw met with Helda Pereira of Southern Sun to discuss the work of the FMF and *EFW* findings.
- On 29 September 1997 Terry Markman and Leon Louw met with Clem Sunter of Anglo American to discuss the work of the FMF, *EFW* findings and how to promote small business to create employment.
- Temba Nolutshungu met with OLP Chairman, Nils Dittmer, on 13 October 1997 regarding *EFW* presentations to the AIC conference on *Value Added Agriculture 1997* (see 3.2).
- Terry Markman and Leon Louw met with Mike Lomas of Group 5 on 21 October 1997 to discuss the work of the FMF and *EFW* findings.
- On 21 October 1997 Terry Markman and Leon Louw met with Les Weil of JHI (ex-SACOB president) to discuss the work of the FMF, *EFW* findings and ways of working more closely with SACOB.
- Leon Louw met with Anglo's Margi Keeton and Wendy Stroberg on 21 October 1997 to discuss strategy to influence economic policy.
- On 27 October 1997 Temba Nolutshungu met with Raymond Ackerman of Pick 'n Pay to discuss the work of the FMF and *EFW* findings.
- On 3 November 1997 Terry Markman, Temba Nolutshungu and Leon Louw met with Eunice Sibiya, Community Affairs Manager of Coca Cola, to discuss the work of the FMF – especially the *Advocacy Project* – and *EFW* findings. Eustace Davie and Terry Markman met with Ms Sibiya again on 14 November 1997.
- Leon Louw met with Euan Venters of Sara Lee on 4 November 1997 to discuss the work of the FMF and *EFW* findings.
- Terry Markman and Temba Nolutshungu met with Dolly Motgatle of Eskom on 4 November 1997 to discuss the *Advocacy Project*. Terry Markman met with Pat Mamoepa, also of Eskom, on 19 November 1997 on the same issue.

- On 10 November 1997 Eustace Davie and Terry Markman met with Rian Lombard of AHI on promoting economic freedom in South Africa. This meeting resulted from the AHI Annual Congress at which Marinus Dalling of Sanlam referred to the *EFW* findings.
- Leon Louw attended the inauguration of the Freedom Forum African Centre on 11 November 1997. This small function was attended by many South African dignitaries including Thabo Mbeki and Cyril Ramaphosa with whom Mr Louw had an opportunity to network.
- Temba Nolutshungu met with former SALSA leader, Malcolm Gabriel, who is currently the Human Resources Manager for Kohler Versapak, on 13 November 1997 to discuss possible research and lobbying projects.
- On 18 November 1997 Eustace Davie and Leon Louw met with Peter Fourie, Financial Director of Blue Circle, to discuss the work of the FMF and *EFW* findings.
- Terry Markman met with Keith Makoepe, a Nampak director and member of the AHI board, on 24 November 1997 to discuss the work of the FMF and *EFW* findings.
- Leon Louw attended an ACDP reception on 12 February 1998 at which he discussed economic policy with party leaders and members.
- Terry Markman met with Genbel on 1 December 1997 to discuss the promotion of *EFW* findings.
- Leon Louw met with representatives of FABCOS on 9 March 1998 to discuss the *Basic Conditions of Employment bill*.
- Temba Nolutshungu met with the following EBF representatives on 9 March 1998 to discuss the *Employment Equity Bill*: Lance Terry (Paarden Island and Metro Industrialists Association), David Matthews (Small Builders Association), Helen Mendes, and Frank Lighton (MANCO - FIBASA) (see Second Report, 5.2).
- Leon Louw met with representatives of NEPA on 11 March 1998 and with Uwe Sturmann of the FNS to discuss the *Basic Conditions of Employment bill*.
- On 19 March 1998 Temba Nolutshungu met with Michael Bagraim to discuss strategy regarding the *Employment Equity Bill* and with Lance Terry on 19 May 1998 for the same purpose. Both represent the EBF.
- On 20 March 1998 Temba Nolutshungu met with F Rautenbach, a labour law consultant, to discuss labour policy and areas of common concern.
- On 24 March 1998 Leon Louw met with Kelvin Kemm of Stratek to discuss aspects of environmental policy.
- Eustace Davie and Leon Louw met with Steve Skhosana, Chairman of the National Small Business Council and Executive Director of the NIC, on 2 April 1998, to discuss proposed labour legislation and its impact on SMMEs.
- Leon Louw met with Judy Hudson of the Centre for Development and Enterprise on 6 April 1998 to discuss black economic empowerment.

3.8 Dissemination

- ANC member Gert Joubert purchased 400 copies of Don Caldwell's *South Africa: The New Revolution* from the FMF to distribute to members of the National Assembly. This book contains, *inter alia*, chapters entitled: *The false prophecy of wealth redistribution; The curse of government spending, taxes and debt; The fruits of privatisation* and *The folly of inflation*. (Copy available if required.)
- Copies of *The power of freedom* were distributed to 1 400 people on the FMF mail list (see 3.3). (Enclosed.)
- Copies of the FMF's April 1997 Directors' Report, containing an article on *EFW*, were distributed to 1 400 people on the FMF mail list and 500 parliamentarians. (Enclosed.)
- *FMF News June 1997* contained an article on the findings contained in *EFW*. This was mailed to 1 400 people on the FMF mail list and 600 additional businessmen, academics and interested individuals. (Enclosed.)

- The FMF's October 1997 *Chairman's Address & Directors' Report*, which contained an article on the fundamentals of improved quality of life, was distributed to 720 people on the FMF mailing list during this quarter.
- Copies of both *EFW* publications were donated to 36 public and 3 private tertiary institution libraries this quarter.
- 152 copies of Patrick Minford's *Monograph, Labour Markets and Economic Growth: Lessons from the UK*, were sent to government officials in May 1998. (Enclosed.)
- 36 copies of WH Hutt's *The Theory of Collective Bargaining* (FMF reprint) were distributed in May 1998 to selected university libraries, political party research departments and journalists.
- During May 1998 10 copies of Donald T Brash's *New Zealand's Remarkable Reforms* were distributed to selected political party research departments, Cosatu, Minister of Trade and Industry Alec Erwin, Minister of Finance Trevor Manuel, and Director-General of Finance Maria Ramos.
- In late-May 1998 10 copies of Roger Garrison's *Monograph, Chronically Large Federal Budget Deficits: The American Experience*, were disseminated to selected political party research departments, the Department of Finance, the parliamentary Portfolio Committee on Finance and the SARB. (Enclosed.)

4 *Health*

4.1 Evidence

- Eustace Davie addressed the Health Care Committee of the Gauteng Legislature (SA's most populous province) on *3 March 1997* on "General principles underlying sustainable health financing" (see Attachment 4, p 33).
- On *13 May 1997* Temba Nolutshungu and Eustace Davie prepared evidence on the Pharmacy Amendment Bill for a Portfolio Committee on Health hearing which was postponed to June.
- In *June 1997* Eustace Davie and Temba Nolutshungu prepared a written submission to the Parliamentary Portfolio Committee on Health on the *Pharmacy Amendment Bill* (see Attachment 5, p. 22).
- In *June 1997* Eustace Davie and Temba Nolutshungu prepared a written submission to the Parliamentary Portfolio Committee on Health on the *Medicines and Related Substances Control Amendment Bill* (see Attachment 6, p. 25).

4.2 Workshops

4.3 Comments / Briefing Papers

- Duncan Reekie wrote *Competition lowers the cost of medicines for consumers* during this quarter.
- Adrian Gore wrote *Helping the Sick through Innovation in Insurance* during this quarter.

4.4 Monographs

4.5 Meetings

- On *11 March 1997* Leon Louw met with a Natal / Kwazulu health deregulation committee to discuss health policy. The committee consists of representatives of major cities in the province, government health department officials, and senior people involved with health policy from the various health districts.
- Temba Nolutshungu met with Kierin O'Malley, IFP researcher, on *3 July 1997* to discuss the content of the IFP's welfare document.
- On *18 July 1997* Temba Nolutshungu met with Mizana Matiwane, Deputy Director of Community Capacity Development, to explore lobbying approaches.
- On *8 October 1997* Leon Louw met with the KwaZulu-Natal provincial government Health Deregulation Committee.
- Temba Nolutshungu met with David Malatsi, an NP MP, to discuss health policy on *19 November 1997*.
- On *19 February 1998* Temba Nolutshungu met with Dr Ruth Rabinowitz, IFP MP, to discuss strategy regarding health policy as well as the *Employment Equity Bill*.
- Temba Nolutshungu met with the following members of the Parliamentary Portfolio Committee on Health to discuss health policy and the FMF's *Economics of Health Care Study Tour* to the UK and Czech Republic (see Attachment 4, p. 21) (Note: During *April* and *May* Eustace Davie assisted Temba Nolutshungu with the preparation for this tour):
 - Mrs Njobe, ANC MP, on *11 March 1998*.
 - Dr Leon Gabriel, Portfolio Committee researcher, on *12 March 1998*.
 - Dr Jassat, ANC MP, on *12 March 1998*.
 - Lynette Sait, secretary to Dr A Nkomo (Chairman) on *13 March 1998* and again on *5 May 1998* – this time with a representative from the sponsor.
 - Mrs NB Gxowa, ANC MP and Women's League Treasurer, on *6 May 1998*.
 - Dr SJ Gous, NP MP, on *6 May 1998*.
 - Mrs Vilakazi, IFP MP and spokesperson of the IFP Health Study Group, on *8 May 1998*.
 - Mike Ellis, DP MP, on *12 May 1998*.

4.6 Articles / Media (enclosed)

- On *13 March 1997* Leon Louw was interviewed on SATV regarding the legal and human rights aspects of water fluoridation during which he argued that fluoridation should not be compulsory.
- The *Business Day* carried an article on *9 June 1997* entitled *Parliament to hear evidence on pharmacy bill* that quoted Temba Nolutshungu.

4.7 Networking

- Leon Louw met with attorney Gary Moore, legal consultant to the LRP, to discuss the deregulation of health on *11 March 1997*.
- On *19 March 1997* Temba Nolutshungu met with Namhla Manjezi, the co-ordinating secretary for the Select Committee on Health, to discuss the legislative process, health policy and the stance of the various committee members.
- On *3 April 1997* and again on *6 May 1997* Leon Louw met with Gary Moore to discuss the deregulation of, *inter alia*, land, liquor, usury, child-minding and nursing.
- Temba Nolutshungu met with Ian McLeod of Business Solutions to discuss health service delivery and the possibility of lobbying government on *9 April 1997*.
- On *9 April 1997* Temba Nolutshungu met with Mark Hoffman of Spazatainer to discuss medical supplies delivery in the context of private health care and possible contacts in the pharmaceutical industry.
- On *12 May 1997* Temba Nolutshungu met with the secretary of the Portfolio Committee on Health, E Ramaite (ANC), to discuss the legislative process.
- Temba Nolutshungu met with S Ntshona, Health Programme Director, National Language Project, and parliamentary reporter for IDASA, on *12 May 1997* to discuss lobbying tactics.
- On *11 July 1997* Terry Markman and Leon Louw met with Gunther Faber, Chairman of SmithKline Beecham, to discuss health issues and *EFW* findings.
- Eustace Davie and Temba Nolutshungu met with Gunther Faber, Chairman of SmithKline Beecham, on *14 July 1997* to discuss health deregulation. This was a follow up of the meeting on *11 July 1997*. Dr Faber is on the FMF's Health Focus Team.
- Temba Nolutshungu met with Anna Niemann, Sanlam's government relations representative, on *18 August 1997* to discuss their lobbying initiatives with regard to the health bills.
- On *21 August 1997* Eustace Davie met with Mirriam Gaffoor of Toshiba to discuss the *Procurement Green Paper* and the effect on the cost to government of medical equipment purchased on a preferential basis.
- Temba Nolutshungu attended the Parliamentary Portfolio Committee on Health hearings regarding the *Pharmacy Amendment Bill* on *15 September 1997*.
- On *24 October 1997* Eustace Davie and Terry Markman attended a Health Focus Team meeting to discuss how to introduce market-related policies into the Health Industry in SA. (Minutes are available if required.) Focus Team members include Prof Duncan Reekie, Mr Eustace Davie, Dr Gunther Faber, Dr Arnold Hoffenberg, Mr Terry Markman, Mr Rob Speedie, Ms Mirryena Deeb, Mr Adrian Gore, Dr Edwin de la H Hertzog and Dr Annette van der Merwe.
- Temba Nolutshungu met with Leon Koen of Sanlam on *11 November 1997* to discuss the work of the FMF with particular reference to the health bills.
- Eustace Davie and Terry Markman met with Noel Dolman, MD of Eli Lilly, on *12 November 1997* to discuss health policy, strategy and his serving on the Health Focus Team.
- On *27 November 1997* Temba Nolutshungu met with Dr Gunther Faber of SmithKline Beecham to discuss health policy.
- On *27 January 1998* Leon Louw met with attorney Gary Moore to brief him on health deregulation.
- On *17 March 1998* Leon Louw met with Mirriam Gaffoor of Toshiba to discuss government procurement policy.

- Eustace Davie and Terry Markman met with Health Focus Team members on *16 April 1998* regarding health legislation.
- Temba Nolutshungu met with E Terblanche and K Gardner of Sanlam on *4 May 1998* to discuss the work of the FMF and *EFW* findings. They discussed particularly health policy and strategy to achieve same.
- Eustace Davie met with Gunther Faber of SmithKline Beecham and Prof Duncan Reekie regarding health policy on *27 May 1998*.

4.8 Dissemination

- *FMF News March 1997* contained an article *Focus on Health* by Eustace Davie. This was mailed to 1 400 people on the FMF mail list and 600 additional businessmen, academics and interested individuals. (Enclosed.)
- Copies of *Competition lowers the cost of medicines for consumers* were distributed to 1 400 people on the FMF mail list and 500 parliamentarians and government officials (see 4.3). (Enclosed.)
- In May 1998 11 copies of Charles Murray's *In Pursuit of Happiness and Good Government* were disseminated to selected political party research departments, the Minister of Health, the Minister of Welfare, the Parliamentary Portfolio Committee on Welfare, and Deputy President Thabo Mbeki.

5 *Liberalisation*

5.1 Evidence

- In *August 1997* Eustace Davie prepared a comment on the Diamond Act at the request of De Beers in view of the Commission of Enquiry into the diamond industry.
- Eustace Davie and Temba Nolutshungu prepared a comment on the *Long Term Insurance Bill* for the Parliamentary Portfolio Committee on Finance in *October 1997* (see Attachment 8, p. 26).
- The following steps were taken in an effort to have the *Basic Conditions of Employment Bill* scrapped or, failing that, to ensure small business is exempted from the Bill:
 - On *28 October 1997* Temba Nolutshungu attended the Parliamentary Portfolio Committee on Labour hearings on the *Basic Conditions of Employment Bill* at which the EBF led oral evidence prepared with the assistance of the FMF (CONFIDENTIAL). (See Second Report, 5.2.)
 - On *30 October 1997* Eustace Davie prepared a proposal for the DP regarding an amendment to the *Basic Conditions of Employment Bill* in which he recommended that employees be entitled to enter into voluntary agreements with employers excluding privileges that they would otherwise enjoy in terms of current law.
 - On *3 November 1997* written evidence by Temba Nolutshungu and Eustace Davie regarding the *Basic Conditions of Employment Bill* was dropped in each MP's post box in preparation for the debate on the Bill on November 5 (see Attachment 9, p. 34).
 - On *4 November 1997* a document prepared by Temba Nolutshungu and Eustace Davie and called the *SMME Business Initiative*, was dropped in many MP post boxes (see Attachment 10, p. 36). (Note: The last paragraph was read during the National Assembly debate by an NP MP.)
 - On *5 November 1997* the EBF document entitled *Points to Ponder* was handed to MPs as they went into the National Assembly debate on the *Basic Conditions of Employment Bill* (see Attachment 11, enclosed).
- On *29 May 1998* Temba Nolutshungu did a presentation on the *Long Term Insurance Bill* to the Parliamentary Portfolio Committee on Finance (see Attachment 5, p. 24).

5.2 Workshops

- Leon Louw chaired a two-day think tank organised by Richard's Bay Minerals regarding the promotion of small business from *20 - 21 March 1997*. The open-ended agenda dealt with skills, red tape, finances, law reform and competition policy *inter alia*.
- On *11 May 1997* Leon Louw presented a paper at the NIC conference on government procurement policy and creating small business opportunity. As this is a premier event on the black business calendar, attendees included leading black businessmen and government officials.
- Leon Louw attended and participated in a workshop regarding toxic waste control policy hosted by the Toxic Waste Institute on *21 June 1997*.
- On *28 July 1997* Leon Louw chaired a workshop for the DTI on liquor policy.
- Leon Louw and Temba Nolutshungu acted as resources at NAFCOC's workshop on the impact of the *Basic Conditions of Employment Bill* on *30 July 1997*.
- On *4 August 1997* Leon Louw attended a NIC workshop on, *inter alia*, capacity building within the emerging black industrialist community and the implications of the Draft Tender Bill which is meant to facilitate small business, but doesn't.
- Leon Louw represented SALTA in meetings with the DTI and the Safety and Security Department of Gauteng regarding corruption, harassment, arrest and confiscation on *6 August 1997*.
- On *7 August 1997* Leon Louw gave a presentation to the DTI regarding laws affecting small business and how to address problems related to these.

- Temba Nolutshungu addressed SALSA students at the University of the Western Cape on 8 August 1997 on *Challenges facing contemporary liberals in South Africa*. SALSA reported that new recruits signed up after the address.
- Temba Nolutshungu acted as facilitator (and Eustace Davie attended) at a workshop on the *Basic Conditions of Employment Bill* held at the FMF's Cape Town office on 14 August 1997 (see Attachment 7, p. 28). As a result of this workshop the Emerging Business Front (EBF) was formed to fight the bill.
- On 18 August 1997 Leon Louw gave a presentation to FEDHASA's annual conference on the Draft Liquor Bill.
- The Free Market Foundation organised a presentation by Dr Richard Grant on *Responsibility, Causation and Inflation* for 35 delegates (business, academia, media) on 18 August 1997.
- The Free Market Foundation arranged for overseas visitor Prof Roger Garrison to do a presentation on monetary policy at the SARB on 29 August 1997 (see Attachment 8).
- On 1 September 1997 Leon Louw organised and chaired a LI workshop in Stellenbosch (Western Cape) on the new liquor policy. And on 10 September 1997 he chaired a LI meeting at SACOB.
- Leon Louw gave an EFW presentation by to the Goldfields directorate on 3 September 1997 which Terry Markman attended.
- Temba Nolutshungu and Leon Louw gave an EFW / High Growth Economies presentation to the full NP caucus (60 members including those who attended the August presentation – see Second Report, 3.2) on 8 September 1997.
“As a result of the resounding success of our presentation of 27 August 1997 we were invited to do another presentation to the entire NP Caucus with the people who had attended the previous one indicating their interest in attending the second one as well. Again Leon rose to the occasion. The presentation was interspersed with questions of clarity and elaboration with every single member of the Caucus paying undivided attention to the presentation at the end of which regrettably there was not enough time for questions. The sale of the EFW copies attests to the success of the presentation as well as a presentation pack consisting of: Let the People Govern; Health Care Options; Damage by Debt; SA's War against Capitalism; was given to the Whip.”
- On 27 September 1997 and 28 September 1997 Leon Louw attended and participated in a two-day FXI workshop on a free press in South Africa during which the FXI board and invited experts brainstormed potential threats to freedom of expression and strategies to deal with these and on 30 September 1997 the FXI executive committee ran a workshop on internet regulation.
- Leon Louw delivered a paper on the economics of crime to the Libertarian Seminar on 3 October 1997.
- On 20 October 1997 Temba Nolutshungu gave a presentation entitled *Deursettingsvermoe van die entrepreneur (Perseverance of the entrepreneur)* to the SA Raad vir Sakevroue (the SA Council of Business Women) during which he encouraged their active participation in the lobbying process especially with regard to bills that affect small business.
- Temba Nolutshungu gave a presentation and participated in an ACDP workshop on labour policy, affirmative action and privatisation on 22 November 1997.
 On 5 February 1998 Leon Louw attended a workshop by the Policy Research and Information Unit of the NEPA on research and policy regarding laws affecting small business.
- On 18 February 1998 the FMF hosted a presentation on New Zealand labour legislation and reform by Prof Charles Baird.
- From 20 February 1998 through 22 February 1998 Leon Louw attended, addressed and participated in the government's new Regulatory Review Panel's workshop. Leon Louw's address provided guidelines for their work and he has agreed to act as consultant to the panel.
 On 6 March 1998 Leon Louw did a presentation to a Fraser Alexander corporate seminar on economic policy and the outlook for SA.
- On 19 March 1998 Leon Louw attended a Water Institute of SA workshop on fluoridation policy.

- Leon Louw did a presentation on the economic and political outlook for SA ICL staff and guests on 2 April 1998.
- The *Laws Affecting Small Business* series (see Fourth Report, 5.4) was introduced to government officials, business representatives and the media at launches on the following dates:
 - All five booklets in Cape Town on 31 March 1998 – address by Temba Nolutshungu and Leon Louw.
 - *Justice* on 7 April 1998 – address by Leon Louw.
 - *Labour* on 21 April 1998 – address by Eustace Davie and Michael Bagraim.
 - *Finance* on 5 May 1998 – address by Gary Moore.
 - *Licensing* on 19 May 1998 – address by Eustace Davie and Gary Moore.
 - (*Land* on 2 June 1998 – address by Leon Louw and Jim Harris.)
- On 25 April 1998 Temba Nolutshungu addressed approximately 8 SALSA committee members at Wits on *The free market and liberalism*.
A good meeting with a great deal of interaction and an invitation to address the SALSA congress in July.
- On 16 May 1998 Leon Louw addressed a Merryl Lynch audience on economic developments in SA.
- Leon Louw addressed an Alpha Ltd audience on 18 May 1998 regarding economic developments in SA.
- On 21 May 1998 Leon Louw addressed a Mercedes Benz / ICL conference on economic outlook and policy for SA.
- Leon Louw addressed a Western Cape Department of Trade and Industry seminar on growth strategies for the region / small business creation and promotion on 25 May 1998.

5.3 Comments / Briefing Papers

- Leon Louw adapted his comments on housing (see Second Report, 2.1) for a briefing paper entitled *Housing delivery* during this quarter.
- On 8 March 1998 Eustace Davie prepared notes on free market trade unions for a speech by Prof Themba Sono (see 5.7).
- Eustace Davie assisted Prof Themba Sono with his presentation on the transformation of South Africa on 7 April 1998.
- Richard Grant's *A Future for Tradable Water Rights* was republished during this quarter.

5.4 Monographs

- The FMF republished *Industrial policy: A critique* by Duncan Reekie during this quarter. (Enclosed.)
- The FMF prepared five booklets for a series called *Laws Affecting Small Business* for publication by the FNS. The booklets propose liberalisation of laws affecting small business and improved access to justice for small business owners. The five booklets are titled *Justice*, *Finance*, *Labour*, *Licensing* and *Land* (enclosed). (Note: Times on this project are not charged against CIPE as they were paid for by the FNS.)

5.5 Meetings

- On 27 March 1997 Leon Louw met with Tony Leon, DP leader, to discuss the DP's legislative programme for the forthcoming session as well as its economic liberalisation and development strategies.
- (See 1.5 re DP meeting on 29 March 1997 and 30 April 1997.)
- Temba Nolutshungu met with Conrad Osman, Western Cape Director of the Department of Transport, on 7 May 1997 to discuss current economic policy thinking within the ANC-SACP-COSATU alliance.

- Eustace Davie and Leon Louw met with DTI Director Alistair Ruiters and Uwe Sturmann of the FNS on 6 June 1997 to discuss a strategy for the review of laws affecting small business and the removal of red tape.
- On 1 August 1997 Leon Louw met with DTI law advisor Siphon Maseko regarding law reform.
- Leon Louw met with Alec Erwin, Minister of Trade and Industry, and DTI Director Alistair Ruiters, at a Liquor Initiative workshop on the government's Draft Liquor Bill.
- Temba Nolutshungu met with Mohammed Bhabha, Chairperson of the National Council of Provinces Select Committee on Constitutional Development, Public Administration and Local Government, to acquaint himself with the brief of the select committees of the NCOP on 10 July 1997.
- On 31 July 1997 Temba Nolutshungu met again with Mohammed Bhabha, Chairperson of the National Council of Provinces Select Committee on Constitutional Development, Public Administration and Local Government, and with Deputy Chairman Bulelani Ngcuka to discuss a variety of FMF-related issues and to reinforce a personal relationship with a view to future lobbying, presentations etc.
- Temba Nolutshungu met with P Fahrenfort, secretary of the National Council of Provinces, on 7 August 1997 regarding lobbying strategy.
- On 14 August 1997 Leon Louw met with DTI Director Alistair Ruiters re setting up a council of experts to do a systematic review of laws affecting small business, especially at local and provincial levels.
- Temba Nolutshungu met with the media regarding the EBF on 15 August 1997 and 20 August 1997.
- On 12 August 1997 Eustace Davie met with SARB General Manager DR CJ Swanepoel and representatives from SACOB, AHI and the DBSA to obtain information on bank policy.
- Temba Nolutshungu met with general parliamentary researcher Samantha Anderson on 2 September 1997 regarding economic policy issues.
- On 10 September 1997 Temba Nolutshungu met with ANC MP Gezani Mushwana to get feedback on the FMF's evidence to the Parliamentary Portfolio Committees on Housing and Finance. He also met with the chairman of the Parliamentary Portfolio Committee on Finance, Simon Mphahlele, on this date.
- On 1 October 1997 Leon Louw met with Siphon Maseko, Financial Services Board, regarding the deregulation of financial markets.
- On 9 October 1997 Leon Louw met with Mr Sooklas, the DTI director responsible for liquor policy.
- On 6 November 1997 Temba Nolutshungu met with W Mnisi, a DP MP, to discuss the National Assembly debate on the *Basic Conditions of Employment Bill* and the pending National Council of Provinces public hearings on the bill.
- Temba Nolutshungu met with IFP MP, Dr Ruth Rabinowitz, on 6 November 1997 to discuss the implications of the *Basic Conditions of Employment Bill* which the IFP had supported in parliament. Dr Rabinowitz regretted that the FMF had not been invited to give a presentation to the IFP prior to the National Assembly debate, but hoped that the FMF would oppose the bill at provincial level. Also on this date Temba Nolutshungu met with IFP MP, Mr Ndlovu: *"Still reiterates his party's position on the Bill in the National Assembly but emphasises the strong reservations that they have and says that there is still time to put a case for amendments upon which I suggested that the FMF might consider an indaba with them as any other available political parties. Ndlovu states the predicament that his party faces namely, the reality of the exploited people out there who are vulnerable, who travel long distances to places of work, stating that this Bill is not about blacks and whites but about protection of vulnerable people."*
- Leon Louw met with Meyer Khan, Chief of Police, on 7 November 1997 to discuss the economics of combating crime.

- On *19 November 1997* Leon Louw met with Mr Heyer, a senior economist at the DTI, to discuss policy regarding clusters.
- Terry Markman met with the DP's Jack Bloom on *3 December 1997* to assist with comments on the Gauteng Transport Bill.
- Leon Louw met with the Director-General for Labour, Siphon Pityana, on *29 January 1998* to discuss the implications of the *Basic Conditions of Employment Bill* and the *Employment Equity Bill*.
- On *9 February 1998* Leon Louw met with Mondli Tabatha, Chief Executive of the DTI's National Small Business Council, regarding labour legislation and its impact on small business. The National Small Business Council is consulting the FMF regarding its input to the Department of Labour.
- Temba Nolutshungu met with the IFP's Policy Unit representative, Colin Vale, on *16 February 1998* to discuss liberalisation strategy.
- Leon Louw met with Neil Fraser of the Central Johannesburg Partnership on *17 February 1998* to discuss municipal and big business policy regarding the CBD – with particular reference to informal businesses which are being shut down as a result of zoning regulations.
- On *19 February 1998* Leon Louw met with Dr Peter Scholtz, a German Embassy representative, regarding the German Minister of Foreign Affairs' visit to South Africa. They discussed ways in which foreign aid programmes should be applied in SA to maximise economic reform.
- Temba Nolutshungu met with the IFP Caucus on *19 February 1998* to brief members on the *Employment Equity Bill*.
- Leon Louw met with Marianne McRobert of the Nelson Mandela Children's Fund on *17 March 1998* regarding the economic aspects of proposed legislation and child policy, for example, child minding, informal education and child labour.
- Temba Nolutshungu met with J Moretlwe from the IFP's Communications Department on *16 April 1998* to discuss lobbying strategy and advocacy.
- Terry Markman and Eustace Davie met with Dr Ruth Rabinowitz, IFP MP, on *12 May 1998* to discuss workshop topics for MPs.

5.6 Articles / Media (enclosed)

- Leon Louw participated in a panel discussion on *Do white liberals still have a role in SA?* on SABC TV on *4 March 1997*.
- Leon Louw was interviewed on *Good Morning South Africa* (SABC TV) on *5 March 1997* on fluoride legislation.
- Jim Peron's article *Diamonds on the streets don't need a minimum price* appeared in the *Star Business Report* on *5 March 1997* and dealt with the issue of minimum wages. Jim Peron writes both in his private capacity and for the FMF.
- A review of Michael O'Dowd's book *The O'Dowd thesis and The triumph of democratic capitalism* written by Pieter Schoombee was published in *F&T Weekly* on *7 March 1997*. It was entitled *Why capitalism works better*.
- The following articles / radio interviews arose out of an FMF press release regarding Tax Freedom Day (the calculations were done by FMF member and statistician, Garth Zietsman):
 - *Every cent you've earned this year goes to the taxman – The Star, 29 April 1997*
 - *Every cent has so far gone on tax! -- Citizen, 29 April 1997*
 - *Earning so far for tax purposes – Business Day, 29 April 1997*
 - *Tax freedom day – Natal Daily News, 29 April 1997*
 - *Taxing times – The Star - Editorial, 1 May 1997*
 - Radio Highveld interview with Garth Zietsman on *29 April 1997*
 - SABC Afrikaans service interview with Garth Zietsman on *29 April 1997*
 - Magnus Heystek enthusiastic mention on John & Don show, Radio 702 on *29 April 1997*
 - *Born Loser* cartoon which subsequently appeared in *The Citizen*

- The *Financial Mail* carried an article called *Raiding the piggy bank not on, say livestock producers* on 20 June 1997 that quoted Nils Dittmer, OLP Chairman and FMF ally (for your information).
- On 1 July 1997 Leon Louw was Jon Qwelane's guest on *Radio 702*. They discussed, *inter alia*, black empowerment and affirmative action.
- Leon Louw was a guest on a *Radio 702* talk show with Neil Fergusson regarding new liquor policy on 6 August 1997.
- The EBF (see 5.2) was mentioned in an article in *Rapport* on 17 August 1997 called *Mbeki moet nou red wat te redde is* (Mbeki must save what is saveable).
- Leon Louw hosted the *Radio 702 Talk at Nine* show on 4 September 1997 during which South African economic policy was the main topic under discussion. Leon Louw hosted this show again on 16 September 1997 during which he and his guest, Barney Pityana (HRC), discussed the application of human rights to economic rights.
- Temba Nolutshungu met with the Hansard reporter and National Assembly interpreter, Keith Mutlane, on 5 September 1997 and 26 September 1997 to garner insight into the behind-the-scenes workings of Parliament.
- On 9 September 1997 Leon Louw was a guest on the SAFM *Radio Pat Sidley Consumer Show* during which he discussed South African economic policy.
- Leon Louw, in his role as Chairman of the LI was quoted in *New uproar over revised Liquor Bill* which appeared in *The Star* on 3 October 1997.
- The following articles resulted from the 1997 FMF award function:
 - *Businessman who beat tragedy hailed* — *The Citizen*, 2 October 1997.
 - *Volhardende entrepreneur kry stigting se eerbewys* (Undaunted entrepreneur honoured by Foundation) — *Volksblad*, 2 October 1997.
 - *Stigting eer onstuitbare Kaapse sakeman* (Foundation honours tenacious Cape businessman) — *Beeld*, 2 October 1997.
 - *Award for businessman who prospered despite the odds* — *Natal Witness*, 3 October 1997.
 - *Geloof laat hom deurdruk, sê Khayelitsha sakeman* (Faith allows him to keep going, says Khayelitsha businessman) — *Die Burger*, 9 October 1997.
 - *Nothing to gain without the pain* — *Argus*, 13 October 1997 (which quoted Temba Nolutshungu and featured the 1997 Free Market Foundation Award winner, Michael Jwambi).
 - *Khayelitsha businessman a trailblazer* — *Business Day*, 16 October 1997.
- The following articles resulted from the 1997 FMF AGM:
 - *Foundation praises SA's cautious Govt* — *PE Evening Post*, 3 November 1997.
 - *State praised for its meticulous planning – Go slow, get it right* — *Natal Daily News*, 4 November 1997.
 - *Government on 'right track' to delivery* — *The Star*, 4 November 1997.
 - *Reasons for Govt delay over Coega* — *PE Evening Post*, 11 November 1997.
- *Free markets forge growth* appeared in the *Financial Mail* on 5 December 1997 and quoted from *Economic Freedom of the World – 1997 Annual Report*.
- Temba Nolutshungu met with the Hansard reporter and National Assembly interpreter, Keith Mutlane, on 18 December 1997 to garner further insight into the behind-the-scenes workings of Parliament.
- On 12 January 1998 Temba Nolutshungu met with the *Argus's* parliamentary reporter, Lynda Loxton, to discuss the work of the FMF.
- The following additional article resulted from the 1997 FMF award function (see Third Report, 5.6):
 - *Jwambi commands admiration* — *F&T Weekly*, 6 February 1998.

- Temba Nolutshungu was interviewed by BBC TV and Radio on *13 February 1998* regarding the *Employment Equity Bill*.
- On *21 February 1998* Leon Louw participated in a TV panel discussion on black empowerment for the Felicia Show. He shared the panel with, amongst others, Jon Qwelane (journalist and radio talk show host).
- Temba Nolutshungu met with the Hansard reporter and National Assembly interpreter, Keith Mutlane, on *19 March 1998* to garner further insight into the behind-the-scenes workings of Parliament.
- The following coverage resulted from the launching of the *Laws Affecting Small Business* series (see 5.2):
 - *Justice for small business* was published in the *Sandton Chronicle* on *3 April 1998*.
 - *Reg 'diskrimineer' teen klein sake (Law discriminates against small business)* appeared in *Die Burger* on *9 April 1998*.
 - The *Sowetan* carried an article entitled *Justice not easy for small business* on *23 April 1998*.
 - *Author packs small business laws in a neat nutshell* appeared in the *Sandton Chronicle* on *1 May 1998*.
 - *Business Day* carried *Booklets aim at laws hostile to small business* on *6 May 1998*.
 - *Booklets seek to promote enterprise-friendly laws* was published in *Business Day* on *6 May 1998*.
 - *The Citizen* carried *Costs are too high* on *12 May 1998*.
 - Eustace Davie met with Sylvia Malinowski of *Business Buzz*, *SABC TV*, on *20 May 1998* to discuss the filming of the *Laws Affecting Small Business* series. The authors were subsequently interviewed for the programme which is being aired in six part during *June and July, 1998*.
 - The *Natal Witness* carried *Small business frustrated by lack of finance* on *14 May 1998*.
 - *Beeld* carried *Handboek oor wetgewing (Handbook on laws)* on *25 May 1998*.
- On *20 April 1998* Leon Louw hosted Radio 702's *Talk at Nine* during which he discussed with listeners the ANC's proposed constitutional amendments to remove certain checks and balances.
- The following coverage resulted from an FMF press release on Tax Freedom Day:
 - On *30 April 1998* the *Natal Daily News* published *Your debt to State now paid*.
 - *What Tax Freedom Day means* was published in the *Natal Witness* on *7 May 1998*.
- On *19 May 1998* Leon Louw hosted Radio 702's *Talk at Nine* during which he discussed job creation with listeners.
- On *29 May 1998* Temba Nolutshungu was interviewed on *SABC TV* regarding the *Long Term Insurance Bill* (see 5.1).

5.7 Networking

- On *4 March 1997* Eustace Davie and Leon Louw met with Prof Alwyn de Koker of Wits University and author of books on taxation, Chris Darrol (SBP) and Barbara Groeblichhoff (FNS) to discuss the FMF's *Laws Affecting Small Business* project and especially the issue of taxation as it affects small business.
- Leon Louw met with Advocate Gomotso Moroko re identifying and scrapping apartheid legislation that survives in the statute books on *5 March 1997*.
- Eustace Davie met with Ian Hetherington (NIC) on *6 March 1997* to discuss the FMF's *Laws Affecting Small Business* project and especially the deregulation of small business and the issue of taxation.
- Leon Louw met with Chris Marais (attorney) to discuss strategy to clarify laws regarding network marketing and pyramid selling on *6 March 1997*.
- On *10 March 1997* Leon Louw met with Prof Louise Tager (board member of the Small Claims Court and Chairman of the Business Practices Committee) and Michael O'Dowd (FMF

Chairman) to discuss reforming laws of procedure and evidence so as to promote access to justice for small business.

- On 13 March 1997 Leon Louw met with Coetzee van Rensburg and Louw du Plessis (lawyers working with property developers) to discuss law reform to improve the delivery of housing finance for low-cost housing. They discussed especially security of tenure.
- On 18 March 1997 Leon Louw met with Rod Frew (Summercon), attorneys Louw du Plessis and Anna van der Merwe to discuss a strategy for scrapping the levy imposed on housing developers seeking to arrange mortgage finance for buyers.
- On 18 March 1997 Leon Louw, Terry Markman and Eustace Davie met with Gary Moore (attorney) and Uwe Sturmann (FNS) to discuss the FMF's Laws Affecting Small Business project.
- Leon Louw met with Robert Ruka, Executive Director of CACHIB, re his collaboration on the LASB project on 25 April 1997.
- On 3 May 1997 Eustace Davie met with Sam Zwane and Stanley Mohapi of the YEF to discuss the liberalisation of the school curriculum.
- On 4 May 1997 and 29 May 1997 Leon Louw met with Peter Wandwazi re the creation of the African Liberal Network through which institutes could exchange information, promote legitimacy and influence governments.
- Leon Louw met with Arnold Whitkin, British investor, on 6 May 1997 re problems faced by foreign investors and reforms needed to improve foreign investment climate.
- On 12 May 1997 Temba Nolutshungu met with F Mogkoku, secretary of the Portfolio Committee on Environmental Affairs and Tourism to discuss the workings of his committee.
- On 16 May 1997 Leon Louw met with Victor Matinde, Legal Resources Foundation – Harare, re co-ordinating efforts between SA and Zimbabwe on reviewing legislation affecting small business.
- Leon Louw met with the following on 16 May 1997 to discuss law reform: FMF Chairman Michael O'Dowd; Transnet Chairman and board member of the Small Claims Court Louise Tager; Law Society Chairman Billy van der Merwe; IBM Corporate Affairs Director Clive Graham; Pule Mokhobo of SAB; NIC's Ian Hetherington; Get Ahead's Chief Executive Don McRobert; Solly Motlana, Chief Director Northwestern Province DTI; and Enos Banda, senior partner in international law firm, Case and White.
- On 19 May 1997 and 20 May 1997 Gail Day attended the Gauteng Provincial Crime Summit.
- On 22 May 1997 Eustace Davie and Leon Louw met with Dr Robin Bloch of the Policy Research and Information Unit of the NEPA regarding laws affecting small business.
- On 3 June 1997 Eustace Davie met with Nils Dittmer, OLP chairman, to provide information for his article on the liberalisation of agriculture for the Afrikaans magazine, *Landbou Weekblad*.
- On 3 June 1997 Leon Louw met with Peter Wandwazi re the creation of the African Liberal Network through which institutes could exchange information, promote legitimacy and influence governments.
- Terry Markman and Leon Louw met with Roger Crawford, Johnson and Johnson Human Resources Manager, on 4 June 1997 to discuss the work of the FMF and labour issues. They discussed particularly strategies to oppose the *Basic Conditions of Employment Bill*.
- Temba Nolutshungu and Leon Louw formed part of a group invited by the FNS to study advocacy in Germany from 7 June 1997 through 18 June 1997. Fellow participants included representatives from NAFCOC, AHI and NIC. This group met again regarding co-operation in advocacy work subsequent to their return from Germany on 14 July 1997 and 13 August 1997.
- On 26 June 1997 Leon Louw met with European Union representative Mr Pangratis regarding the application of development funding so as to ensure political reform and the promotion of small business.
- Terry Markman met with Jack Bloom of the DP to discuss taxi legislation in SA on 26 June 1997.

- Temba Nolutshungu met with Guy Macleod of Business Solutions on *1 July 1997* to discuss the oil / fuel industry.
- On *2 July 1997* Leon Louw met with Dr Robin Bloch of the Policy Research and Information Unit of the NEPA regarding laws affecting small business.
- Leon Louw met with Pule Mokhobo, Legal Manager of the DBSA, on *3 July 1997* to discuss law reform.
- On *8 July 1997* and *27 August 1997* Eustace Davie met with Dominic Tweedie of BIFSA to discuss the implications of the Home Builders Registration Bill. Leon Louw met with BIFSA in the same regard on *15 July 1997*.
- Temba Nolutshungu and Leon Louw attended a FXI executive committee meeting (they are board members) on *8 July 1997* to discuss civil liberty issues. They are working specifically on broadcasting deregulation, freedom of commercial expression and the unbanning of previously banned literature. Further meetings were held on *14 July 1997* and *6 August 1997*.
- On *11 July 1997* Temba Nolutshungu met with Engen's Corporate Affairs Manager Jonathan Stone to discuss the deregulation of the fuel industry.
- Eustace Davie met with independent economics consultant, Dr Richard Grant, on *15 July 1997* to discuss liberalisation of the economy.
- Leon Louw met with South African Breweries Executive Director Richard Chance to discuss liquor law deregulation on *21 July 1997*.
- On *21 July 1997* Leon Louw met with Churchill Mraasi, National President of SALTA, and his executive, to discuss the liberalisation of liquor legislation and relief from prosecution.
- Leon Louw met with Pick 'n Pay MD Gareth Ackerman to discuss the removal of prohibitions on Sunday trading in liquor.
- On *23 July 1997* Eustace Davie met with Nils Dittmer (OLP) to discuss agricultural reform.
- Eustace Davie and Temba Nolutshungu met with AMCHAM Executive Director Luanne Grant to discuss working together on liberalisation of the South African economy.
- Leon Louw chaired a meeting of the Liquor Initiative on *24 July 1997*. This forum includes representatives from all liquor interests, their purpose being to liberalise liquor policy.
- On *29 July 1997* Leon Louw met separately with the MD of Stellenbosch Farmers' Winery and the MD of Distillers Corporation to discuss liquor policy. Also on this day he met with Merick Dunster of BP to discuss the sale of liquor at fuel stations.
- Leon Louw met with Miriam Gaffoor of Toshiba to discuss tendering policy and practises and laws that discriminate against non-black businesses on *7 August 1997*.
- On *7 August 1997* Leon Louw met with attorney Enos Banda re bringing American interns to SA to assist with advocacy and law reform.
- Leon Louw met with Sam Buthelezi, Vice-President of FABCOS, and his executive on *8 August 1997* regarding SMME issues and law reform.
- On *11 August 1997* Leon Louw met with Daniel Popescu, a businessman who employs immigrants from Eastern Europe, to discuss xenophobic measures such as the withdrawal of work permits.
- On *22 August 1997* Eustace Davie met with John Hughes, Director of de Beers, and attorneys Webber, Wentzel Bowens regarding the Diamond Act and the Diamond Board.
- Leon Louw met with Michael Savage of the Open Society Foundation on *2 September 1997* to discuss economic policy issues and co-operation between the FMF and the Open Society Foundation.
- On *5 September 1997* Leon Louw met with FABCOS and Ed Hern Stockbrokers re black empowerment projects. On *8 September 1997* Leon Louw met with SAB, SATA and SALTA and on *9 September 1997* with SALTA, Ed Hern Stockbrokers and Future Bank re the same issue.
- Eustace Davie met with the National Private Sector Advisory Committee on Small Business on *8 September 1997* to discuss assisting the national Small Business Council with policy advice.

- On 9 September 1997 and again on 1 October 1997 Eustace Davie met with Clientele Holdings Ltd Chairman, Brian Benfield, to discuss the *Long Term Insurance Bill*.
- On 10 September 1997 Eustace Davie met with Ephraim Maringa, Head of Private Schools, Gauteng Department of Education, to discuss subsidies to private schools.
- Leon Louw attended a FXI executive committee meeting on 11 September 1997 to discuss the proposed withdrawal of an Islamic radio station's license because it does not allow female presenters. Further FXI executive committee meetings were held on 23 September 1997, 25 September 1997, 20 October 1997 and 21 October 1997.
- Leon Louw met with Gary Moore (attorney) on 12 September 1997 to discuss the liquor bill.
- On 12 September 1997 Leon Louw met with Gary Moore (attorney) and Johannesburg Magistrate Marsden to discuss the amendment of legal procedure laws to improve access to justice for small business.
- Eustace Davie met with Mark Henning, Director of the Independent Schools Council, regarding the new schools curriculum on 12 September 1997.
- Leon Louw met with Stewart Grobler of COSAB regarding usury (interest rate ceilings) and financing of small business on 12 September 1997.
- On 19 September 1997 Eustace Davie met with attorney Gary Moore regarding laws that have a detrimental effect on small business.
- Eustace Davie met with FNS representatives about the liberalisation of laws affecting small business on 19 September 1997.
- Leon Louw met with representatives of the Safe Water Association on 22 September 1997 re fluoridation policy.
- Temba Nolutshungu and Jenny Harris of the EBF met with Prof Kalula of the Institute of Development and Labour Law at UCT on 30 September 1997 regarding NEDLAC and industrial relations.
- On 3 October 1997 Temba Nolutshungu met with the EBF regarding the *Basic Conditions of Employment Bill*. Further meetings were held on 6 October 1997, 9 October 1997 and 29 November 1997.
- On 7 October 1997 Leon Louw met with Sam Buthelezi, Vice-President of FABCOS, regarding liquor policy.
- On 8 October 1997 Leon Louw met with Richard Chance, SAB, regarding the draft liquor act and the latest government proposals.
- Temba Nolutshungu was interviewed by Michael Morris of the *Argus* regarding economic policy on 8 October 1997 (see 5.6).
- Temba Nolutshungu met with Cindy Skepu, a researcher for the Institute of Development and Labour Law at UCT on 23 October 1997 regarding the *Basic Conditions of Employment Bill*. "A good meeting at the end of which she was appreciative of the FMF perspective despite her organisation having pro labour sentiments."
- On 21 November 1997 Eustace Davie and Terry Markman met with Rod Frew of Summercon to discuss strategies to oppose the *National Home Builders Registration Council Bill* (see Second Report, 2.1).
- Eustace Davie met with the OLP's Nils Dittmer on 24 November 1997 to discuss strategy for Wool South Africa and the Federation of Red Meat Producers of South Africa regarding the Agricultural Marketing Council.
- On 25 November 1997 Eustace Davie met with the OLP's Nils Dittmer to draft a constitution for the Federation of Red Meat Producers of South Africa. Mr Davie's proposals – that all decisions should be subject to consensus and that the constitution should state that the Federation is opposed to compulsory levies on meat sales – were adopted at a meeting of the Federation on 25 November 1997.
- On 27 November 1997 Terry Markman and Leon Louw met with Tony Frost of Lonrho to discuss the work of the FMF and *EFW* findings. They discussed especially labour issues in South Africa.

- Temba Nolutshungu attended the Parliamentary Portfolio Committee on Labour hearings regarding the *Basic Conditions of Employment Bill* on 27 November 1997.
- Temba Nolutshungu met with the SAIRR's Parliamentary Liaison Officer Martin Schontech on 3 December 1997 to discuss strategy regarding laws affecting small business.
- Leon Louw met with representatives of the Safe Water Association on 4 December 1997 re fluoridation policy.
- Terry Markman met with Ronnie Seeber of Motorola on 9 December 1997 to discuss liberalising telecommunications.
- Temba Nolutshungu met with Frank Lighton, labour consultant and FIBASA Director to discuss strategy regarding laws affecting small business on 10 December 1997.
- On 10 December 1997 Terry Markman met with Rod Frew of Summercon and Ian Robinson of BIFSA, amongst others, to discuss strategies to oppose the *National Home Builders Registration Council Bill* (see Second Report, 2.1).
- Temba Nolutshungu met with SALSA representatives on 20 December 1997 to brainstorm strategy regarding the liberalisation of South Africa.
- Temba Nolutshungu and Terry Markman met with Lonrho's Tony Frost on 21 January 1998 to discuss labour policy and the formation of a FMF focus team.
- Temba Nolutshungu and Leon Louw met with Elliot Schwartz of SBBW on 23 January 1998 to discuss the marketing of free market ideas.
- On 23 January 1998 Terry Markman, Eustace Davie, Temba Nolutshungu and Leon Louw met with Rod Frew of Summercon, Mike MacFarlane and Uwe Sturmman of FNS to discuss strategies to oppose the *National Home Builders Registration Council Bill* (see Second Report, 2.1). Terry Markman met with Rod Frew of Summercon again on 30 January 1998.
- Terry Markman attended SACOB's transport subcommittee meeting on 27 January 1998.
- Temba Nolutshungu met with Bill Mylrea, a retired businessman, on 28 January 1998 to discuss the work of the FMF and *EFW* findings with a view to his supporting the *Advocacy Project*.
- On 2 February 1998 Eustace Davie had a telephonic discussion with the OLP's Nils Dittmer regarding a Meat Forum meeting and strategies to achieve OLP objectives.
- Temba Nolutshungu met with Cindy Skepu, a researcher for the Institute of Development and Labour Law at UCT on 9 February 1998 regarding the *Basic Conditions of Employment Bill* and the *Employment Equity Bill*.
- Temba Nolutshungu met with MANCO and FIBASA representatives on 10 February 1998 to discuss the *Employment Equity Bill* and with Frank Lighton of FIBASA on 12 February 1998 to discuss the same bill.
- Leon Louw met with leading industrialist Mervyn King on 16 February 1998 regarding a strategy to review new and proposed legislation and promote reform of existing legislation. Mr King serves on numerous government bodies including the Financial Services Board.
- On 17 February 1998 Temba Nolutshungu met with Motorola's Government Relations Manager, Ronnie Seeber, to discuss the liberalisation of telecommunications.
- Temba Nolutshungu met with EBF representatives on 23 February 1998 to discuss the *Employment Equity Bill*.
- Leon Louw attended a FXI executive committee meeting on 3 March 1998. Another FXI executive committee meeting was held on 14 April 1998.
- Leon Louw met with Makana Shabalala of the Soweto Chamber of Commerce on 4 March 1998 regarding African business development and economic policy.
- On 4 March 1998 Leon Louw met with Prof Clive Napier, Department of Political Science, UNISA, to discuss the economic policy implications of the constitution and the extent to which it can be used to maintain a market economy.
- On 4 March 1998 Temba Nolutshungu met with Howard Wallack (CIPE) to do a report-back on the project.

- On 6 March 1998 Leon Louw, Eustace Davie, Terry Markman met with Howard Wallack (CIPE) to do a report-back on the project.
- On 9 March 1998 Eustace Davie met with Prof Themba Sono to discuss Sono's speech to the KwaZulu-Natal free market trade unions (see Attachment 6, enclosed).
- On 10 March 1998 Leon Louw met with attorney Gary Moore and Ian Hetherington of the NIC to discuss strategy to prevent the reintroduction of restrictive licensing in the Northern Province.
- On 12 March 1998 Leon Louw met with Uwe Sturmann of the FNS to discuss the creation of the BEDOSA website for southern Africa. This website aims to provide links between business and policy organisations in Southern Africa.
- Eustace Davie met with OLP Chairman Nils Dittmer on 16 March 1998 regarding the promotion of the consensus principle within the Meat Forum.
- Leon Louw met with activist Mark Thomas on 17 March 1998 regarding tax policy and reform.
- On 23 March 1998 Eustace Davie met with OLP Chairman Nils Dittmer regarding the prevention of the reintroduction of compulsory levies on agricultural products.
- Leon Louw met with Michael O'Dowd (FMF Chairman) on 27 March 1998 to discuss and crystallise general aspects of economic policy and political developments in SA.
- Leon Louw met with Michael Savage from the Open Society Foundation on 30 March 1998 to discuss laws affecting small business.
- On 30 March 1998 Temba Nolutshungu and Terry Markman met with Geoff Richardson of Nedcor to discuss the work of the FMF and *EFW* findings.
- On 31 March 1998 Temba Nolutshungu and Terry Markman met with Martin Spring of Prescon to discuss the work of the FMF and *EFW* findings.
- Terry Markman and Temba Nolutshungu met with Dunbar Bucknall of SAB on 1 April 1998 to discuss the FMF's work and strategies to promote better economic policies.
- On 4 April 1998 Leon Louw met with political analyst Anna Starcke as well as media and business representatives to discuss economic policy issues.
- On 15 April 1998 Temba Nolutshungu met with K Pienaar of Pepkor to discuss the work of the FMF and *EFW* findings.
- On 22 April 1998 Leon Louw and Terry Markman met with Charles Talbot of Stocks & Stocks to discuss the work of the FMF and *EFW* findings.
- Leon Louw and Temba Nolutshungu met with Conrad Strauss of Standard Bank on 22 April 1998 to review the FMF's strategy regarding economic and political issues.
- On 24 April 1998 Leon Louw and Temba Nolutshungu met with Peter van Hoven of Comair to discuss the work of the FMF and *EFW* findings.
- Leon Louw met with IBM legal advisors John Franklin and Jim McEwan on 6 May 1998 regarding law reform strategy.
- On 13 May 1998 Temba Nolutshungu met with A van Geusau, Company Secretary, Southern Life, to discuss the work of the FMF and *EFW* findings.
- On 20 May 1998 Leon Louw and Terry Markman met with Leon van der Bijl of Persetel Q Data to discuss the work of the FMF and *EFW* findings.
- Temba Nolutshungu and three FMF Cape Regional Council members counted ballots for the UDM's provincial leader election on 30 May 1998.

5.8 Dissemination

- Copies of the *Tax Freedom Day* articles were distributed to 1 400 people on the FMF mail list.
- Copies of Cipe's *Economic Reform Today* were distributed to 500 parliamentarians and government officials.
- Leon Louw's *Housing delivery* paper was disseminated to approximately 500 government officials and 1 325 FMF members during this quarter.
- Duncan Reekie's *Industrial policy: A critique* was disseminated to approximately 500 government officials, 30 academics and 280 FMF members during this quarter.

- *FMF News November 1997* contained a comment on the *Basic Conditions of Employment Bill*. This was mailed to 1 325 people on the FMF mail. (Enclosed.)
- Thirty-five copies of the *South African Journal of Economics*, containing an article on long-term insurance, was disseminated to politicians and top decision-makers in *January 1998* (enclosed).
- 500 copies of each of the five booklets (ie 2 500 copies) in the *Laws Affecting Small Business* series (Land, Labour, Justice, Licensing and Finance) were distributed to members of parliament in May 1998. (See Fourth Report, 5.4.)
- Copies of *The Wisdom of Ludwig von Mises*, containing extracts from *Human Action*, were disseminated to 500 government officials during May 1998. (Enclosed.)
- 12 copies of *Comprehending Karl Marx* by Frank Vorhies were sent to selected university libraries in May 1998.

For your information

- The following evidence was led since Report 5 of the previous CIPE/FMF project:
 - ⇒ Written evidence was submitted to the Tax Commission on *19 November 1996* (see Attachment 5, p 35).

- The following media coverage was received since Report 5 of the previous CIPE/FMF project:
 - ⇒ The *Financial Mail's* article *Counting the costs and the benefits of sizing down* quoted Leon Louw on *11 October 1996*.
 - ⇒ The Free Market Foundation was mentioned as having given Louise Tager an award for promoting the cause of free enterprise in an article entitled *Paying the wrong salaries to the wrong people* which appeared in the *Financial Mail* on *11 October 1996*.
 - ⇒ On *4 November 1996* a paragraph headed *Editor wins award* referring to Nigel Bruce and the FMF Award appeared in *Business Day*.
 - ⇒ Eustace Davie's article *The secret of sustained growth* was published in the *Star Business Report* and related papers on *14 November 1996*.
 - ⇒ Also on *14 November 1996* an article, *Nigel Bruce to edit rival Finance Week*, which appeared in the *Natal Daily News*, contained a reference to Bruce winning the FMF Award.
 - ⇒ Eustace Davie was quoted in an article called *Hanekom accused of 'discrimination'* which was published in *Business Day* on *10 December 1996*.
 - ⇒ On *31 January 1997* an article by Eustace Davie entitled *Bank drowns us in a sea of feeble money* was printed in the *Cape Times* and related papers.

Attachment 1

Outline of evidence led to the Parliamentary Portfolio Committee on Mineral and Energy Affairs on 16 April 1997

I Fuel

Enabling environment

- Government policy must facilitate entry into the industry
- Employment opportunities must be created
- Legislative, fiscal and regulatory encumbrances must be alleviated or repealed
- SMMEs must be given the opportunity to participate in the industry
- One pump service providers should be allowed to operate in remote areas

Subsidisation

- Subsidisation of fuel production should be discontinued

Oil importation

- Procurement of crude oil to be entirely at industry's discretion with refiners retaining freedom to import
- Import of refined petrol to be allowed

Strategic stock management

- Strategic stocks should be sold off and the holding of stocks should become the responsibility of private companies

Oil and gas exploration

- Oil and gas exploration should be privatised

Pricing

- Pricing should be determined, as in other industries, by unhindered interaction between producers and consumers (essentially supply and demand)

The rationalisation plan

- The ratplan should be abolished as it restricts the number of participants at retail level
- Concern that hypermarkets might crowd out small operators should not lead to the protection of vested interests and should never be an influential factor when considering this vexed issue
- Consumer and SMME interests should be an important consideration

Deregulation /restructuring/ and labour concerns

- Jobs lost will be counter-balanced by new SMME and employment opportunities
- Increased competition will lead to lower prices for consumers
- Producer savings will be invested in increased production whilst consumer savings will be saved or spent on other goods
- All artificial barriers to entry must be removed

II Minerals

Costs of regulations

- Demanding health and safety regulations place high costs on mining enterprises
- Consideration should be given to exemptions for small mines from regulations that are designed for large mining companies
- Mining should be accessible to new entrants, especially those from the disadvantaged communities

Attendees

14 attendees

Attachment 2

Note: More than a decade ago, Nobel laureate Milton Friedman and Michael Walker, the President of Canada's Fraser Institute, organised a series of conferences with the objective of clearly defining and measuring economic freedom. The conferences led to the formation of the Economic Freedom Network, an organisation that now comprises research institutes in 47 countries, including the Free Market Foundation of Southern Africa.

In 1996 the EFN published *Economic Freedom of the World 1975 - 1995* and on May 27 this year released *Economic Freedom of the World 1997 – Annual Report*. Over 100 countries are rated according to an Index of Economic Freedom. Factors measured are money and inflation; government operations and regulations; takings and discriminatory taxation; and international exchange. The figures show a direct correlation between levels of economic freedom and growth.

The findings contained in these two books are used extensively in evidence to Parliamentary Committees, presentations to politicians, business people and other groups, and in articles written by the Free Market Foundation.

ECONOMIC FREEDOM OF THE WORLD (Original publication 1996 and Annual Report 1997)

EXECUTIVE SUMMARY

History and nature of the index of economic freedom

Development of the index

The index took 10 years to develop and was constructed with advice from 61 experts world-wide, including Nobel Laureates Milton Friedman, Gary Becker and Douglass North. The purpose of the index, which presently covers the two decades from 1975 to 1995, is to provide an accurate measure of differences in freedom over time and across countries. Greater or lesser degrees of economic freedom, as well as changes over time, can then be related to the economic performance of the countries. Evidence gathered so far shows incontrovertibly that increased economic freedom brings higher per capita incomes and economic growth whilst reductions in economic freedom result in lower per capita incomes and shrinking economies.

Number of countries surveyed

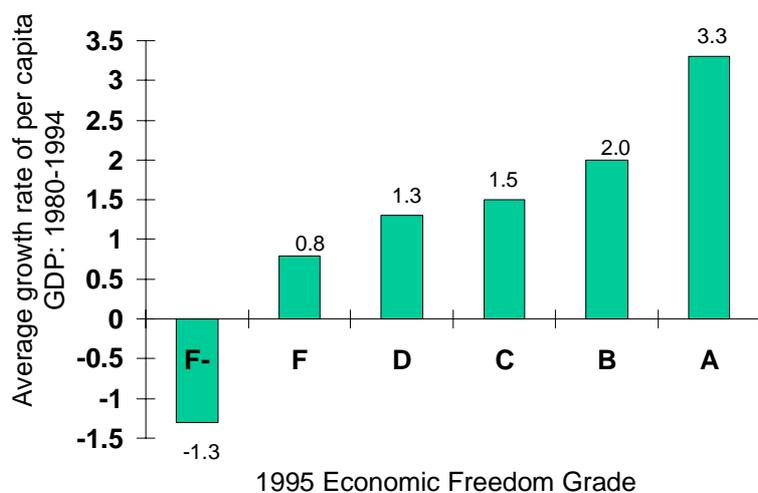
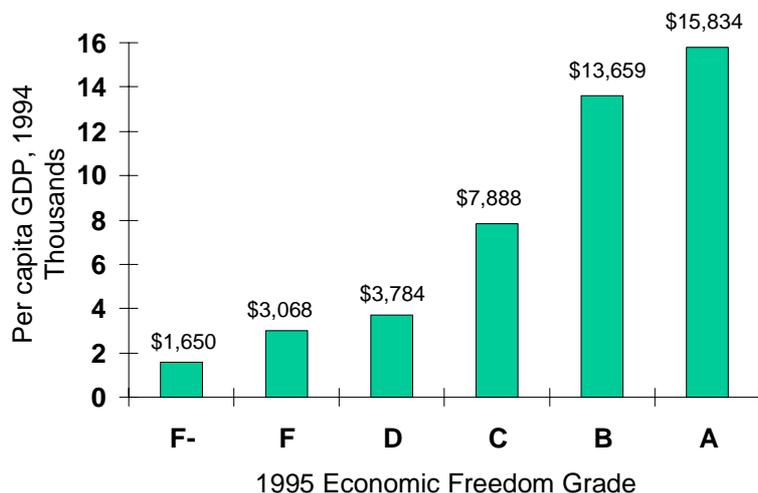
115 countries have now been surveyed and are ranked according to an index compiled from 17 separate measurable components. The measures are objective and can be updated regularly. South Africa is ranked joint 50th with Barbados. Detailed information is supplied on 81 countries for the 17 components making up the index measured at 5 year intervals, commencing in 1975 and ending in 1995. Also supplied in respect of those countries is aggregate GDP, per capita GDP, inflation rates, growth in money supply, government expenditure/GDP ratios, general government budget deficits, unemployment rates, and more, for every year from 1988 to 1996. This data can be compared across countries in judging the relative performance of governments, central banks and economies.

Definition of economic freedom used in choice of components

The central elements of economic freedom are personal choice, freedom of exchange and protection of private property.

Correlation between economic freedom, incomes and growth

Countries with the highest levels of economic freedom tend to have the highest per capita GDPs and high growth rates, whilst those with the largest increases in economic freedom have achieved especially high growth rates.



(All 102 countries included in the study - A group most free - F group least free)

Using the EFW rating as an investment indicator

Sustained increases in economic freedom are followed by sustained growth (Argentina, Chile, Iceland, Japan, Malaysia, Mauritius, New Zealand, Norway, Portugal, Singapore, South Korea and Turkey). Decreases in economic freedom have been followed by economic contraction (Cameroon, Honduras, Iran, Nicaragua, Tanzania and Zaire). The index indicates that the first-named countries are worth investigating by investors whilst the latter should be avoided. Significant changes in the direction of economic freedom ratings provide an early warning of future growth trends.

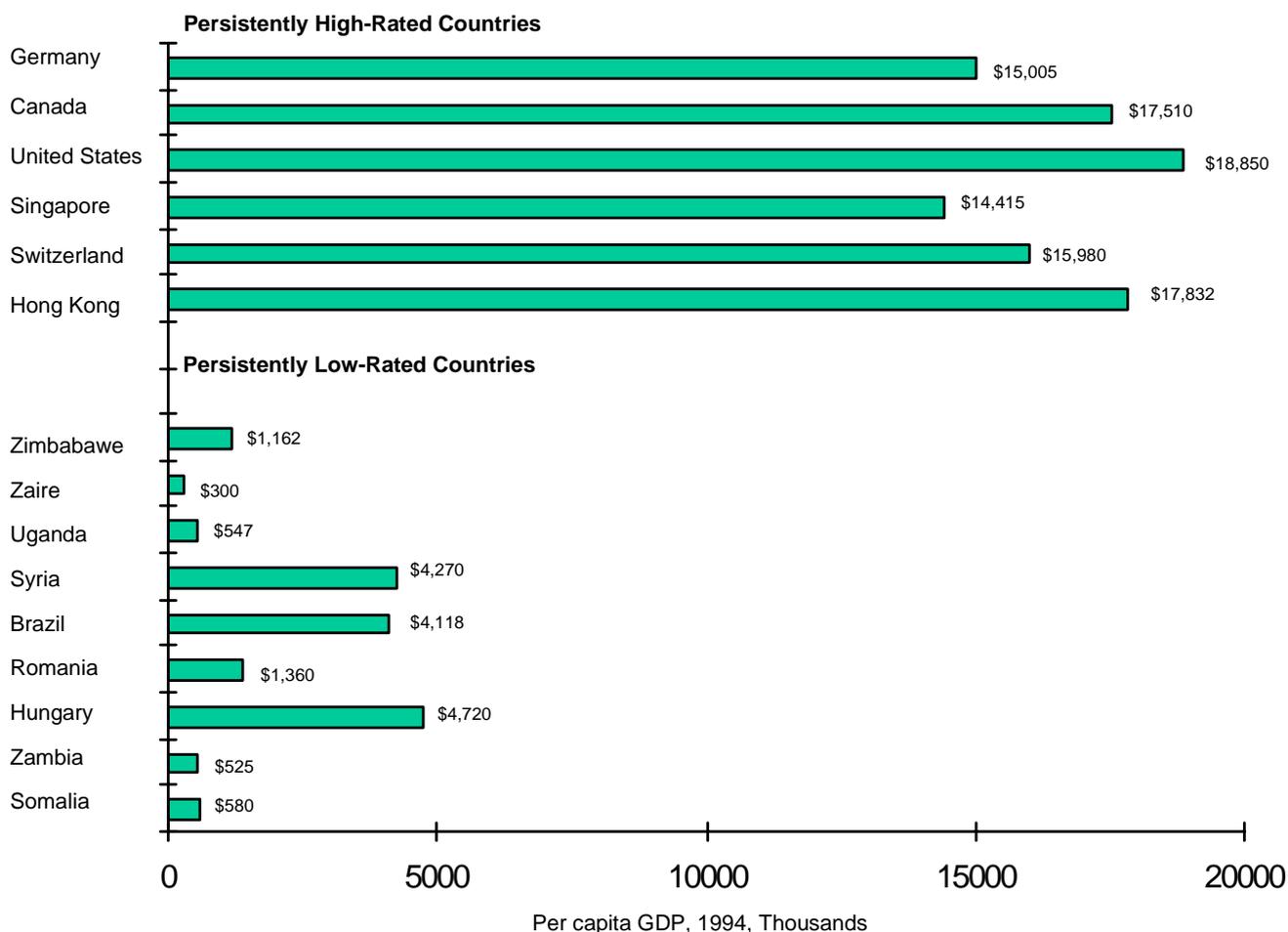
If the index becomes widely accepted, which early responses to the publication make very likely, it will have an increasing influence on international investment. The phenomenon of wealthy countries attracting the most foreign investment, and becoming even wealthier, will be accentuated. Unfree countries that move rapidly towards greater economic freedom could, however, be even

more attractive to investors than relatively free countries whose index ratings remains static. The seven less developed countries (Chile, Jamaica, Mauritius, Pakistan, Portugal, Singapore and Turkey) which achieved the largest increases in economic freedom between 1975 and 1985, and maintained the increases into the 1990s grew at an annual rate of 3.9% during the period 1985-1994.

Graphs showing results of the study

Income levels of persistently high-rated and low-rated countries

Income levels of persistently high-rated countries are higher than average whilst the income levels in persistently low-rated countries are lower than average. Governments wishing to improve conditions for their people are therefore provided with excellent guidelines on how higher economic growth can be achieved. Naturally, improvements will not occur overnight. Policy reforms take time to have an effect. An important factor is that citizens need the assurance that increased freedoms will not be summarily reversed before they will embark with confidence on new enterprises.

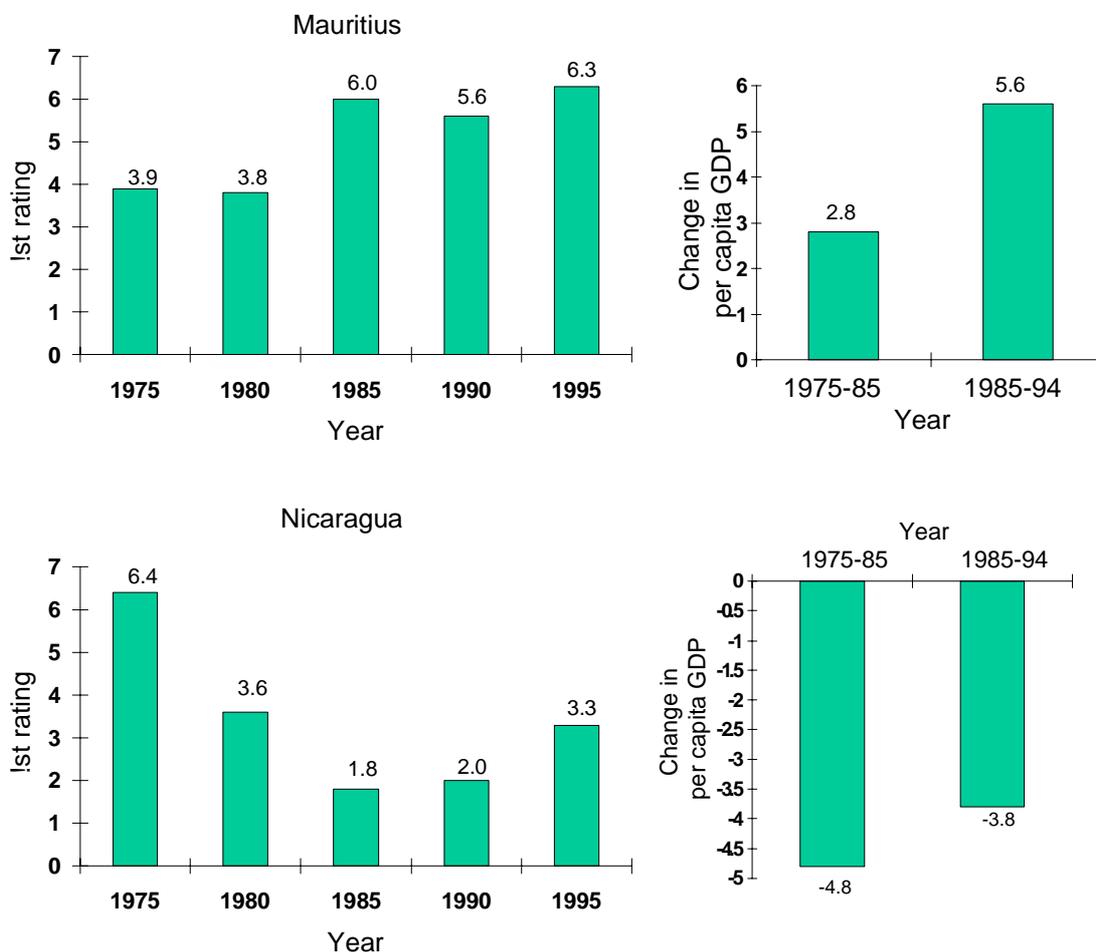


Changes in ratings and the effect on growth

Growth rates increased in less-developed economies that became more free whilst there was shrinking in the economies of the countries that became less free during 1975-1995. Countries showing the largest declines between 1975 and 1990 were Nicaragua, Somalia, Iran, Honduras, Venezuela, Congo, Zambia and Tanzania.

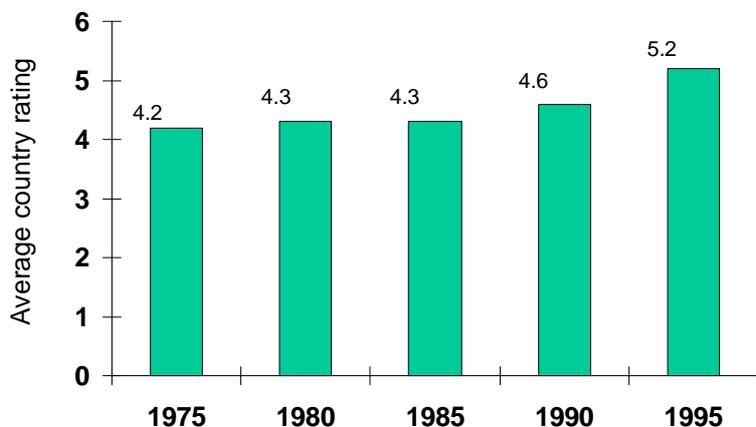
Nicaragua, which showed the largest decline, had an annual money supply growth rate that increased from 12% to 2000%, introduced price controls, increased government consumption expenditure as a percentage of GDP from 9.1% to over 30%, increased tax rates and maintained rigid exchange controls. Per capita incomes declined from \$2,531 in 1975 to \$1,165 in 1994. The erosion of economic freedom in Nicaragua provides an example of what governments should not do.

Graphs for Mauritius and Nicaragua are included to show how increases and decreases in economic freedom affect the growth rates of economies. Mauritius increased its freedom rating from 3.9 to 6.3 between 1975 and 1995 and its average growth rate to 5.6%, whilst Nicaragua's rating changed from the 6.4 of a relatively free country to 3.3 over the same period. The latter country has suffered a decline in GDP averaging above 4% per annum over the 20 year period.

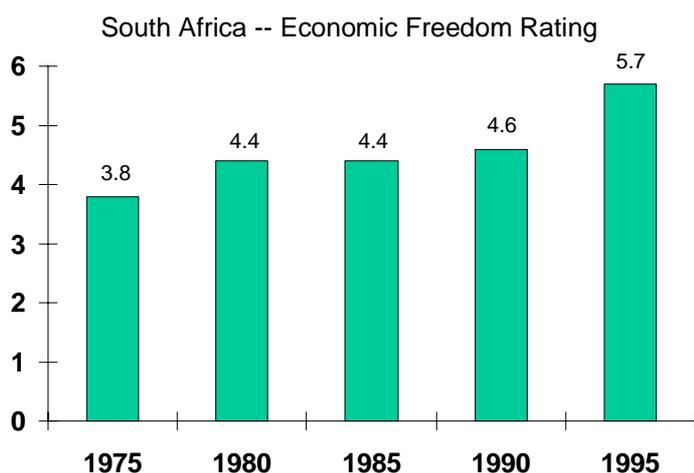


Trend towards greater economic freedom world-wide

The average country rating shows that there is an overall trend towards greater economic freedom world-wide. The improvement in the past 5 years indicates that economic freedom increased by more than 10%.



South Africa's most recent evaluation in terms of the factors making up the 1995 freedom index (ratings are from 0 to 10)



Factors

The 17 factors on which the calculation of the freedom rating is based are discussed below, including comment on South Africa's rating in each instance. The order and references are as they appear in the book.

I. Money and inflation

- Annual money growth (last 5 years) - 15.0% growth - down from 17.7% in 1990 - the rating improved from 2 to 3 but continued high inflation is severely damaging the economy.
- Inflation variability (last 5 years) - % standard deviation 1.7% - increased from 0.9% - the rating decreased from 10 to 9. (The authors explain that if the inflation rate is relatively high but stable, economic calculation is more meaningful than when there are wild swings in the inflation rate.)
- Ownership of foreign currency - rating 0.
- Maintenance of bank account abroad - rating 0.

(For (c) and (d) the rating is either 0 or 10 as residents can or cannot own foreign currencies or maintain bank accounts abroad - the restrictions contained in South Africa's newest regulations will mean that South Africa will continue to have a poor rating until the controls

are totally abolished. Abolition of foreign exchange controls and capital movements would make a significant difference to the economic freedom of residents and would move South Africa's Economic Freedom Index rating from its present 5.7 to above 6.0 (competing on the economic freedom scale with Argentina and Chile).

II. Government operation

- (a) Government consumption (% of total consumption) - reduced slightly to 25.2% from 26.1% in 1990 - rating 2.0. (South Africa rates very badly in this category. Expenditure is at the same level as industrialised countries with high levels of welfare spending.)
- (b) Government enterprises - rating static at 4 over the past 20 years. This will improve as privatisation occurs.
- (c) Price controls - rating 6. (This rating was moved from 4 to 6 based on information supplied by the FMF. As far as we could establish price controls are maintained over petrol, paraffin and wages.)
- (d) Entry into business - rating 7.5. (This rating was changed from 5.0 to 7.5. Whilst much remains to be done to free up business even further, a World Bank study found that South Africa is comparatively free of entry barriers except the regulations preventing competition with state monopoly industries.)
- (e) Legal system - rating 7.5. (The question asked here is: "Are citizens equal under the law, do they have access to an independent, non-discriminatory judiciary, and are they respected by the security forces.")
- (f) Avoidance of negative interest rates - rating 10. (The prevalent complaint is that the interest rate differential is excessive.)

III. Takings

- (a) Transfers and subsidies (% of GDP) - 5.3% of GDP - rating 6. (South Africa has a better rating for this factor than the industrialised countries.)
- (b) Marginal tax rates (top rate) - rating 4. (Some government Ministers do not appear to realise how important tax rates are in making a country either attractive or unattractive to both potential foreign investors and their own citizens. The marginal rate must be reduced from its present level to make investment in South Africa attractive.)
- (c) Conscription - rating 10. (Conscription is indicative of the attitude of government towards its citizens - South Africa moved from a rating of 0 in 1990 to 10 by abolishing conscription in 1994.)

IV. International sector

- (a) Taxes on international trade (average) - 0.6% of aggregate imports plus exports - rating 9. (Recent reductions in import duties have improved this rating from 8 to 9 and the absence of duties on exports assists in giving South Africa a good rating.)
- (b) Black market exchange rates - rating 10. (Gradual relaxation of exchange control regulations has eliminated the black market in currencies.)
- (c) Size of trade sector (% of GDP) - rating 6. (The authors calculated the "expected" size of the trade sector, taking into account factors such as geographic area, population and distances to export markets, and compared that to the actual size.)
- (d) Capital transactions with foreigners - rating 2. (All capital transactions are subject to approval by the Reserve Bank. Removal of controls will increase this rating to 10.)

South Africa's overall rating

South Africa's rating has improved from 4.6 in 1990 to 5.7 in 1995, which makes it one of the select countries to have improved its rating by more than one rating point. It is therefore not surprising that four years of aggregate positive growth have been experienced.

Unfortunately the growth rate has not been high enough to improve average per capita incomes as the economic growth has not exceeded the population growth rate. Solving the problem of declining per capita incomes requires higher economic growth rather than population control. Malaysia's population is growing at a faster rate than South Africa's but their per capita incomes are growing rapidly because they have a very high growth economy.

High levels of inflation, excessive government consumption expenditure, large state industries, exchange controls, and high taxes appear to be the matters requiring special attention if South Africa is to further improve its economic freedom rating. As the analysis shows, a concerted effort to increase economic freedom leads to the most immediate increases in per capita incomes.

The effects of inflation on growth

Special attention is given in this summary to the problem of inflation because consistently low inflation leads to economic growth. Initially, when the rate of increase in the money supply is reduced, growth declines and unemployment increases as relative prices adjust to lower money supply growth. But if inflation stays low and consistent, all other things being equal, solid economic growth occurs and unemployment declines.

The economic contraction that initially follows a cessation or reduction in inflation is well known. Professor Ludwig von Mises explained that businesses relying for their survival on continued inflation, will fail when inflation slows down or stops. South Africans have become so inured to high inflation that few realise that this phenomenon also occurs in low-inflation countries that allow their inflation rates to escalate by as little as 2% or 3%.

The UK inflation rate (CPI), for instance, for the years 1987 to 1990 was 4.1%, 4.9%, 7.8% and 7.5% respectively. A recession followed when the money supply was once again brought under control. Aggregate changes in the real GDP for the years 1990 to 1992 were 0.4%, -2.2% and -0.6%. Governments and central banks are increasingly, and appropriately, being held responsible for recessions and the hardship they cause (such as the unemployment rate in the UK increasing from 6.9% in 1990 to 10.4% in 1993). Monetary authorities cause general price increases (inflation) by printing money, follow this with high interest rates to curb credit whilst often, inexplicably, continuing to print money.

Canada presents an example of an economy that has not done much more over the past 20 years (in terms of the Index) than reduce inflation from a 5% level to under 2% in 1992 and 1993 and 0.6% in 1994 and yet the real GDP growth was 5.6% in 1994. On the basis of the Ludwig von Mises approach, non-inflationary growth is worth a great deal more than similar rates of growth under inflationary conditions.

Countries that have maintained low inflation rates - some only for the last few years - others over longer periods - and have shown considerably improved or satisfactorily consistent growth rates, are Australia, Austria, Belgium, Canada, Denmark, Germany, Japan, Malaysia, Netherlands, New Zealand, Norway, Singapore, Taiwan, Thailand, United Kingdom and United States. Some low-inflation countries, such as the UK and USA have paid the price exacted by short periods of currency inflation, but the trend is clear - keeping inflation consistently low is the route to sustained economic growth.

Where inflation is consistently high, all the figures become suspect and claims of economic growth under such circumstances should be treated with suspicion. Following Mises' reasoning, a large proportion of such "growth" is not real but what he described as "malinvestment".

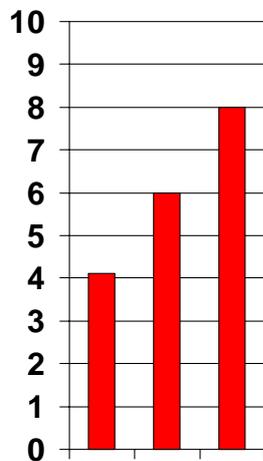
Under conditions of zero inflation (ie where prices are as likely to decline as they are to increase), price changes result from supply\demand changes and not from money inflation. Under such conditions real growth occurs, and if the economy is free, there is no reason why periods of rapid growth should be followed by recessions. Sustained economic growth over long periods of time is therefore theoretically possible as long as there is no inflation. And as Milton Friedman pointed out during his 1976 visit to South Africa:

There is no inflation in history which has not been preceded by a rapid increase in the quantity of money per unit of output. There is no case that I know of in which you had a rapid increase in the quantity of money relative to output without inflation.

Unemployment, inflation and growth

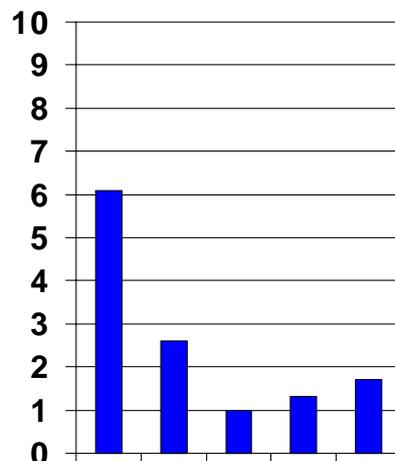
Evidence over the 20 year period covered by the study is that unemployment declines when inflation is consistently low. When monetary discipline is exercised after a period of relatively high inflation, unemployment first increases as the economy shakes out the "malinvestments" which occurred as a result of the inflation. Once real growth recommences the unemployed are absorbed by more secure jobs. Economies with consistently low inflation do not suffer from periods of boom and bust which are the primary cause of alternate rapid decreases and increases in unemployment rates.

NEW ZEALAND



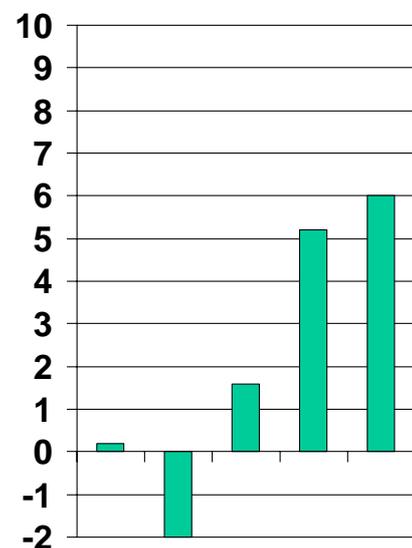
'85 '90 '95

Freedom rating



'90 '91 '92 '93 '94

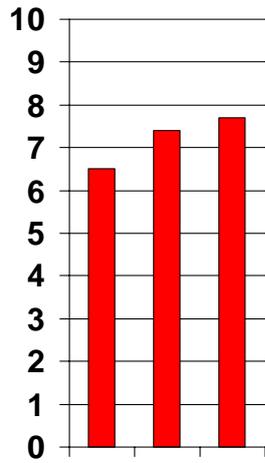
Inflation



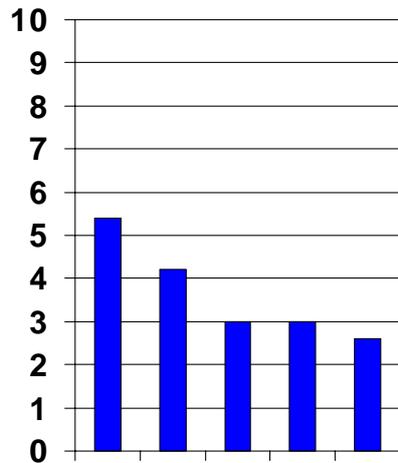
'90 '91 '92 '93 '94

Change in real GDP

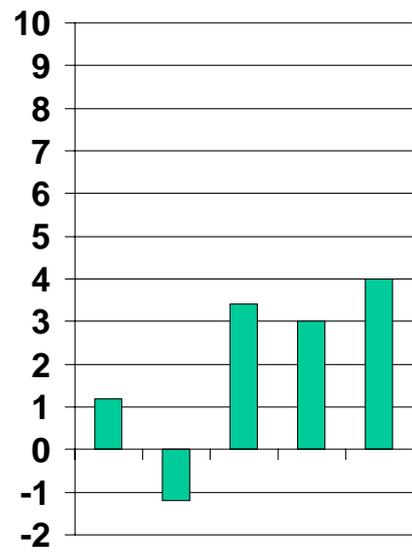
USA



'85 '90 '95
Freedom rating

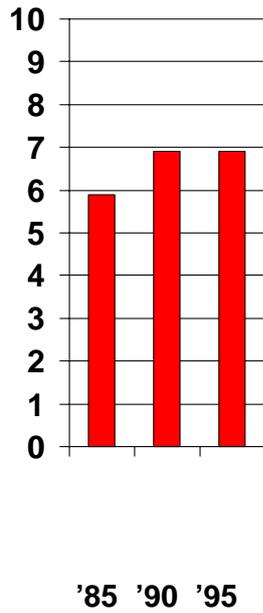


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Inflation

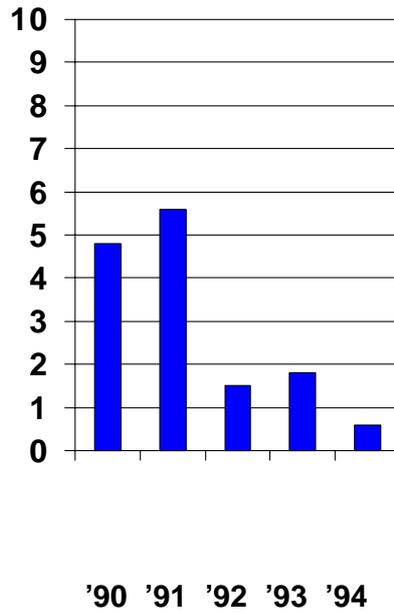


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Change in real GDP

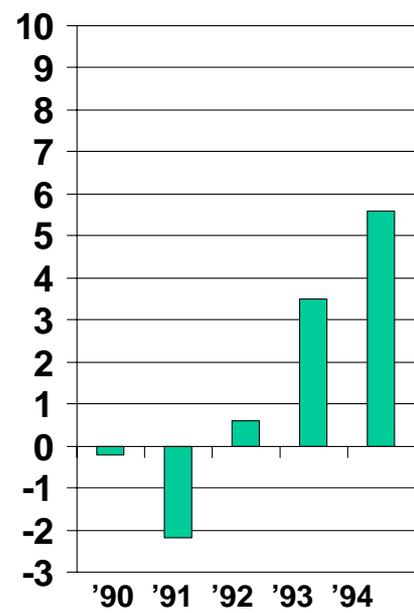
CANADA



Freedom rating

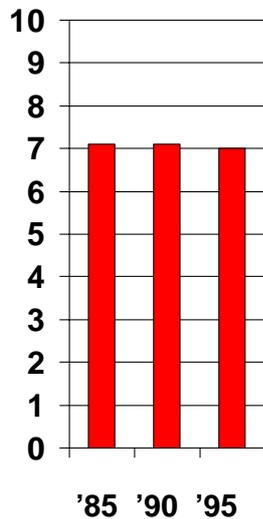


Inflation

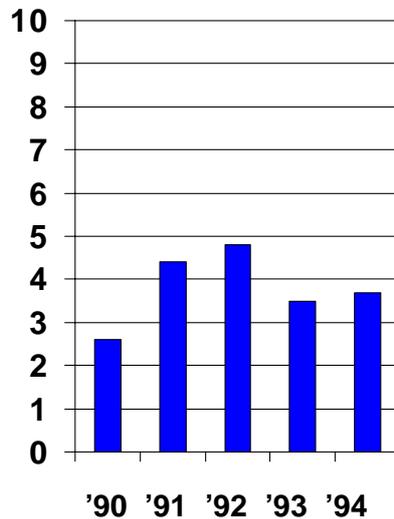


Change in real GDP

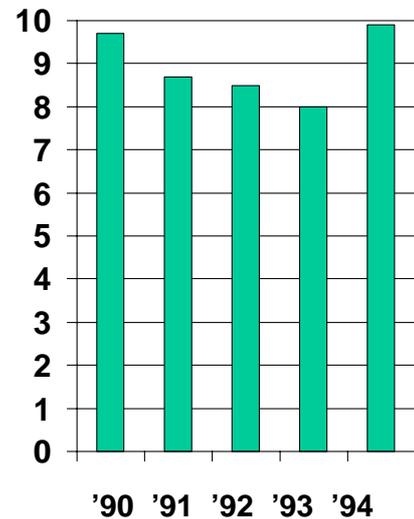
MALAYSIA



Freedom rating

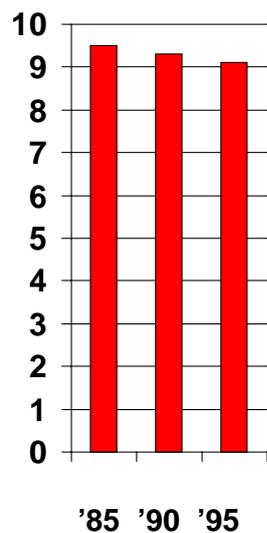


Inflation

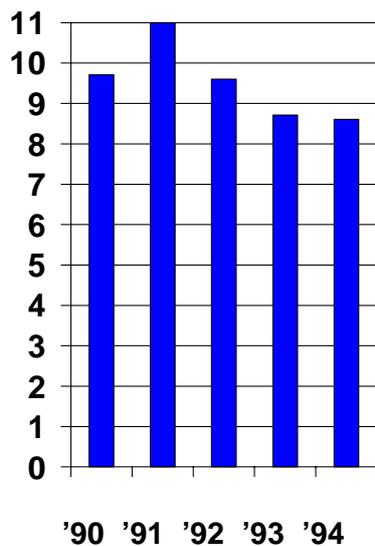


Change in real GDP

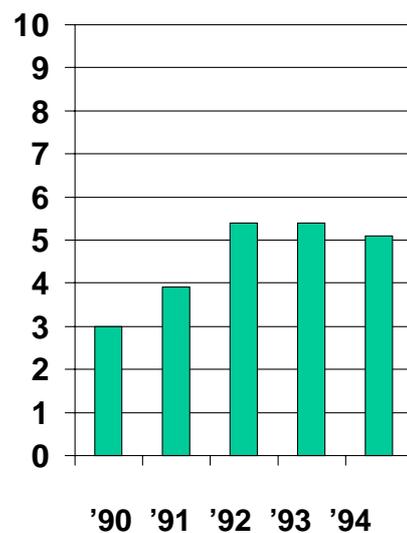
HONG KONG



Freedom rating

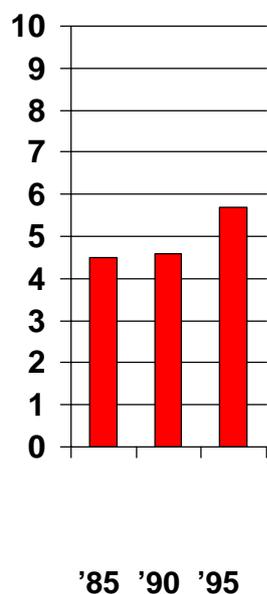


Inflation

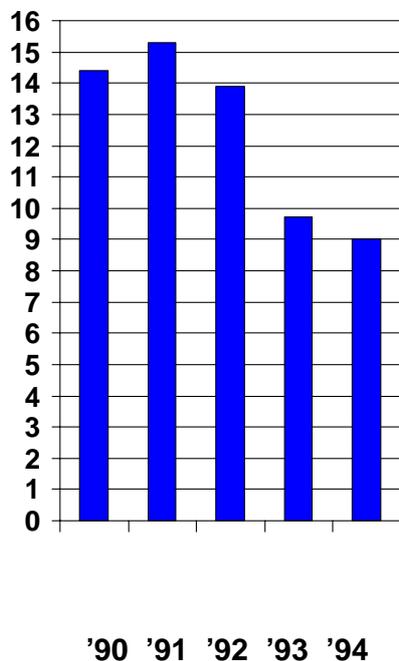


Change in real GDP

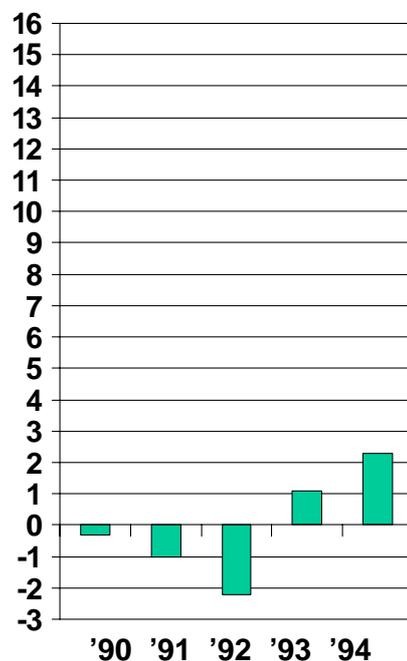
SOUTH AFRICA



Freedom rating

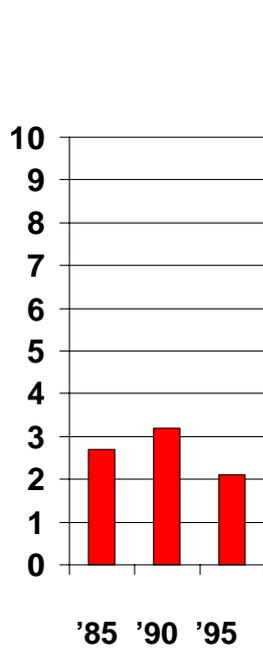


Inflation

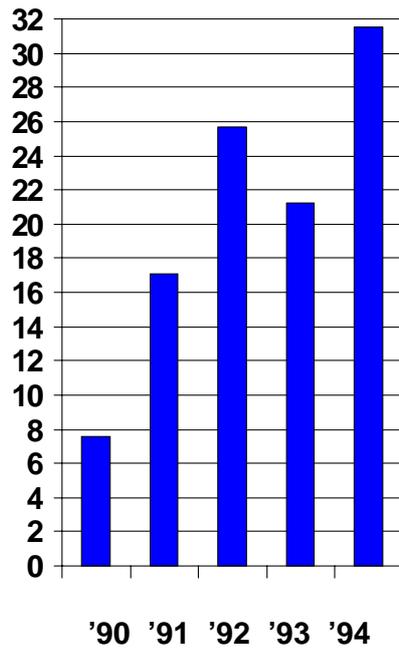


Change in real GDP

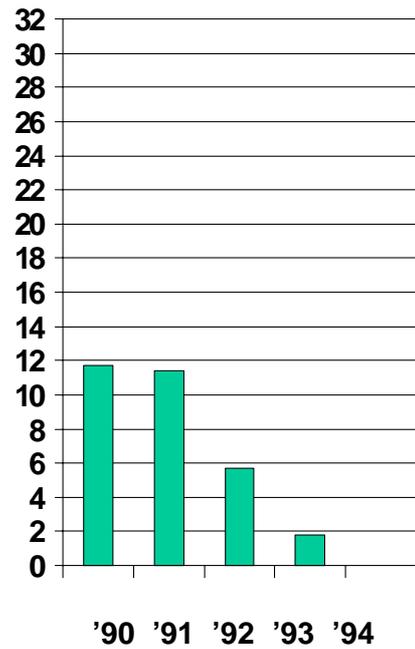
IRAN



Freedom rating

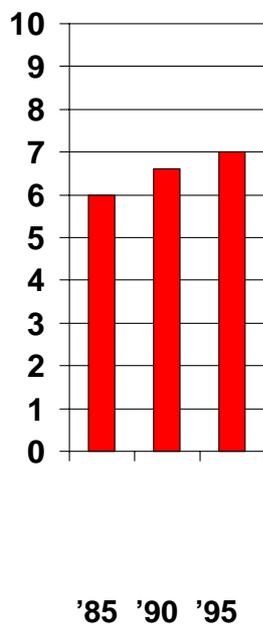


Inflation

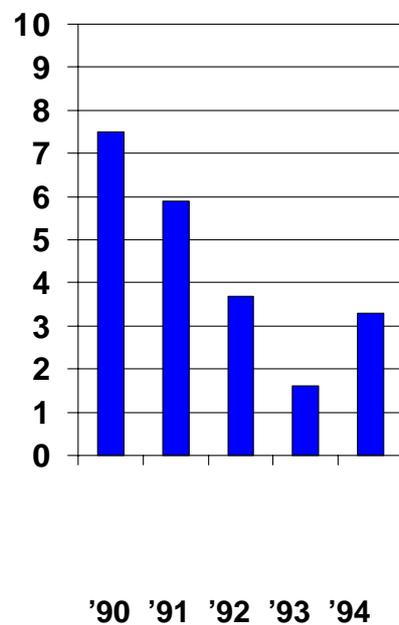


Change in real GDP

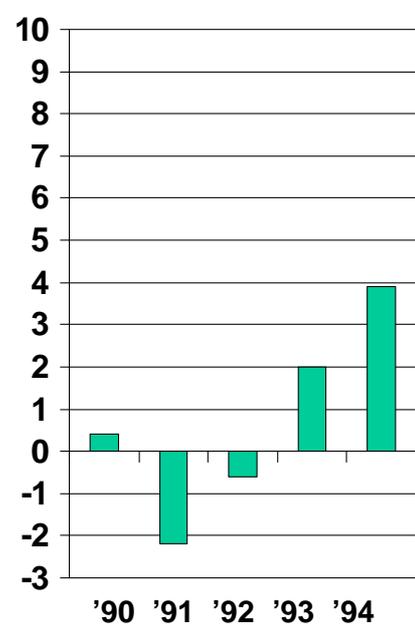
UNITED KINGDOM



Freedom rating



Inflation



Change in real GDP

Attendees

Western Cape DTI Economic Affairs members - 10 attendees

Public Works Portfolio Committee - 15 attendees

Mineral and Energy Portfolio Committee - 13 attendees

DP Caucus - 12 attendees

ACDP Caucus - 4 attendees

FF Caucus - 8 attendees

Attachment 3

Mont Pelerin Society

Leon Louw attended the fiftieth anniversary of the prestigious Mont Pelerin Society at a special gathering in Mont Pelerin, Switzerland (April 9 - 12 1997).

The most memorable parts of the meeting were, predictably, historical reflections on the Society's origins and history by its longest-standing members. The formal papers, mostly by the Society's luminaries from around the world addressed the general theme of "Old and New Threats to Liberty".

Milton Friedman, the only founding member to attend the meeting, and one of the few who is still alive, spoke movingly on the early meetings of a society which was to have, arguably, a more decisive effect on the course of events than any other intellectual organisation in modern times. He mentioned the discomfort that he and other Americans had when they encountered the "Austrian School" of economics which was the dominant influence amongst European, especially Germanic, members.

Another Mont Pelerin Nobel Laureate, James Buchanan, spoke of how unacceptable and arrogant he found the Austrian view. Were it not for the presence of the British "Manchester School" economists at the Cambridge meeting - the second he attended - he would probably not have attended another Mont Pelerin meeting.

Other elder statesmen and women of the society spoke of the critical role it played in introducing them to classical liberal ideas and enabling them to promote these ideas effectively in their own countries. Former president, Manuel Ayau of Guatemala had an extraordinary influence on the climate of opinion in his own country and, more directly, on government policy. He started the famous Francisco Maroquin University, the first private and one of the most influential universities in Latin America.

Former Italian Minister of Foreign Affairs Antonio Martino echoed the sentiments of many others when he spoke of how "lonely" it was (and to a lesser extent remains) to be a classical liberal in a country like Italy. Thanks to his contact with the Society he was able not only to promote respect for individual liberty in Italy amongst academics and the general public, but to become a popular politician.

Other members endorsed the significant role the Society had played globally, in their own countries, and at a personal level. Needless to say, countless intellectual and personal associations had been established through the society.

The formal papers were, for the most part, a disappointment. The historical "Threats to Liberty" were addressed eloquently, effectively and instructively but there was not one reference to new threats to liberty, to such phenomena as radical environmentalism, religious fundamentalism, the tyranny of political correctness or the rise of extreme nationalism which are conspicuously the most significant threats to liberty in the future.

One of the most important issues from our practical point of view was the observation that the intellectual moral and philosophical battle has largely been won by free market and liberal ideas. It is agreed, almost universally even in socialist and communist parties, that "big government" is a cosmic pestilence. The problem alluded to in various papers, most notably that of Michael Joyce, is that there is no consensus on precisely what parts and functions of government ought to be pruned in order to make it smaller. All informed people now agree that governments are destined by their nature to be inefficient, wasteful, corrupt, and invasive of personal liberty. But there is no compelling case yet regarding the specific functions of government that ought to be jettisoned. Consequently governments may not be growing in size and power as before but there is no conclusive evidence that the era of "big government" is at an end. There has been liberalisation and privatisation in almost every country, which explains why indices of economic freedom reflect an improvement in most countries. The sheer size of government, and the amount of the nation's

wealth that it consumes, has continued to grow, albeit at a much reduced rate. This is the battle - the battle in the real world - that has yet to be fought and won.

Much attention was paid to the question of the European Union. Commentators were divided into conspicuous and uncompromising *for* and *against* factions. What was lacking was a dispassionate attempt at a cost-benefit analysis or balance sheet. There were clearly, for Europe, enormous benefits, such as the introduction of effective competition, previously dominated by government-created or protected monopolies. On the other hand the Brussels bureaucracy has become an awesome and intrusive phenomenon. Over-regulation has occurred of aspects of economic and social life that were previously relatively free. The consensus was that the monetary union would have the effect of weakening the German mark and strengthening most other European currencies. The general view regarding the single currency prospect was negative, so much so, that there is fear in Switzerland that the Swiss franc will become so strong that Swiss industry will be hopelessly uncompetitive.

In sessions devoted to such issues as religion, the family, democracy and welfare, compelling arguments were presented to the effect that privately provided welfare and charity is morally and materially superior. In a moving paper by Jennifer Roback-Morse, she presented a powerful case based on economic theory and personal experience to the effect that the state is no substitute for personal caring.

As always there was a conspicuous lack of concern about the nature of and prospects for basic human rights.

The special meeting, with attendance limited to 80 invited delegates, was a victory celebration for the triumph of the society's ideas, globally, historically and, perhaps, finally. It was an opportunity to reflect on the early years during which it seemed to the Society's founding fathers and mothers that those in the opposite corner had triumphed. In 1947 classical liberalism was on the decline and its protagonists were becoming increasingly isolated and irrelevant. Today they reflect the dominant philosophy in most disciplines.

However, the sobering fact that victory in the battle of ideas is far from victory in the arena of public life, and that another more important battle lies ahead, was driven home. That there are important threats to liberty as well as opportunities for it in new global political and economic alignments was also a prominent feature of the meeting. Perhaps the greatest threat to liberty of all is that its protagonists seem to have failed completely to identify or to adjust to the fact that there are new fronts on which the battle for freedom has to be fought. Old policy and ideological battles are still being fought long after the war has been won. The Executive Director is engaging Mont Pelerin Society organisers on this issue.

Copies of selected papers, the programme, and the list of attendees are available on request.

This was a truly momentous and historic meeting. It coincided with one of the greatest paradigm shifts in history and it was important and significant that the Free Market Foundation was represented.

Attachment 4

Notes forming basis of Eustace Davie's oral submission to the Gauteng Provincial Legislature Health Committee
on 3 March 1997:

Principles for sustainable financing of a health system...

- Improved quality of life
- Sound and competitive economy
- Economic freedom and its consequences
- Failures of "free" health care
- Fundamental approach to health-care financing
- Prudent financial management
- Taxpayer funding and private delivery
- Concentrating health budget on the poor

Improved quality of life...

- Enabling environment
- Increased opportunities
- Range of choices
- Independent and self-supporting citizens

Sound and competitive economy...

- High growth
- Low government spending
- Low taxes
- Rule of law
- No barriers to entry
- Low inflation
- Privately-owned economy
- Free trade

Economic freedom and its consequences...

- High per capita incomes
- High growth rates
- Sound currencies
- Private economies
- Minimised government involvement
- Free trade

Failures of "free" health care...

- TANSTAAFL
- Unlimited demand
- Queues regulate delivery
- Perverse incentives for health workers
- Administration swallows funds
- Private services eroded

Fundamental approach to health-care financing...

- Individual responsibility
- Identify problem
- Concentrate taxpayer funds
- Efficiency of spending
- Identifying the needy
- Choice for the poor
- Supply follows demand
- Measuring success

Prudent financial management...

- Risk control
- “Trojan Horse” measures
- HMOs, PPOs etc
- Private health care

Taxpayer funding and private delivery...

- Competitive suppliers
- Divestment
- Interim measures
- Outsourcing

Concentrating health budget on the poor...

- Identifying the needy
- Subsidising the individual
- Right to choose
- Age and sickness

Attendees

There were nine attendees including representatives from NPPHCN, DENCSA, Hospersa, SAHSSO and NEHAWU.

Attachment 5

Outline of proposed evidence submitted to the Tax Commission on 19 November 1996

Evidence on taxation

Formal evidence has not been given on taxation in the past. Reluctance to do so stems from the fact that suggestions are seldom, if ever, implemented in the form in which they are proposed. Sound suggestions are adapted, very often becoming the antithesis of what the proposer had in mind. New single-tax proposals inevitably become additional taxes. Some examples are:

- Professor Friedrich von Hayek, the great free market economist, suggested to Finance Minister Owen Horwood on a visit to South Africa in 1978, that income tax be replaced by sales tax at a permanently low rate in the order of 4%. As inflation increased total tax would increase so it would never be necessary to adjust the rate. Regrettably, we got sales tax *as an extra tax*. It increased over time to 14% and then became the more intrusive VAT. Professor Hayek would turn in his grave if he knew the result of his well-intentioned and economically sound proposal.
- Professor Milton Friedman, another free market economist, working for the US Treasury during the second World War was appalled when higher taxes were proposed to fund the war. As an alternative, he proposed the PAYE system as a *temporary* war measure. The whole world is now stuck with the system and Professor Friedman regrets that he ever thought of it.
- A dedicated tax to fund roads was imposed on fuel. After some years the fund was appropriated for general expenditure. Now a new dedicated fund is being proposed. Taxpayers will be fortunate if the original funding method is restored without additional tax being levied.

Taxation and economic growth

The FMF has decided to ask for a hearing on taxation because of its concern over the state of the economy, the urgent necessity of creating conditions conducive to increased economic growth and the dire results of not absorbing the currently unemployed into the labour force. The FMF has specific views, backed up by research, on policies that will improve economic growth which include views on taxation.

Economic freedom and its consequences

A presentation will be given on *Economic Freedom of the World 1975-1995*.

Case against multitude of taxes and frequent changes

Government is inclined to give insufficient attention to the *effects on the taxpayer* of a multitude of taxes and frequent changes to the system of taxation. Matters that warrant special attention are:

Costs of compliance

Costs of compliance are not factored into the calculations of government on the mistaken assumption that those costs do not affect the total tax the fiscus will receive. This view does not take account of the *vital role played by entrepreneurship in an economy* and the importance of capital accumulation in the hands of entrepreneurs rather than in the hands of administrators, accountants and lawyer.

Interference with forward planning

Projects often take years to formulate and plan. When new taxes are suddenly introduced they impact on planning that has been going forward in the economy. Tax changes are therefore disruptive and damaging to economic growth.

Land tax

Land tax was first put forward by Henry George who believed that this should be the sole source of income of government and that there should be no further takings from citizens. George did not call

it a tax but a rent as he saw government as the custodian of all land. Appropriation of the land rent (land being a finite resource) would supposedly ensure that land would be utilised optimally. Increasing evidence such as the state land rented to ranchers in the USA has shown that the belief was fallacious. As to the proposal that there should be a land tax in South Africa the following should be considered:

1. *Cost of valuations and collection of tax*

A tax on farm and other rural property in South Africa based on value would require the establishment of a huge valuation roll which would have to be regularly updated. Owners would have to be given the right to challenge valuations and the objections would have to be heard by valuation courts. Whilst there will be lots of work for valuers, members of the court, accountants and lawyers, it would be totally unproductive. Add to this the time lost by owners in dealing with the issue. A massive cost will be imposed on farmers and taxpayers for a very dubious return to the fiscus.

2. *Who will pay the farmers costs?*

If all farmers are to pay the tax, their costs will rise in unison and they will endeavour to recover this cost by increasing the price of their produce to the consumer. To the extent that recoverability of those costs is not limited by lower priced imports, they will succeed. This will mean that food costs will be increased by the taxes imposed, much of the cost being borne by the poorest members of society. This cannot be the intention.

3. *Will a tax on land have a “Georgist” effect?*

To the extent that the theory may have any validity (which has been challenged by eminent economists over many years) it certainly will not have the effect if it is just another of many taxes. Georgists argue strongly that land will only be used efficiently if land rent is the *sole source* of income for government. Not unexpectedly, current discussions have moved away from the pure Georgist theory to the idea of simply tacking on a land tax as yet another tax.

Conclusion

The FMF is of the view that all taxes have a negative effect on economic growth. Consequently, if taxes can be maintained at very low levels, higher economic growth will be achieved. The Tax Commission is in the unenviable position of not being able to question the expenditure side of the budget. Yet the reduction of consumption expenditure by government is probably the single most important action required in order to bring about higher economic growth in South Africa. We question whether the Commission would be justified in avoiding the responsibility of expressing their views on the level of consumption expenditure in this country relative to the successful economies of the world. It is surely not expected of the Commission that it should put forward proposals for increasing taxes without considering the consequences of such tax increases.

Attachment 2

Report on Oral Evidence Submitted to the Parliamentary Portfolio Committee on Housing

National Homebuilders Registration Council Bill 18 August 1997

In attendance

Rev M Abraham, IFP
Ms MP Coetzee-Kasper, ANC
Ms B Dlulelane, ANC
Mrs CI Gcina, ANC
Ms NE Hangana, ANC
Mr MT Mafolo, ANC
Mrs M Main, ANC
Rev P Moatshe, ANC
Mr BG Molewa, ANC
Mr GM Mushwana, ANC
Mr MJ Nwedamutswu, ANC
Mr WM Skhosana, ANC
Mrs AF Tambo, ANC
Mr SL Tsenoli, ANC
Mrs MR Turok, ANC
Mr JT Albertyn, NP
Mr MG Masher, NP
Mr AG Mohamed, NP
Mrs KW Nqwameshe, NP

ORGANISATIONS REPRESENTED ON 18/19 AUGUST

African Union Housing Finance
Council of South African Building (COSAB)
Peoples Dialogue and Homeless Peoples Federation
Urban Sector Network (USN)
KwaZulu Natal Midlands United Builders Association
Black Construction Industry
BIFSA (Building Industry Federation of SA)
Housing Consumer Protection Trust

My presentation kicked off with a comment on some aspects of the joint presentation by the Homeless People's Federation and the People's Dialogue alliance I strongly urged the meeting to take cognisance of their input and to scrutinise the bill more especially from their perspective. They were the forgotten heroes who were also creating jobs whilst big players in the industry were downsizing and mechanising.

The main focus of my presentation was for the Bill to be scrapped or as second prize that no statutory status should be conferred on the National Homebuilders Registration Council whatsoever and that the Council could exist as a voluntary association. I dwelt on the fact that in SA the first

world co-existed with the third world and that to impose first world standards on the third world sector would have very costly implications. In the same breath I expressed my reservations about the first world / third world dichotomy as the third world concept has a negative connotation especially in terms of quality. However, I reiterated what had been said by the presenters before me namely that some of the most solid quality houses were built by the people in the unrecorded and small home building sector. The registration council had proved to be a failure with compliance costs that had affected businesses concerned. It did not make any sense to aggravate the situation by institutionalising a proven failure.

I expressed my fear that there was a feeling of *déjà vu* about the Bill in terms of ubiquitous inspectors with vast powers who would be unleashed on the small players in the building industry where jobs were also created. I mentioned also that whilst the government was committed to balancing the budget there were countervailing tendencies and in this case another state bureaucracy was envisaged which would negate the fiscal responsibility that government had committed itself to, the compliance costs for the small builders including the owner builders were horrific. The representative of the Homeless peoples had said that they did their own inspection and they had also said that none of the houses that they were building had structural faults, but that the houses whose walls were collapsing and roofs caving in on people were houses that were built by the government and big contractors. A lively discussion ensued after the chairperson had commented on a thought provoking, stimulating and eloquent presentation which threw a new light on the Bill.

Judging from the questions that were asked it was clear to me that our message had been driven home but that it needed further reinforcement which I started working on in dealing with the questions I cautioned about pandering to vested interests and questioned also the motives of the architects of the Bill. I acknowledged that the Bill had good intentions but that the consequences would be counter productive. At the end of my session the chairperson expressed a hope that I would be available during breaks for further interaction. One member of the Committee asked me to send him a copy of our housing vision/delivery position paper as he felt very strongly about our position

19 August 1997

In furtherance of our position, I attended further presentations and during one of the breaks I spent some time with the two presenters of the morning and suggested to them that they should put more emphasis during question time on the main problem with the Bill which is the registration council proposal. Instead of focussing mostly on the technical amendments that they had proposed. Because, as I pointed out to them, the way that they had presented their case it came across as accepting compromise as a point of departure on the whole issue of statutory powers for the registration council. That tended to have the effect that attention was deflected away from the main bone of contention. My point was accepted and I went on cultivating further some members of the Portfolio Committee.

Attachment 3

Housing Delivery

Introduction

South Africa's housing backlog has no prospect of alleviation within a few years at the current rate of delivery or within the existing policy framework. Housing delivery is far below RDP targets.

This briefing paper suggests additional and adjusted housing policy instruments to accelerate the provision of housing substantially.

These proposals are not utopian and are made in the full recognition that they would lead to housing of standards that would be upgraded when resources permit. What is proposed would have the effect of bringing about immediate and substantial improvements over the status quo. Simultaneously it would be easier, cheaper and more expeditious to bring about subsequent improvements as private and government resources become available.

Site without service

According to the Land Green Paper the government, in all its forms, owns a huge portion of South Africa's land. Land held by central government, parastatals and other quasi-government organisations amounts to about one third of all land. Much or most of this land is defined by the Green Paper as "superfluous".

Superfluous government land is held by various organs of state, notably, the Department of Land Affairs, the Department of Transport and the Department of Works as well as Transnet, municipalities, provincial governments, defence force. Most other organs of state own readily disposable land including forestry, coastal land, wilderness areas, land held by Most other organisations of state

This paper proposes, firstly, the utilisation of superfluous state land for a dramatic and immediate act of empowerment by providing every homeless household with a plot. Under this "one-household-one-plot" policy there would be no need to wait for social and physical infrastructure, services, housing to be financed or built, for costly and time-consuming surveying and deeds registry formalities, or for conflict-provoking land redistribution and land title dispute resolution.

Under this proposal land would be transferred into full and immediate ownership under secure and unambiguous title that can be freely sold mortgaged or let.

The prevailing policy is for land and housing to be made available only after infrastructure, services and/or basic housing can be provided.

What is proposed instead is a site-without-service approach on the basis that people are better off with undeveloped securely held land which they can develop, than with no land or housing at all.

The short-term effect of this policy would be an end to land invasions and sprawling uncontrolled squatter settlements.

The provision of large numbers of plots under this policy entails virtually no budgetary implications. It can be dovetailed easily with existing housing subsidies. There is no need to wait for the processing of housing subsidies.

Assuming a minimum of 32 million hectares of state land, as the Green Paper does, and 8 million households (an average family size of five), one third of whom are homeless or landless, there are approximately 3 million families needing land/housing. (This is probably an exaggerated estimate, since many of these occupy land as tenants or tribal residents, or live in accommodation supplied by employers.)

Even on this maximal assumption, the state could easily supply land to all landless South Africans by utilising less than one hundredth of the land at their disposal. If one third of these families are rural and receive one hectare each, the state will be left with 31 million of its 32 million

plus hectares. If the remaining two million households are given urban plots of 200 square meters each, it would require much less than a further one million hectares.

In other words, the government can provide all homeless households with land they own under unencumbered title, and be left with virtually all the "superfluous" land it already owns.

Rural families could be given 5 hectares each, with 1 million hectares going to urban households, which would leave the state with well over 25 million hectares - nearly a quarter of all South African land.

Pending the financial and administrative capacity to deliver services and social infrastructure to these households, and pending provision of the R50 000 housing subsidy, all South Africans would, at least, have a place of their own, and be able to live in a house, however rudimentary at first.

Building codes and township development

Two of the great obstacles to housing delivery are formalities and compliance costs in respect of property development for residential purposes and approval of building plans for housing (including high-rise buildings).

Whilst township development laws and building codes have been relaxed in recent years, this paper proposes a more radical interim solution to address the urgent plight of the homeless. After most people are housed, and only then, does it make sense to concentrate on raising standards.

This paper proposes a low-income housing alternative similar to the special economic zone idea for economic development purposes. Under this policy, "Special Housing Zones" would be declared. In these areas housing, township development and slum laws would be suspended or relaxed radically.

In practice this would mean that homeless people would settle on land in which they have security and where they can build - confident that their buildings will not be condemned. The result would be a substantial and immediate improvement over the present plight and blight of squatter settlements and land invasions.

Obviously Special Housing Zones (SHZs) will have to be sited carefully with due regard to neighbourhood effects and other externalities.

In due course, the upgrading of social and physical infrastructure, and the provision of housing subsidies, would lead to a further improvement over the *status quo*.

Housing finance

This paper proposes that an additional source of housing finance be accommodated. At present housing finance comes primarily from government subsidies and private financial institutions. Usury and other financial market controls have the effect that poor people, perceived to be high risk borrowers without security or a credit record, cannot borrow lawfully for housing purposes. Even in the minority of cases where they have mortgageable title, existing formal sector lenders will not provide finance because the rate of return allowed is too low, and the real or perceived risk too high.

Accordingly, it is proposed that SHZs be exempted from laws that impose interest rate ceilings and bureaucratic formalities in respect of mortgage or non-mortgage finance.

The immediate effect would be that low income people can access housing finance, formally and lawfully from additional sources. It is recognised that such finance will be at higher rates than those prevailing in markets that are presently formal and lawful, but that they will be at more favourable rates and more generous terms than those prevailing in informal and underground markets. In other words, those who do not have access to existing sources of finance will gain access to new sources, instead of being forced into borrowing from "loan sharks" or being condemned to having no housing finance at all.

Building industry

There are presently laws imposing entry barriers into the building industry and minimum standards in respect of building materials and labour. These have cost-raising effects and curtail the supply of low-cost housing.

Additionally, there is a draft bill called the Registration of Home Builders which would impose further costs and entry barriers.

To address the urgency and tragedy of homelessness, it is recommended that, for the purposes of low-income housing, whether or not there are Special Housing Zones, a blanket exemption be legislated in respect of housing below a certain cost. The point is that some housing at whatever standard, is preferable to no housing, and that lawful housing and building is better than no housing.

This proposal is consistent with the principle that informs this paper, namely that a substantial improvement on the *status quo* can be achieved immediately, at negligible cost and in ways that facilitate upgrading.

Attachment 4

Fiscal And Monetary Policy ACDP

There is increasing evidence from around the world that limiting the level of government involvement in the economy produces lower costs, higher savings, higher productivity, increased foreign investment, increased foreign trade, more rapid economic growth and significant increases in the quality of life of the citizens. Government's most important tasks in a free and open democracy are the following:

- To secure the borders of the country from foreign invasion.
- To protect citizens from injury to their persons and property and to maintain the rule of law.
- To provide courts of law to adjudicate between citizens and determine the nature of redress for injuries caused and to punish offenders.
- To maintain a sound currency in order to achieve price stability.

South African policy needs to change considerably to allow its economy to grow at the rate it would be capable of doing if its level of economic freedom compared with that of the fastest growing economies in the world such as Hong Kong, Singapore, Malaysia and Mauritius.

Some policies that could change the South African economy to allow rapid growth are:

Reducing inflation to below 2%

Inflation drains the economic lifeblood of a country. It impacts most heavily on the poor and the elderly. The belief that inflation promotes economic growth has been disproved. Inflation should be as close to zero as possible and consistently maintained at a low level. This allows business people and entrepreneurs to enter into long term planning with increased certainty which is a pre-requisite for rapid economic growth. If business people have to spend a great deal of time worrying about price levels it impinges upon their productive work time and creates uncertainty which discourages new ventures and risk-taking.

Government to prepare and operate a balance sheet based on generally accepted accounting principles

The nation deserves to know whether the government of the country is solvent or insolvent. A Balance Sheet therefore needs to be prepared on the same basis as that used by business, showing all assets and liabilities of government using the accrual basis to take into account debts incurred and not yet paid.

Balancing the budget

Imposing debts on the next generation is an uncharitable manner for the current generation to operate. Budgets should be balanced to avoid piling up debt and creating excessive interest expenses. As the RSA government has large accumulated debts it will be necessary to have budget surpluses for many years to erase the debt burden. A balanced budget amendment in the Constitution will perhaps be necessary to discipline government.

Reducing government expenditure

Developing countries such as South Africa have to take care that they do not increase government expenditure to the point where the nation is being steadily impoverished. The RSA total government expenditure is approaching 40% of GDP which makes the country uncompetitive with other developing economies such as South Korea 20%, Mauritius 23.2%, Chile 19.2% and

Argentina 28%. Even the United States 36.7% and Japan 36.7% consume less of their GDP than South Africa.

Taxation

Taxation has to be reduced to levels that are competitive with other developing countries that are competing with the RSA for investment. New Zealand has reduced its top marginal rate from 66% to 33% and still managed to return budget surpluses since 1992. Possible options:

- Abolish income tax completely and raise taxes from a General Sales Tax (not VAT which is excessively costly to implement ie costly as far as the maintenance of records by taxpayers is concerned).
- Institute a low flat tax as recommended by Dr Alvin Rabushka of the Hoover Institution. According to Dr Rabushka such a tax system would result in increased economic growth.
- Simplify the tax system (whatever system is in place) to the point where lawyers and accountants now specialising in tax law and earning high incomes from productive citizens will have to find something more useful to do. It must be recognised that these people inevitably serve on tax commissions and it is in their interests to have a tax system that is as complicated and expensive as possible. The vested interest in an expensive and complicated tax system is shared by the people working for the Revenue Services so proposals for real tax reform has to come from outside these vested interests.

Attachment 5

Submission to the Parliamentary Portfolio Committee on Health *Pharmacy Amendment Bill*

1. Context in Which this Evidence is Submitted

1.1 *Improved Quality of Life*

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. An important part of that environment is the right to earn a living and to do so without the encumbrance of bureaucratic red tape. Also important, is that in earning a living, providers of goods and services are compelled to dance to the tune of consumers. It is therefore not necessary for the state to intervene unnecessarily.

1.2 *Consistent Underlying Policies*

Policies should have the welfare of the people as their primary objective. They should be consistent between alternative forms of activity and certain professions or occupations should not be singled out for either preferential treatment or harsh treatment merely because they fall under different Ministries or because they are considered by government to supply a service of greater or lesser importance. (A recent example would be the proposal that newly qualified doctors should undergo compulsory service similar to military service whilst lawyers, accountants, engineers, architects etc are not targeted for this type of detention without trial.)

2. Achieving Global Competitiveness

Evidence accumulated by the Free Market Foundation in conjunction with the world-wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. We have clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the new economic policies announced by government. Some of the factors that impinge directly on the pharmaceutical trade in South Africa and, more specifically, the provision of low cost and high quality health care:

2.1 *International Sector*

- Tariffs and other barriers to international trade should be minimised.

2.2 *Government operation and involvement in the economy*

- Government consumption expenditure and involvement in the economy should be reduced substantially.
- Tax rates, and more importantly, aggregate tax rates as a proportion of GDP, should be reduced to bring about accelerated economic activity.
- Barriers to entry into occupations, professions and trade should be eliminated as far as possible.
- Government enterprises and services should be privatised and/or deprived of monopoly protection and other privileges.

The evidence shows that liberalisation of the economy will bring about:

1. Higher *per capita* incomes.
2. More rapid *growth* in per capita incomes.

Policy makers who do not take these findings into consideration in formulating their policies will unavoidably harm consumers and the economy. In considering the Pharmacy Amendment Bill it is incumbent upon the Portfolio Committee to test every clause of the Bill on the basis of whether it is adding or detracting from economic freedom in South Africa. Any clause that is reducing the likelihood of future economic growth should be removed from the Bill. Harm done by red tape occurs incrementally as piece by piece is added until it strangles productive enterprise.

Parliamentarians who are concerned about unemployment and poverty in the country should demand that all unnecessary bureaucratic requirements be removed from all Bills that come before them before they agree to pass the Bills into law. If they do not, they will be responsible for the kind of job destruction that adds to the numbers of the jobless as people in ones, twos and threes are denied jobs by unnecessary regulatory prohibitions or increased costs brought about by unnecessary regulatory requirements. These numbers swell to thousands and even millions as they occur as a result of accumulating regulations in every facet of the economy.

3. **Unnecessary Red Tape Removed by the Bill**

The amendments contained in Sections 14, 22, 22A, and 22B which allow bodies corporate owned by non-pharmacists as well as individual non-pharmacists to own pharmacies is to be welcomed. As long as there is a qualified pharmacist in control of a pharmacy there is no reason whatsoever for government to become involved in the question of ownership. As a professional, a pharmacist is bound by a professional code of conduct which cannot be overridden by a potentially criminal owner, just as a lawyer or accountant is bound by a professional code of conduct which takes precedence over unlawful instructions issued by an employer.

Pharmacists will probably predict dire consequences for the general public if this liberalisation measure is allowed to stand. A possible contention could be that a pharmacist as owner is less likely to contravene the law than a pharmacist as employee. This would be an unjustifiable reflection on all pharmacists who are not wealthy enough to own pharmacies. Suggestions that the same care and attention will not be given to the needs of the customer if large companies move into the pharmacy retail business would also be a reflection on pharmacists employed by the businesses and in charge of their pharmacy operations. It is not the duty of government to guarantee a business monopoly to the members of any profession. It is government's duty to establish general rules applicable to everyone, including itself, and under the rule of such a legal system there is no place for special privileges for any particular category of person.

Government is to be congratulated on these proposed changes. There is no doubt that customers will benefit in the form of improved service and lower prices from the increased competition that will result. Pharmacists who cannot compete as owners will have a range of employment opportunities whilst those who are already working as employees will have vastly increased job opportunities.

4. **Unnecessary Red Tape Added by the Bill**

Establishing a licensing system for pharmacy premises introduces the kind of costly and unnecessary red tape that South Africa simply cannot afford. Concerns over hygiene, temperature, sunlight or whatever else could detrimentally impact on the sale of pharmaceuticals can easily be addressed by setting objective criteria for the establishment of a pharmacy. The owner or owners should be able to set up a pharmacy by meeting the objective criteria laid down for pharmacy premises and should then be able to open their doors for

business without permission from anyone. A requirement that all pharmacy premises should be licensed by the Director-General imposes an impossible and costly burden on the Department of Health, and in addition, it serves as a totally unnecessary barrier to entry into the pharmacy business.

If reports are received from competitors, the general public, or the local authority health officers, or the Council as described in Section 22 (6), that a pharmacy is being operated under conditions that do not fulfil the objective requirements for pharmacy premises the Director-General can require immediate compliance. It is not necessary to burden the 99.999% who will have spotless and adequate premises with licensing requirements merely because of the possibility that .001% of pharmacies may attempt to commence business from inadequate premises. As it is, approving the structure is of very little use if the pharmacy is subsequently allowed to become unhygienic and dirty once the licence has been obtained. Customers are best at policing a store as they will stop buying from a pharmacy that is operated unhygienically or which becomes structurally unsuitable.

5. **Discretionary Powers**

Sections 22 (3) and 22(7) of the Bill contain the type of powers that the Administrative Justice clause in the Constitution is intended to prevent. Discretionary powers that allow for arbitrary decision making by government officials have no place in the laws of a modern democracy. Public Choice theory in economics has demonstrated its validity only too well for anyone to retain the illusion that the subjective judgements of civil servants operate solely in the public interest. Such powers lead to injustice and corruption and should be eliminated from legislation.

Section 22(3) can be eliminated by dispensing with the licensing requirement altogether. If the Council wishes to maintain a register of pharmacies a simple reporting requirement should be adequate.

Section 22(7) is peremptory and authoritarian. If pharmacy premises are unsuitable for any reason, or there is a contravention of the Pharmacy Act, a pharmacy should be given reasonable notice to remedy the deficiency before action is taken against it. In all cases the authorities must be required to act in terms of objective rules known to all concerned and not in accordance with the subjective judgement of officials.

Attachment 6

Submission to the Parliamentary Portfolio Committee on Health June 1997

Medicines and Related Substances Control Amendment Bill

Context in which this evidence is submitted

1. Improved Quality of Life

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. An important part of that environment is the right to earn a living and to do so without the encumbrance of bureaucratic red tape. Also important, is that in earning a living, providers of goods and services are compelled to dance to the tune of consumers. It is therefore not necessary for the state to intervene.

2. Consistent Underlying Policies

Policies should have the welfare of the people as their primary objective. They should be consistent between alternative forms of activity and certain professions or occupation should not be singled out for either preferential treatment or harsh treatment merely because they fall under different Ministries or because they are considered by government to supply a service of greater or lesser importance. (A recent example would be the proposal that newly qualified doctors should undergo compulsory service similar to military service whilst lawyers, accountants, engineers, architects etc. are not targeted for this treatment.

3. Interference with marketing of medicines

The proposed Sections 18A and 18B are an unwarranted interference with the marketing of medicines. Governments are instituted principally for the purpose of protecting citizens from internal and external aggression, adjudicating between citizens, and punishing those who aggress against their fellow citizens. The liberty of citizens becomes threatened when government intervenes in voluntary exchanges such as particular methods of marketing medicines. Positive or negative responses to peaceful voluntary exchanges of this nature are dependent on subjective value judgements. It is not legitimate for governments to impose their subjective preferences on citizens in this manner and these sections should consequently be deleted from the proposed Bill.

4. A code of ethics

A code of ethics should be rules which are subscribed to on a voluntary basis and under those circumstances it also enjoys unqualified legitimacy. If it is prescribed or imposed from the outside it cannot properly be described as a code of ethics - proper description of whatever is prescribed under Section 18 C would be **regulations**.

5. Prohibitions upon dispensing by doctors and dentists

The requirement that doctors, dentist nurses and other registered persons must have licences to dispense medicines is unjustifiable bureaucratic interference in health care provision. As this is an urgently needed service, red tape should be minimised by establishment of objective and non-discriminatory criteria for medical professionals to qualify to dispense medicines. Anyone who meets the criteria should be allowed to dispense medicines without special registration requirements.

Sections 22A (and 22C) of the Act should be altered to accommodate this proposal.

6. Licences to manufacture medicines

Manufacturers are required to register medicines before they can be sold. There is no valid reason why they should, in addition, be required to obtain licences to manufacture the medicines.

7. Statutory Pricing Committee (Section 22G)

The encouraging thing about the bill is that its overall theme in terms of the objectives is the commitment to make products and services affordable. The well-intentioned notion of the statutory Pricing Committee will not bring about the desired result. Its unintended consequences, amongst others, will be price fixing and its corollary the distortion of prices and the possibility of price subsidisation to correct the distortions. Affordable prices occur on the basis of competition among the providers of goods and services and their unimpeded interaction with consumers. In this scenario the consumers are not at the mercy of the providers.

In order to bring about competitive prices the government has to bring about in the relevant industries/services a dispensation that will remove unnecessary barriers to entry and minimise the cost of entry in the industry.

This will allow more providers of goods and services to participate in the competition to please the consumer, virtually putting the general industry at the behest of the consumer.

The rule of thumb is therefore : **THE MORE COMPETITION THE MERRIER.**

There is **NO** need for a statutory Pricing Committee the setting up and functioning of which, besides the reasons cited, would entail more expenditure on the part of government.

8. Administrative decisions regarding the importance of particular medicines

Decisions regarding the relative importance of particular medicines is not a matter which should fall within the province of government. No government official can claim to be all-knowing and anyone who claims to be able to rank the importance of pharmaceuticals would be gravely over-estimating their competence. In addition, the granting of administrative discretion in deciding on rankings that would impose very high costs, or confer very high benefits, on competitors in the pharmaceutical field, create serious potential for bribery and corruption. The proposed new Section 15 (2) (a) should therefore be deleted.

9. Limiting the period of validity of the registration of medicines to five years creates potential for the creation of a bureaucratic nightmare

The proposed new subsection (7) to Section 15 which states that “Any registration under this section, **including the registration of medicines already registered shall be valid for a period for five years....**” contains potential for the creation of a bureaucratic nightmare in the pharmaceutical industry in South Africa. When do firms start applying for renewal of the registration in order to ensure that the renewal will be confirmed before the five-year period expires? It is logical to assume that applications for renewal will be submitted well in advance, clogging up the channels for registration of new medicines, thus delaying the use of much-needed and life-saving medicines.

If there is some concern about the properties of a registered medicine that is already more than five years old, a mechanism can surely be established for re-examining specific medicines. It is certainly not necessary to introduce a blanket bureaucratic provision that will impose huge costs on both the pharmaceutical manufacturers and the taxpayers have to pay for the registration process. The costs imposed on manufacturers includes increased uncertainty which retards investment in new production.

Patients are likely to be very badly affected by the re-registration requirement. It is possible that so-called “orphan drugs” will result. These are medicines that are desperately needed by a very small group of people, which the manufacturer will continue to produce as long as costs are low, but which do not warrant the cost of applying for re-registration. If there is an interruption in the supply of a particular medicine because of the red tape involved in re-registration, patients could

also be deprived of desperately needed supplies. Deaths could occur which could be directly attributable to this proposed bureaucracy.

The proposed new subsection should therefore be deleted or replaced with an alternative mechanism that will not impose unnecessary costs on manufacturers and taxpayers and that has proper consideration for the patient.

Parliamentarians have a duty to save us from bureaucracy

Proposed legislation emanating from the Department of Health appears to be peppered with registration requirements, licensing requirements and other costly measures that will demand the appointment of an increasing number of civil servants and a commensurate increase in taxes. The requirements will also impose huge and unnecessary costs upon manufacturers. The eventual losers will be patients who are supposed to be the final beneficiaries. They will pay higher taxes and out of what they have left they will pay more for medicines.

The civil servants who are drafting these proposals appear to labour under the misconception that South Africa is a wealthy first world country. They need to come to terms with the reality that South Africa is a relatively poor developing country that cannot afford the costly bureaucracy that its civil service appears to be intent on imposing on us all.

Parliamentarians, being the representatives of the people have a duty to save us from the bureaucrats who will create jobs for themselves by adding one bureaucratic requirement after another if they are allowed to do so. This is an appeal to the members of the Portfolio Committee to say:

STOP

THE FREE MARKET FOUNDATION
and
THE FRIEDERICH-NAUMANN-STIFTUNG

invite you to attend a workshop on the

BASIC CONDITIONS OF EMPLOYMENT BILL, 1997
(The implications for the small business sector and job creation)

RESOURCE PERSON

Mr Michael Bagraim

(Michael Bagraim & Associates, labour law and management specialists)

DATES:

Michael Bagraim will be available only on the date and time appearing hereunder:

14 August 1997 9:00 - 13:00

VENUE:

The Free Market Foundation
2nd Floor Church Square House
5 Spin Street
Cape Town

*It is intended that the workshop will result in a common position paper
which will be referred to the relevant government structure as a basis for further lobbying*

RSVP

Temba Nolutshungu
Tel: 021 451856
Fax: 021 451 860
e-mail Fmf@Lia.infolink.co.za

Attachment 7 (cont.)

Basic Conditions of Employment Bill Workshop held under the auspices of the Friederich Naumann Stiftung and the Free Market Foundation

Michael Bagraim (industrial relations consultant / lawyer)

Temba Nolutshungu (facilitator)

Jenny Harris (facilitator)

Participants and their respective organisations

Mrs Patsy Cloete, South African Liberal Students Association official

Mr Eustace Davie, The Free Market Foundation

Mrs Jenny Harris, Harris Corporate Consultants

Mrs M Hollow, Nathi Sinako Businesswomen's Organisation

Mr Frank Lighton, Federation of Independent Business Associations of South Africa

Mr Ndyebo Makupula, Malande CC

Mr David Matthews, Small Builders Association

Mr Michael Bagraim, Michael Bagraim and Associates (Consultant)

Mr Temba Nolutshungu, FMF (Facilitator)

Mr Monde Pahlane, Malande CC

Mrs Eunice Roro, Nathi Sinako Businesswomen's Organisation

Mrs Mina Somers, Friederich-Naumann Foundation

Mr Leo Turvey, Paarden Eiland and Metro Industrialists Association

Temba Nolutshungu kicked off the meeting at the scheduled time (09:00) by describing the work of the FNS in SA and the significance of the FNS-FMF partnership especially in the context of the FMF's advocacy work which was orchestrated by the Cape Town office. After briefing the meeting on the FMF *modus operandi* he highlighted some of the modest accomplishments of the FMF in that field. Thereafter he outlined the context in which the lobbying *vis-à-vis* the Basic Conditions of Employment Bill was taking place and commented on the interests of the various stakeholders and their relevance to the lobbying efforts of the SMME sector. Thereafter Michael Bagraim elaborated on the implications of the Bill for the small business sector. He went about doing this by dissecting the summary of the Bill point by point and relating each specific point to the relevant sections of the text of the Bill. The participants debated each point until consensus was reached with the FNS and SALSA representatives, who had initially insisted on observer status participating as much as everyone else. Jenny Harris, who had volunteered to facilitate, carefully noted the consensus positions and worked very closely with Michael Bagraim.

The proceedings culminated in the following:

1. a position paper *vis-à-vis* the bill
2. a press release
3. resolution to liaise with NAFCOG
4. formation of the organisation the **EMERGING BUSINESS FRONT** comprising participating organisations

Temba outlined the various steps that the bill would go through viz:

1. discussion by CABINET (before September 3), after endorsement
2. discussion by labour portfolio committee (no date announced yet), thereafter to be referred to
3. the National Assembly (ultimate deadline September 15)

The strategy subsequently agreed upon was as follows:

- media publicity
- radio interviews
- arrange meeting with ANC before the Cabinet meeting
- arrange meeting (long shot) with Cabinet for EBF and NAFCOC and/or send a written submission for consideration
- organise a meeting to make representations to the Portfolio Committee on labour, EBF and NAFCOC to canvas all the political parties

Basic Conditions of Employment Bill [B98-97]

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 Improved Quality of Life

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. This includes the right to decide how they should live their lives and what voluntary agreements they wish to conclude. An important part of an appropriate environment is that it should be free of bureaucratic red tape, and especially regulatory requirements that raise production costs and make South Africa less competitive. Regulations that raise the cost of employing people reduce the number of people employed and are especially detrimental to the unemployed, the young, the aged and those who are otherwise disadvantaged. There are also wider social ramifications.

1.2 Consistent Underlying Policies

Government policies should have the welfare of all the people as their primary objective. They should be consistent between alternative forms of activity and between various members of society. No one should be targeted for either preferential treatment or harsh treatment merely because they are considered by government to supply a service of greater or lesser importance, nor should government in writing laws be more favourably disposed towards some citizens than they are towards others.

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which therefore do not attempt to bring about particular outcomes. There has to be a level playing field for everyone. The rule of law was described by Nobel Laureate Friedrich Hayek in his book *The Constitution of Liberty*:

The conception of freedom under the law ... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free. It is because the lawgiver does not know the particular cases to which the rule will apply, and it is because the judge who will apply them has no choice in drawing the conclusions that follow from the existing body of rules and the particular facts of the case, that it can be said that laws and not men rule. Because the rule is laid down in ignorance of the particular case and no man's will decides the coercion used to enforce it, the law is not arbitrary. This, however, is true only if by "law" we mean the general rules that apply equally to everybody.

The Basic Conditions of Employment Bill contains provisions that are despotic in nature. They override all voluntary agreements that individuals may wish to enter into. They deprive unemployed people of the right to enter into agreements which they may regard as beneficial. In order to create the free society for which the majority of South Africans have been yearning for so long, it will take a conscious and decisive effort on the part of government to root out all provisions of a despotic nature contained in legislation enacted by previous administrations. It will also be essential to ensure that no new despotic legislation is added to the statute book. The infamous apartheid period was only possible because the rule of law was ignored and extensive arbitrary powers were given to the civil service to follow differing rules in dealing with different citizens of the country.

2. ACHIEVING GLOBAL COMPETITIVENESS

Evidence accumulated by the Free Market Foundation in conjunction with the world-wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. There are clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the GEAR policies. In particular, high growth economies require **flexible labour markets**.

The evidence shows that a freer economy will bring about:

1. Higher *per capita* incomes.
2. More rapid *growth* in per capita incomes.
3. **More employment.**

In assessing the probable impact of this proposed legislation it must be recognised that regulation is introduced incrementally. Piece by piece is added until it strangles productive enterprise.

Parliamentarians who are concerned about unemployment and poverty in the country, should demand that all unnecessary bureaucratic requirements be removed from all Bills that come before them. If they do not, they will be ultimately responsible for the job losses caused by harmful prohibitions, encumbrances, costs, and unnecessary regulatory requirements. These numbers swell to thousands and even millions as a result of accumulating regulation in every facet of the economy.

3. EMPLOYEE/EMPLOYER RELATIONS

In everyday business employees and their employers are not antagonists. They work as a team and collaborate in competing against other teams active in the economy. The proposed Bill is likely to undermine this natural partnership and place employees and employers on an adversarial footing by imposing conditions of employment on them that would not have formed part of voluntary contracts between the parties. The result will be that employers will stick strictly to the rules, no matter what compassion would otherwise have led them to do, and employees likewise will be constantly looking for any minor infringement. A virtual "police state" atmosphere will be created in a workplace that would otherwise have been based on trust, understanding and co-operation for mutual benefit.

4. CONCLUSION

This comment deliberately avoids a detailed analysis of the Bill and concentrates on the principles which are considered essential in the establishment of a just society. In its attempt to determine detailed rules to be applied to all employees and employers it removes the possibility of employees and employers fashioning convenient voluntary arrangements that will suit their particular circumstances. This concern has particular application to the relationships between small businesses and their employees. There is a desperate worry that, whilst the Bill may provide some additional benefits to people who are already employed, it will cause thousands of people to lose the opportunity of employment because employers will take on less staff, because some employers will go out of business due to an inability to comply with the conditions imposed by the Bill, and that many labour-intensive businesses will never be started because the costs of compliance will make them potentially unprofitable.

Attachment 1

Evidence to the Commission of Enquiry into the Diamond Industry

Temba Nolutshungu and Gary Moore led evidence to the Commission of Enquiry into the Diamond Industry on 15 October 1997.

I did an EFW presentation which gave a context to the FMF's evidence to the commission calling for the liberalisation of the industry. Gary Moore of Tonkin Clacey Attorneys who was part of the two man FMF team had been commissioned by the FMF to comment on the Bill. Despite problems with the equipment, the presentation started on an engaging note with one member of the commission insisting that diamonds were a special commodity therefore requiring special protective legislation. The interaction that ensued gave GM and me ample time to argue the Free Market position and to throw more light on the nature of the work of the FMF.

The Free Market Foundation employed Mr Gary Moore of the firm Tonkin Clacey to prepare a legal comment on the *Diamond Act*. The matters which concerned the Foundation were the following:

1. Diamond mining companies are compelled in terms of the Act to offer all diamonds mined in SA to local cutters and polishers despite the fact that these businesses are only able to take up a small fraction of the total SA production. This compulsion has been in existence for 70 years. The initial intention was to give the local cutters and polishers time to establish viable businesses and become internationally competitive without assistance. This has not happened. The penalty for not offering such diamonds to the local cutters and polishers is an export levy of 15%. The FMF argued that this provision should be abolished.
2. It is illegal for individuals in SA to be in possession of uncut diamonds without at the same time having a certificate from the supplier of the diamonds. These are the so-called IDB laws. The FMF argued that there was no reason why diamonds, even though small and of high value, should be treated any differently from any other commodity.
3. The Minister of Mineral and Energy Affairs has extensive powers to intervene in diamond mining and even halt diamond production altogether. The FMF argued that these powers should be repealed.
4. A Diamond Control Board is appointed by the Minister to control diamond mining in SA and particularly to grant licences to cutters and polishers and to diamond miners. The FMF argued that anyone who wished to do so should be able to enter into this business without a licence of any kind.

Attachment 3

Comment on proposed training levy TAXES, ECONOMIC GROWTH AND JOB CREATION

1. The most persistent challenge facing South Africa today is job creation. Statistical evidence demonstrates that we are not winning the battle against unemployment. The following figures illustrate the point.
2. Yet empirical evidence abounds that clearly points to the direction that has to be taken in terms of macro-economic policy. In this regard the GEAR policies are a commendable step in the right direction. However, there exists a real danger that GEAR might prove to be a still born baby as there are countervailing tendencies which would negate some of the goals that GEAR has set out to achieve particularly generating employment.
3. The tax measures being contemplated are one measure that will definitely impact on job creation negatively. Let me substantiate the argument. It is an indisputable fact that job creation is a consequence of economic growth. A strong and direct correlation between economic freedom and economic growth per capita exists.
4. A study that involved 11 economic institutes based in such diverse countries as Guatemala, England, Ghana, Germany, Hong Kong, Mexico America among others and Nobel Laureates such as Gary Becker, Milton Friedman, Douglass North, and other economists of world renown proves the point beyond a shadow of a doubt.
5. It should be borne in mind that taxes relate to economic freedom in that they impact on the disposable income that taxpayers in real terms can exercise freedom over. Reduced income in the hands of investors also reduces investment and growth in the country. Thus, in terms of the study taxes are one of the indices of economic freedom.
6. There are consistent findings to the effect that where countries have reduced marginal tax rates economic growth has been the inevitable consequence.
7. **New Zealand** reduced its top marginal tax rate from 60% in 1975 to 33% in 1995 and increased its growth rate to 6.0% in 1994. **Malaysia** reduced its top marginal tax rate from 50% in 1975 to 34% in 1995 and has been showing increases in real GDP of as high as 9.9% in 1994. **The Philippines** reduced its rate from 56% in 1975 to 35% in 1995 with very positive effects on the growth rate. **Singapore** reduced the top marginal tax rate from 55% in 1975 to 30% in 1995 and has consistently shown growth in real GDP ranging from 6.1% to 11.1% over the past 8 years.
8. The most interesting case for South Africa is Mauritius which reduced its top rate from 50% in 1980 to 30% in 1995 and is showing growth rates exceeding 4.0% and up to 10% over the past 8

years. Naturally other economic factors have an influence on growth rates and employment but the figures show that high marginal tax rates have a depressing effect on economic growth and employment opportunities. Mauritius had an unemployment rate of 18.5% in 1987 which reduced to 3.8% in 1991 and **Mauritius now has to import labour**. The reduction in tax rates was part of a package of economic reforms which included reducing inflation, abolishing exchange controls and reducing regulations in the economy.

9. The lesson, based on empirical evidence, is that if you are serious about job creation, as a priority you reduce taxes amongst other things.
10. The duty of the Government is to bring about the macro-economic environment in which business can thrive and be allowed to do what it does best unimpeded and that is creation of jobs at no expense to the taxpayer. The government maps out the rules of the game that will make the country a competitive player in the global arena.
11. No more tax increases! Do not demotivate the taxpayer. Do not worsen the unemployment situation knowing what the social implications will be.
12. If you implement the proposal there will surely be negative consequences.

Document prepared for the Democratic Party argument vis-a-vis Tito Mboweni's (Minister of Labour) proposal of a training levy on business.

Attachment 4

Written comment on the Skills Development Bill

20 October 1997

Ms Santa de Jager
Directorate: National Training Board
Department of Labour
Private Bag X117
PRETORIA
0001

Fax no: (012) 309 4319

COMMENT ON SKILLS DEVELOPMENT BILL 1997

1. The most persistent challenge facing South Africa today is job creation. Statistical evidence clearly demonstrates that we are not winning the battle against unemployment.
2. Yet empirical evidence abounds that clearly points to the direction that has to be taken in terms of macro-economic policy to address the problem of job creation and **increasing** taxation is definitely **not** the direction that we should be moving in. In this regard the GEAR policies are a commendable step in the right direction. However, there exists a real danger that GEAR might prove to be still-born as there are countervailing tendencies such as this Bill which would negate some of the goals that GEAR has set out to achieve - particularly generating employment.
3. We are extremely concerned about the level of unemployment in this country and believe that the above Bill (and in particular the proposed levy being contemplated) is one measure that will definitely impact negatively on job creation.
4. It is an indisputable fact that job creation is a consequence of economic growth. A strong and direct correlation between economic freedom and economic growth exists. A study that involved 11 economic institutes based in such diverse countries as Guatemala, England, Ghana, Germany, Hong Kong, Mexico and America among others and Nobel Laureates such as Gary Becker, Milton Fiedman, Douglass North, and other economists of world renown proves the point beyond a shadow of a doubt. The study "Economic Freedom of the World 1975-1995" and the 1997 Annual Report are available from the Foundation on request.
5. It should be borne in mind that taxes relate to economic freedom in that they reduce the disposable income of taxpayers and hence reduce their freedom in respect of what they can purchase. Reduced income in the hands of investors is a disincentive to investment and growth in the country.
6. In terms of the above mentioned study the level of taxes are one of the most important factors determining whether there is economic freedom in a country. The findings show that those countries which have lower levels of taxation have higher economic growth. Some examples are as follows:-

- **New Zealand** reduced its top marginal tax rate from 60% in 1975 to 33% in 1995 and increased its growth rate to 6.0% in 1994.
 - **Malaysia** reduced its top marginal tax rate from 50% in 1975 to 34% in 1995 and has been showing increases in real GDP of as high as 9.9% in 1994.
 - The **Philippines** reduced its top marginal rate from 56% in 1975 to 35% in 1995 with very positive effects on the growth rate.
 - **Singapore** reduced the top marginal tax rate from 55% in 1975 to 30% in 1995 and has consistently shown growth in real GDP ranging from 6.1% to 11.1% over the past 8 years.
7. The most interesting case for South Africa is **Mauritius** which reduced its top marginal tax rate from 50% in 1980 to 30% in 1995 and is showing growth rates exceeding 4.0% and up to 10% over the past 8 years. Mauritius had an unemployment rate of 18.5% in 1987 which reduced to 3.8% in 1991 and now has to import labour. The reduction in taxation was part of a package of economic reforms which included reducing inflation, abolishing exchange controls and reducing regulations in the economy.
 8. Naturally other economic factors have an influence on growth rates and employment but the figures show that higher tax levels have a depressing effect on economic growth and employment opportunities. The lesson, based on empirical evidence, is that the Government, which is committed to job creation as a priority, must reduce taxes to achieve this goal.
 9. The duty of the Government is to bring about a macro-economic environment in which business can thrive and be allowed to do what it does best unimpeded, ie creation of jobs at no expense to the taxpayer. Therefore it is incumbent on the Government to bring about an enabling environment for business.
 10. If this proposal is implemented there will be negative consequences which are surely not intended by the Minister. The proposed levy will among other things, create further unemployment with wider social implications by penalising those companies with labour-intensive operations. The more people these companies employ the more they will be penalised - exactly the **opposite** of what is required.
 11. We urge you to reconsider the proposed Bill. We would be happy to give a presentation to your directorate in this regard.

Attachment 5

Comment on GEAR FISCAL AND MONETARY POLICY (ACDP)

There is increasing evidence from around the world that limiting the level of government involvement in the economy produces lower costs, higher savings, higher productivity, increased foreign investment, increased foreign trade, more rapid economic growth and significant increases in the quality of life of the citizens. Government's most important tasks in a free and open democracy are the following:

- To secure the borders of the country from foreign invasion.
- To protect citizens from injury to their persons and property and to maintain the rule of law.
- To provide courts of law to adjudicate between citizens and determine the nature of redress for injuries caused and to punish offenders.
- To maintain a sound currency in order to achieve price stability.

South African policy needs to change considerably to allow its economy to grow at the rate it would be capable of doing if its level of economic freedom compared with that of the fastest growing economies in the world such as Hong Kong, Singapore, Malaysia and Mauritius.

Some policies that could change the South African economy to allow rapid growth are:

REDUCING INFLATION TO BELOW 2%

Inflation drains the economic lifeblood of a country. It impacts most heavily on the poor and the elderly. The belief that inflation promotes economic growth has been disproved. Inflation should be as close to zero as possible and consistently maintained at a low level. This allows business people and entrepreneurs to enter into long term planning with increased certainty which is a pre-requisite for rapid economic growth. If business people have to spend a great deal of time worrying about price levels it impinges upon their productive work time and creates uncertainty which discourages new ventures and risk-taking.

GOVERNMENT TO PREPARE AND OPERATE A BALANCE SHEET BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

The nation deserves to know whether the government of the country is solvent or insolvent. A Balance Sheet therefore needs to be prepared on the same basis as that used by business, showing all assets and liabilities of government using the accrual basis to take into account debts incurred and not yet paid.

BALANCING THE BUDGET

Imposing debts on the next generation is an uncharitable manner for the current generation to operate. Budgets should be balanced to avoid piling up debt and creating excessive interest expenses. As the RSA government has large accumulated debts it will be necessary to have budget surpluses for many years to erase the debt burden.. A balanced budget amendment in the Constitution will perhaps be necessary to discipline government .

REDUCING GOVERNMENT EXPENDITURE

Developing countries such as South Africa have to take care that they do not increase government expenditure to the point where the nation is being steadily impoverished. The RSA total government expenditure is approaching 40% of GDP which makes the country uncompetitive with other developing economies such as South Korea 20%, Mauritius 23.2%, Chile 19.2% and Argentina 28%. Even the United States 36.7% and Japan 36.7% consume less of their GDP than South Africa.

TAXATION

Taxation has to be reduced to levels that are competitive with other developing countries that are competing with the RSA for investment. New Zealand has reduced its top marginal rate from 66% to 33% and still managed to return budget surpluses since 1992. Possible options:

- Abolish income tax completely and raise taxes from a General Sales Tax (not VAT which is excessively costly to implement ie costly as far as the maintenance of records by taxpayers is concerned).
- Institute a low flat tax as recommended by Dr Alvin Rabushka of the Hoover Institution. According to Dr Rabushka such a tax system would result in increased economic growth.
- Simplify the tax system (whatever system is in place) to the point where lawyers and accountants now specialising in tax law and earning high incomes from productive citizens will have to find something more useful to do. It must be recognised that these people inevitably serve on tax commissions and it is in their interests to have a tax system that is as complicated and expensive as possible. The vested interest in an expensive and complicated tax system is shared by the people working for the Revenue Services so proposals for real tax reform has to come from outside these vested interests.

**Submission to the Parliamentary
Portfolio Committee on Finance, *Tax Bill 1997***

1. ON DONATIONS / ESTATE / CAPITAL TRANSFER DUTIES

- 1.1 A well-designed tax system is one which is “neutral”, i.e. neither favours one sort of economic activity nor the other, and does not induce people to partake in one activity in preference to others but permits the individuals in the market place to determine, based on underlying prices of goods and services, those activities in which they will and should participate.
- 1.2 The tax system of South Africa is most definitely not neutral. There should be a conscious attempt by Parliament to move the system toward increasing neutrality, and convoluted, intricate tax legislation does precisely the opposite - it moves the tax system further away from neutrality, and, in doing so, distorts, even more, the allocation of the nation’s scarce resources.
 - 1.2.1 There should be a conscious attempt to make the tax system increasingly simple, streamlined, and neutral.
 - 1.2.2 With those observations, we turn our attention toward Donations, Capital transfer, and Estate taxation:
- 1.3 It is indisputable that savings rates in South Africa are deplorably low, as are rates of investment; and, simultaneously, unemployment is absurdly high. These three phenomena are inextricably bound up together.
- 1.4 Taxes on donations, capital transfers, and estates are intertwined. Attempted taxation of one activity, e.g. gifts and donations, with estate taxation. A number of studies, and particularly those coming from Canada, the United Kingdom, and America, have clearly indicated that attempts to alter taxation of - for example - gifts induces people to alter the nature and composition of their estates. Similarly, attempts to alter estate taxation means that the method of taxation of gifts must be altered. In short, tax reform of donations, capital transfers, and estates cannot be separated one from the other.
 - 1.4.1 It is important to note that the total amount of money derived by the Fiscus from these sorts of taxes is comparatively small. Yet, collection costs are high for the simple reason that individuals find these taxes relatively easy to void - albeit at the cost of hiring tax lawyers and accountants to do so.
 - 1.4.2 Some countries such as the United States, have recognised that the benefits, i.e. revenue, derived from tax collection efforts on these relatively easily avoided taxes are simply not worth the effort. The collection costs exceed the expected revenue and thus tax authorities can better spend their time collecting those taxes such as income taxes, which will both yield more revenue per Rand spent than will donations, and estates taxes, and capital transfers. South Africa should do likewise. The simple fact is that the SA Revenue Service finds it difficult, given its scarcity of talented auditors and tax collectors, to efficiently collect those rather less easily avoided taxes, such as income taxes. It should focus its talents of the collection of VAT and income taxes, which yield relatively large amounts of taxes collected per Rand spent, rather than dissipate its talents by attempted collection of rather more arcane taxes, such as donations, capital transfer, and estate taxes.

1.5 Inducing increases savings, and capital accumulation, and investment, is best done via taxes on consumption, not on capital accumulation. Not only taxes on capital accumulation easily avoided, and thus difficult to collect, but they dampen the predisposition of South Africans to save, reduce investment, and harm employment prospects for the great mass of South Africans.

1.5.1 It would be well, then, to consider scrapping, entirely, such taxes.

2. TAXES, ECONOMIC GROWTH AND JOB CREATION

2.1 The most persistent challenge facing South Africa today is job creation. Statistical evidence demonstrates that we are not winning the battle against unemployment. The following figures illustrate the point.

2.2 Yet empirical evidence abounds that clearly points to the direction that has to be taken in terms of macro-economic policy. In this regard the GEAR policies are a commendable step in the right direction. However, there exists a real danger that GEAR might prove to be a still born baby as there are countervailing tendencies which would negate some of the goals that GEAR has set out to achieve particularly generating employment.

2.3 The tax measures being contemplated are one measure that will definitely impact on job creation negatively. Let me substantiate the argument. It is an indisputable fact that job creation is a consequence of economic growth. A strong and direct correlation between economic freedom and economic growth per capita exists.

2.4 A study that involved 11 economic institutes based in such diverse countries as Guatemala, England, Ghana, Germany, Hong Kong, Mexico America among others and Nobel Laureates such as Gary Becker, Milton Friedman, Douglass North, and other economists of world renown proves the point beyond a shadow of a doubt.

2.5 It should be borne in mind that taxes relate to economic freedom in that they impact on the disposable income that taxpayers in real terms can exercise freedom over. Reduced income in the hands of investors also reduces investment and growth in the country. Thus, in terms of the study taxes are one of the indices of economic freedom.

2.6 There are consistent findings to the effect that where countries have reduced marginal tax rates economic growth has been the inevitable consequence.

2.7 **New Zealand** reduced its top marginal tax rate from 60% in 1975 to 33% in 1995 and increased its growth rate to 6.0% in 1994. **Malaysia** reduced its top marginal tax rate from 50% in 1975 to 34% in 1995 and has been showing increases in real GDP of as high as 9.9% in 1994. The **Philippines** reduced its rate from 56% in 1975 to 35% in 1995 with very positive effects on the growth rate. **Singapore** reduced the top marginal tax rate from 55% in 1975 to 30% in 1995 and has consistently shown growth in real GDP ranging from 6.1% to 11.1% over the past 8 years.

2.8 The most interesting case for South Africa is Mauritius which reduced its top rate from 50% in 1980 to 30% in 1995 and is showing growth rates exceeding 4.0% and up to 10% over the past 8 years. Naturally other economic factors have an influence on growth rates and employment but the figures show that high marginal tax rates have a depressing effect on economic growth and employment opportunities. Mauritius had an unemployment rate of 18.5% in 1987 which reduced to 3.8% in 1991 and **Mauritius now has to import labour.**

The reduction in tax rates was part of a package of economic reforms which included reducing inflation, abolishing exchange controls and reducing regulations in the economy.

- 2.9 The lesson, based on empirical evidence, is that if you are serious about economic growth and job creation, as a priority you reduce taxes amongst other things.

Attachment 7

Economic Freedom Network

Support for the annual *Economic Freedom of the World* rating system is growing. The network started in 1996 with only 11 members, including the FMF. Membership increased to 47 in 1997, and is expected to grow to over 100 in 1998. These institutes consist of highly critical intellectuals and it is clear that the credibility of the economic freedom rating system is growing. As this process advances, the publication will become increasingly valuable to the FMF in its efforts to influence policy.

At a recent meeting of the *Economic Freedom Network*, hosted by the Liberales Institut in Germany, Leon Louw presented the “road-show” which he has developed to promote the evidence contained in the publication. The FMF is the only member of the network that has developed such a road-show and will be supplying the material to other institutes to use in their respective countries. What the members of the network found particularly compelling was a comparison between the average of the factors for the 20 most free countries of the world and the measurement of those factors in assessing the level of freedom in South Africa.

Consideration is likely to be given to the development of correlations between economic freedom ratings and other indicators of economic development such as life expectancy, employment, food consumption, child mortality, health improvement etc. The purpose would be to confirm that increased economic freedom generally leads to improvements in all these indicators. Every additional piece of evidence that economic freedom leads to an overall improvement in the quality of life, will improve the ability of the FMF to influence policy in a free market direction.

Attachment 8

Submission to the Parliamentary Standing Committee on Finance Long-Term Insurance Bill

SUMMARY

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 *Improved quality of life*

The attached evidence is submitted on the premise that the primary objective of government is to create an environment in which citizens have the opportunity to improve the quality of their lives by increasing their standard of living.

1.2 *The Rule of Law*

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which do not attempt to bring about particular outcomes. All legislation enacted by Parliament should pass this test.

2. ACHIEVING GLOBAL COMPETITIVENESS

To become globally competitive all segments of the South African economy must be given greater economic freedom. This inescapably means that local suppliers of goods and services must also be exposed to the discipline of competition from outside South Africa's borders. The Long-Term Insurance Bill contains provisions that are inconsistent with this objective.

3. ENTRY INTO GLOBAL MARKETS

Entry into global markets requires that the type of "siege economy" legislation introduced by the previous government should be thoroughly re-examined. If South African goods and investors are to be welcome in foreign markets, foreigners must receive reciprocal treatment in this country. Economic nationalism is not in the long-term interests of the citizens of South Africa.

4. DISCRETIONARY POWERS AND THE RULE OF LAW

The analysis of this Bill shows that it is in conflict with the fundamental tenets of the rule of law due to the inclusion of unfettered administrative discretion.

5. LIMITATION OF REMUNERATION TO INTERMEDIARIES

Interference in the day-to-day management of businesses such as the fixing of remuneration of intermediaries creates rather than removes market distortions and is economically unsound.

6. UNDESIRABLE BUSINESS PRACTICES

What is intended to be consumer protection inevitably turns into a means for businesses to protect themselves from innovative competitors. A great and efficient industry such as the South African insurance industry does not deserve to be made subject to the far-reaching and unlimited discretionary powers contained in section 50 of this Bill.

7. CONCLUSION

This Bill should be entirely re-written, replacing all discretionary powers with objective stipulated requirements which are open and transparent. All arbitrary administrative powers should be removed.

SUBMISSION

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 Improved Quality of Life

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. This includes the right to decide how they should live their lives and what voluntary agreements they wish to conclude. An important part of an appropriate environment is that it should be free of bureaucratic red tape, and especially red tape based on extensive administrative discretion.

1.2 Consistent Underlying Policies

Government policies should have the welfare of the people as their primary objective. They should be consistent between alternative forms of activity and particular professions or occupations should not be singled out for either preferential treatment or harsh treatment merely because they are considered by government to supply a service of greater or lesser importance.

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which do not attempt to bring about particular outcomes. The rule of law was described by Nobel Laureate Friedrich Hayek in his book *The Constitution of Liberty*:

The conception of freedom under the law ... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free. It is because the lawgiver does not know the particular cases to which the rule will apply, and it is because the judge who will apply them has no choice in drawing the conclusions that follow from the existing body of rules and the particular facts of the case, that it can be said that laws and not men rule. Because the rule is laid down in ignorance of the particular case and no man's will decides the coercion used to enforce it, the law is not arbitrary. This, however, is true only if by "law" we mean the general rules that apply equally to everybody.

The Long-term Insurance Bill contains provisions that are despotic in nature. Total power became so much a part of previous administrations that the elements of despotism are not recognised by most South Africans, not even by those who suffered most as a result of the bias and discretionary powers contained in legislation. In order to create the free society for which the majority of South Africans have been yearning for so long, it will take a conscious effort on the part of the new government to root out all provisions of a despotic nature contained in existing legislation. It will also be essential to ensure that no new despotic legislation is added to the statute book.

The infamous apartheid period was only possible because the rule of law was ignored and extensive arbitrary powers were given to the civil service to follow differing rules in dealing with different citizens of the country. The greater part of those arbitrary powers continue to exist and there is clear evidence that the civil service is asking for even greater powers. Citizens need protection against this trend. Two possible methods of affording that protection are:

- (i) That the Members of Parliament resolutely refuse to approve any legislation that is not in accordance with the rule of law as described above, and particularly, that they refuse to approve provisions in legislation that grant arbitrary discretionary powers to the civil service.

- (ii) That the courts be given the task of reviewing and controlling the acts of the administrative branch of government, especially to ensure that they do not exceed the powers that Parliament intends to grant when approving legislation.

2. ACHIEVING GLOBAL COMPETITIVENESS

Evidence accumulated by the Free Market Foundation in conjunction with the world-wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. We have clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the new economic policies announced by government. Some of the factors that impinge directly on long term insurance in South Africa are:

- Government consumption expenditure and involvement in the economy should be reduced substantially.
- Tax rates, and more importantly, aggregated tax rates as a proportion of GDP, should be reduced to allow for greater savings which in turn will bring about accelerated economic activity.
- Barriers to entry into occupations, professions and trade should be eliminated as far as possible.
- Government enterprises and services should be privatised and/or deprived of monopoly protection and other privileges.
- Government should uphold the rule of law and desist from introducing legislation which grants vast discretionary powers to the civil service.

The evidence shows that liberalisation of the economy will bring about:

1. Higher *per capita* incomes.
2. More rapid *growth* in per capita incomes.

Policy makers who do not take these findings into consideration will unavoidably harm consumers and the economy. In considering the Long-term Insurance Bill it is incumbent upon the Standing Committee to test every clause of the Bill on the basis of whether it is adding to or detracting from economic freedom in South Africa. In making the assessment of legislation it must be recognised that red tape is introduced incrementally. Piece by piece is added until it strangles productive enterprise.

Parliamentarians who are concerned about unemployment and poverty in the country, should demand that all unnecessary bureaucratic requirements be removed from all Bills that come before them. If they do not, they will be ultimately responsible for the job losses caused by harmful prohibitions and unnecessary regulatory requirements. These numbers swell to thousands and even millions as a result of accumulating regulation in every facet of the economy.

3. ENTRY INTO GLOBAL MARKETS

Section 16 of the Bill is exclusionary as it requires that:

16 (1) A long-term insurer shall-

- (a) **have its head office in the Republic**

Foreign insurers that have their head offices in other countries are therefore not allowed to offer their services and products to South African purchasers of insurance. This is not in the interests of the South African consumer who would be best served by a multiplicity of choices amongst insurers competing with each other. There appears to be no reason why foreign long-term insurers who are

subject to a competent authority in their own countries should not be able to offer their products to the South African market.

Entry into the global markets requires that the "siege economy" legislation introduced by the previous government be re-examined with a view to making South Africa investor-friendly from the point of view of foreign investors. If South African investors are to be welcomed into foreign markets, foreigners must receive reciprocal treatment in this country.

The proposed Section 16 should be removed from the Bill.

4. DISCRETIONARY POWERS

Many sections of the Long-term Insurance Bill contain the type of powers that the Administrative Justice clause in the Constitution should prevent. Discretionary powers that allow for arbitrary decision-making by government officials have no place in the laws of a modern democracy. Public Choice theory in economics has demonstrated only too well that the subjective judgements of civil servants tend to be used to further their own interests rather than the interests of the general public. Such powers lead to injustice and corruption and should be eliminated.

Some of the sections of the Long-term Insurance Bill requiring subjective value-judgements and granting discretionary powers to the Registrar are listed below, with comment where considered necessary:

Section 9(3)(b)

This section gives the Registrar the power to grant, or refuse to grant, registration to intending long-term insurers. Section 3(b) stipulates that registration shall not be granted if -

(i) **"the applicant does not have the financial resources, organisation or management that is necessary ..."**

There appears to be no reason why objective criteria cannot be established for resources, organisation and management, to which an applicant has to conform in order to qualify for registration. Intending applicants would then know in advance what is required of them, introducing greater certainty into the process.

(ii) **"any person who is, or will ... be a director or managing executive of the applicant is not fit and proper to hold the office concerned"**

On what basis does the Registrar decide whether the person is "fit and proper"? Presumably black people would not previously have been considered "fit and proper" to hold office as directors or executives of insurance companies. Is the gender, religion, political affiliation, ethnicity, nationality or physical capacity of the person to be taken into consideration? This provision makes it possible for Registrars to pursue personal vendettas against anyone who may offend them and invites misuse. If objective criteria cannot be established this section should be removed from the Bill.

(iii) **"the direct or indirect control of the applicant by another person ... will be contrary to the interests of the policyholders"**

Is the Registrar to decide that control by some person will be contrary to the interests of policyholders whilst control by some other person will not be contrary to their interests? If so, by what standard is the Registrar to judge? Are there objective tests to be applied to establish what will or will not be in the interests of policyholders or is the matter to rest on the subjective value judgements of the Registrar? If so, those tests should be clearly spelled out in the Bill.

(iv) **"the registration is contrary to the public interest"**

Friedrich von Hayek described the difficulties surrounding the concept of the "public interest" in his book *Law, Legislation and Liberty*:

The common welfare or the public good has to the present time remained a concept most recalcitrant to any precise definition and therefore capable of being given almost any content suggested by the interests of the ruling group.

Any ruling given by the Registrar in terms of this provision will be inescapably arbitrary in nature and therefore unjust. The board of appeal to which an aggrieved person may turn in terms of section 3(3) of the Bill will face a similar predicament. The conditions of Registration should therefore be clearly listed so that this "weasel clause" can be omitted from the Bill.

Section 10

Section 10 gives the Registrar further far-reaching discretionary powers. The Registrar has the power to determine conditions:

- (a) **requiring that "... the long-term insurer ... enter into only certain long-term policies determined by the Registrar"**
- (c) **requiring that "... the long-term insurer ... enter into certain long-term policies determined by the Registrar only if those policies contain, or do not contain, particular terms and conditions determined by the Registrar"**
- (d) **"limiting the amount or value of the policy benefits to be provided by the long-term insurer under certain long-term policies determined by the Registrar to an amount or value determined by the Registrar"**
- (e) **"limiting the amount of the premiums that the long-term insurer may contract to receive, during a period determined by the Registrar, in respect of all or certain long-term policies determined by the Registrar that may be entered into by that long-term insurer during that period"**
- (f) **"requiring the long-term insurer to enter into reinsurance policies in terms of which that long-term insurer reinsures at least a portion determined by the Registrar of liabilities incurred by it in terms of all or certain long-term policies determined by the Registrar that may be entered into by that long-term insurer during a period determined by the Registrar"**

Section 10 then concludes with a line that conflicts directly with the most fundamental tenet of the rule of law. It says:

and different conditions may be determined in respect of different long-term insurers.

Nothing can justify different rules for different participants in a particular type of economic activity. Such a provision is so blatantly open to abuse that it is remarkable to find it in a piece of proposed legislation. It is to be hoped that the legislators will strike out the sentence.

Section 26

- (1) **"... no person shall, without the approval of the Registrar, acquire or hold shares or any other interest in a long-term insurer which results in that person, directly or indirectly, alone or with an associate, exercising control over the long-term insurer"**
- (2) **"No person shall acquire shares in a long-term insurer if the aggregate nominal value of those shares ... will amount to 25 per cent or more of the total nominal value of all of the issued shares ... without first having obtained the approval of the Registrar."**

Section 26(3)

The approval referred to in subsection (2)-

- (a) may be given-
 - (i) "subject to the aggregate nominal value of the shares owned by the person concerned and ... not exceeding such percentage as may be determined by the Registrar ...
 - (ii) "subject to such other conditions as the Registrar may determine"
- (b) may be refused if the person concerned ... has not already owned share in the long-term insurer-
 - (i) of the aggregate nominal value; and
 - (ii) for the minimum period, not exceeding 12 months, that the Registrar may determine.

Section 31(1)

- (c) "a long-term insurer shall, in the Republic, have assets ... which are of the kinds ... and ... which have a market value ... which does not exceed the percentage specified in Schedule 2 in respect of particular kinds or categories of those assets, unless the Registrar otherwise approves ..."
- (c)(iii) "subject to such conditions as the Registrar may determine"
- (2)(b) "... the kinds of assets ... and the spread of those assets ... shall ... comply with any general requirements prescribed by the Registrar ..."

Section 34

- (1)(d) "A long-term insurer shall not- ... without the approval of the Registrar, given generally or in a particular case, and subject to such conditions as the Registrar may determine."

It is unconscionable that some of the largest institutions in South Africa are subjected to the arbitrary decisions of whoever may be the Registrar of Long-term Insurance from time to time. No person has the knowledge, nor is it possible to acquire the knowledge, to wield the discretionary powers contained in this Bill without causing harm. Even if the responsible person attempts in every way possible to act in an honest, equitable and just manner there will be times when lack of information will lead to errors which will be exceedingly costly to the victims of those errors. Some of the damage may not be visible because it will relate to activities that have not occurred because they have been erroneously disallowed. If, however, the person with these massive coercive powers should at any time, and for whatever reason, decide to act dishonestly or corruptly or in a biased manner, the damage to the economy of the country could be incalculable.

5. LIMITATION OF REMUNERATION TO INTERMEDIARIES

Limitation of remuneration imposed by regulation has the same effects as price control on goods. The market becomes distorted and if the market clearing rate is higher than the controlled price there is a high incentive to avoid or evade the regulation. Recent publicity in the newspapers suggests that the present commission structure is out of line with what some long-term insurers wish to pay to intermediaries. The companies themselves should decide the amount of remuneration payable and should not have rates imposed on them.

Premiums on long-term insurance policies are calculated by reference to the following items:

- Investments to be made on behalf of policyholders
- Underwriting the risk of death and/or disability
- Remuneration paid to intermediaries
- Overhead expenses
- Profits to the insurer

The assumption made in limiting the remuneration paid to intermediaries is that any remuneration paid which is greater than the amount allowed in the Act will reduce the benefits payable to policyholders. This does not automatically follow. If, for example, a long-term insurer can reduce its overheads, or is prepared to settle for a lower profit, it can pay more to its intermediaries without affecting the benefits to policyholders. Those insurers that attract the most capable or most innovative intermediaries will probably also be amongst the insurers with the lowest overheads. Efficient insurers should not be prevented from utilising a portion of their savings on other overheads to increase the remuneration of their intermediaries.

Long-term insurance in South Africa is exceptionally competitive. Policies are sold on the basis of benefits to policyholders and insurers cannot jeopardise future business by following practices that will result in their products being uncompetitively priced. Interference in aspects of the day to day management of businesses, such as the manner in which they remunerate those who provide services to them, will create rather than remove distortions, will prevent innovation, and most importantly, will reduce efficiency in the delivery of services to policyholders.

The consideration of this new legislation presents a good opportunity to remove this economically unsound provision from the statutes. Section 49 of the proposed Bill together with Schedule 5 should therefore be deleted.

6. UNDESIRABLE BUSINESS PRACTICE

Section 50(1) of the Bill provides that **"notwithstanding anything to the contrary in any law contained, the Registrar may, after consultation with the Advisory Committee and in concurrence with the Minister, declare a particular business practice to be undesirable for-**

- (a) **all or a particular category of long-term insurers; or**
- (b) **all or a particular category of persons who render services in respect of long-term policies.**

Section 50(3) further provides that **"If the Registrar is satisfied that a long-term insurer ... is carrying on a business practice which may become the subject of a declaration under this section, he or she may, in concurrence with the Minister, by notice direct that long-term insurer or person to suspend that particular business practice for such period, not exceeding three months, as he or she deems necessary ..."**

The type of business practice that is likely to be considered "undesirable" is not described in any way, which means that any insurer considering an innovation will not know whether the innovation will be considered "undesirable". Had a provision such as this existed at the time of introduction of South African designed insurance policies such as Linked Life, Dread Disease, Terminal Illness, and Universal Life, the competitors of the innovative companies would, without doubt, have tried to persuade the Registrar to prevent their introduction. What is intended to be consumer protection, becomes a means for businesses to protect themselves from innovative competition.

The arguments against subjective decision-making by civil servants are summarised here as they are particularly applicable to this proposed section:

1. Owners and managers of businesses are subject to a myriad uncertainties which operate in the market place. Known risks are constantly assessed and measures adopted to reduce their impact. What they cannot protect themselves against is a sudden change in the rules or framework within which they are compelled to operate. Even more damaging to proper management of their businesses is having the "Sword of Damocles" of civil service discretionary powers hanging over their heads - where they are suddenly informed that the administration has decided that something that was legal yesterday is not legal today. Only Parliament should have the power to change the rules in this fashion and only the Courts should have the power to change an interpretation of the law, an event that has an impact similar to that of new legislation on those who have relied on previous judgements. At least in these cases proper procedures and processes will have been followed and affected parties will not be at the mercy of the subjective value judgements of an individual or small group of individuals operating outside the channels of due process.
2. In a free and democratic society which sets a high value on the rule of law, transparency, and the tenets of an open society, administrative discretion has no place.
3. Civil servants should not expect to receive approval from Parliament for any section in a Bill which in effect says:

In case I have forgotten to include sufficient discretionary power to deal with some aspect of the insurance business which may offend me, grant me additional discretionary powers to make illegal tomorrow anything that may be legal today. I do not wish to be bound by existing legislation or the precedents that have been established by many years of closely reasoned argument in the Courts. Do not expect me to refer such matters to you, the legislators, for decision. In addition, do not expect me to rely on the Courts to interpret the law and decide what should and should not be illegal. I want unlimited power. I will decide!

The proposed section 50 offends all the rules of a just legal system as described in this submission and should be expunged from the Bill. All the provisions which the legislators wish to include in the Bill should be clearly spelled out so that insurance companies have no doubt about the regulatory framework within which they are required to operate. A great and efficient industry such as the South African insurance industry does not deserve to be made subject to the far-reaching and unlimited discretionary powers contained in section 50.

7. CONCLUSION

This Bill should be entirely re-written, replacing all discretionary powers with objective stipulated requirements which are open and transparent. The most invasive of these powers have been mentioned but this submission does not contain a complete list. All arbitrary administrative powers should be removed. Insurers are subject to the laws relating to fraud and cannot deceive policyholders with impunity. They are subject to independent audits and actuarial assessments in order to safeguard policyholders. In addition, the reputations of long-term insurers are of considerable importance to them and they dare not risk the goodwill they have built up over many years in order to gain dubious benefits at the expense of their policyholders.

**Comment on the
*Basic Conditions of Employment Bill [B98-97]***

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 Improved Quality of Life

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. This includes the right to decide how they should live their lives and what voluntary agreements they wish to conclude. An important part of an appropriate environment is that it should be free of bureaucratic red tape, and especially regulatory requirements that raise production costs and make South Africa less competitive. Regulations that raise the cost of employing people reduce the number of people employed and are especially detrimental to the unemployed, the young, the aged and those who are otherwise disadvantaged. There are also wider social ramifications.

1.2 Consistent Underlying Policies

Government policies should have the welfare of all the people as their primary objective. They should be consistent between alternative forms of activity and between various members of society. No one should be targeted for either preferential treatment or harsh treatment merely because they are considered by government to supply a service of greater or lesser importance, nor should government in writing laws be more favourably disposed towards some citizens than they are towards others.

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which therefore do not attempt to bring about particular outcomes. There has to be a level playing field for everyone. The rule of law was described by Nobel Laureate Friedrich Hayek in his book *The Constitution of Liberty*:

The conception of freedom under the law ... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free. It is because the lawgiver does not know the particular cases to which the rule will apply, and it is because the judge who will apply them has no choice in drawing the conclusions that follow from the existing body of rules and the particular facts of the case, that it can be said that laws and not men rule. Because the rule is laid down in ignorance of the particular case and no man's will decides the coercion used to enforce it, the law is not arbitrary. This, however, is true only if by "law" we mean the general rules that apply equally to everybody.

The *Basic Conditions of Employment Bill* contains provisions that are despotic in nature. They override all voluntary agreements that individuals may wish to enter into. They deprive unemployed people of the right to enter into agreements which they may regard as beneficial. In order to create the free society for which the majority of South Africans have been yearning for so long, it will take a conscious and decisive effort on the part of government to root out all provisions of a despotic nature contained in legislation enacted by previous administrations. It will also be essential to ensure that no new despotic legislation is added to the statute book. The infamous apartheid period was only possible because the rule of law was ignored and extensive arbitrary powers were given to the civil service to follow differing rules in dealing with different citizens of the country.

2. ACHIEVING GLOBAL COMPETITIVENESS

Evidence accumulated by the Free Market Foundation in conjunction with the world-wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. There are clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the GEAR policies. In particular, high growth economies require **flexible labour markets**.

The evidence shows that a freer economy will bring about:

1. Higher *per capita* incomes.
2. More rapid *growth* in per capita incomes.
3. **More employment.**

In assessing the probable impact of this proposed legislation it must be recognised that regulation is introduced incrementally. Piece by piece is added until it strangles productive enterprise.

Parliamentarians who are concerned about unemployment and poverty in the country, should demand that all unnecessary bureaucratic requirements be removed from all Bills that come before them. If they do not, they will be ultimately responsible for the job losses caused by harmful prohibitions, encumbrances, costs, and unnecessary regulatory requirements. These numbers swell to thousands and even millions as a result of accumulating regulation in every facet of the economy.

3. EMPLOYEE/EMPLOYER RELATIONS

In everyday business employees and their employers are not antagonists. They work as a team and collaborate in competing against other teams active in the economy. The proposed Bill is likely to undermine this natural partnership and place employees and employers on an adversarial footing by imposing conditions of employment on them that would not have formed part of voluntary contracts between the parties. The result will be that employers will stick strictly to the rules, no matter what compassion would otherwise have led them to do, and employees likewise will be constantly looking for any minor infringement. A virtual "police state" atmosphere will be created in a workplace that would otherwise have been based on trust, understanding and co-operation for mutual benefit.

4. CONCLUSION

This comment deliberately avoids a detailed analysis of the Bill and concentrates on the principles which are considered essential in the establishment of a just society. In its attempt to determine detailed rules to be applied to all employees and employers the Bill removes the possibility of employees and employers fashioning convenient voluntary arrangements that will suit their particular circumstances. This concern has particular application to the relationships between small businesses and their employees. There is a desperate worry that, whilst the Bill may provide some additional benefits to people who are already employed, it will cause thousands of people to lose the opportunity of employment because employers will take on less staff, because some employers will go out of business due to an inability to comply with the conditions imposed by the Bill, and that many labour-intensive businesses will never be started because the costs of compliance will make them potentially unprofitable.

BASIC CONDITIONS OF EMPLOYMENT BILL

AN APPEAL TO MEMBERS OF PARLIAMENT BY THE SMME BUSINESS INITIATIVE

We, the small business people

- * Own spaza shops, dress-making, manufacturing, building, welding, car repair, food sales, retail, medicine, curio, street sales and other businesses.
- * Create millions of jobs

You, the elected representatives of the people

- * Owe it to us not to be bull-dozed into passing a Bill that will hurt all the small people and benefit only those who already have secure jobs.
- * It is your duty to protect us, and all the other disadvantaged members of our society, from the selfish power of vested interests.

The minority will benefit at the expense of the majority

- * If you add up the small business people, the unemployed, the old, the young, the physically disabled, the women of child-bearing age, and all the other disadvantaged who will be denied jobs because of this and other labour legislation, we number many millions.
- * We are the majority.
- * Do you really believe in democracy or will you bow to pressure from a minority?

Government should not bow to vested interests

- * Existing labour legislation already denies people jobs.
- * We would employ many more people if the labour laws did not interfere - if the deals between big business and big labour were not foisted upon us.
- * It is the job of government to preserve and protect the interests of society in general.
- * It is the task of vested interest organisations to look after the selfish interests of their members, which they are perfectly capable of doing without assistance from government.
- * If government is intimidated into passing legislation that causes increased unemployment, lower economic growth, reduced foreign investment, and increased poverty - the final responsibility belongs to government.
- * We may sympathise with government at its misfortune in having to confront vested interests, but at the end of the day, the losses to the economy must be marked up against government.
- * We condemn the manipulation used by vested interests to achieve their ends but we believe government should not give in to such tactics - government is responsible for the final outcome.
- * Government must place the interests of the broader society above the selfish interests of minority groups, whoever they may be.

Parliament should not grant privileges to special interest groups

- * If this Bill is approved, Parliament will be granting special privileges to vested interests at the expense of the rest of society - that is wrong.
- * Parliament is not supposed to do this.
- * We contribute as much to the economy as anyone else, if not more.
- * We will outcompete big business, without special protection, as long as you do not impose unnecessary costs on us.

- * We do not ask for special privileges at the expense of big labour and big business - all we ask is that no special privileges be granted to them either.

The interests of the people

- * If you really care about the poor, the unemployed and the disadvantaged you will let them decide for themselves if they want to work for us on the terms we are able to offer.
- * If you really care, you will not dictate to the disadvantaged and you will not allow others to dictate to them.
- * Every time you see an unemployed person in future remember that legislation such as this is the probable cause.

During the apartheid years ...

- * We suffered because of the **pass laws**, the **absence of rights to land, job reservation, licensing laws, separate development** and **all the other laws that said we could not employ or be employed**.
- * Now we have another bitter pill to swallow.
- * Again we will not be allowed to employ and be employed.
- * Only this time it will be the work of our own democratically elected government.
- * What have we gained from the struggle?
- * Are the people to remain forever the pawns and lackeys of some dominant political force that cares nothing for the misery and unhappiness of the poorest members of our society?
- * A political force that denies them the right to earn an honest living by their own sweat and toil?
- * Is that to be the lot of South Africans for another three centuries?

THIS BILL IS JUST NOT ON!!!!!!!!!!!!!!

Attachment 1

DP local authority privatisation project

In *March 1998* the FMF was approached by the Association of Liberal Democratic Councillors (a Pietermaritzburg-based group consisting mainly of DP councillors) to assist with the following:

- Drawing up a budget showing potential savings gained from local authority privatisation.
- Providing historical examples of savings from around the world.
- Detailing types of privatisation.
- Detailing objections to privatisation.

The FMF was subsequently approached by DP councillors for the Greater Johannesburg Metropolitan Chamber and its four Metropolitan Local Councils (MLCs) and by the East Rand area (consisting of one Metropolitan Chamber and nine MLCs) for the same reason.

Attachment 2

Evidence to the parliamentary portfolio committee on mineral and energy affairs **Comment on the green paper “A minerals and mining policy for south Africa” (December 1997)**

20 April 1998

PRELIMINARY

The government’s overall objectives — adopting policies that would promote racial and other forms of equity, and provide opportunity for the empowerment of the disadvantaged people and small scale mining enterprises — are supported enthusiastically. Likewise most of the specific proposals are supported. For the sake of brevity and in the interest of making a material contribution this submission addresses only the proposed nationalisation of mineral deposits.

NATIONALISATION OF MINERAL RIGHTS

Arguments for and against nationalising the two-thirds or so of mineral rights which are privately owned are stated in the GP but not analysed critically, or substantiated empirically or theoretically. Arguments advanced by proponents and opponents of the idea are listed at 1.3.3.1, and the government’s reasons for wanting to nationalise minerals are listed at 1.3.6.1.

Nationalisation, especially at this time in South Africa’s and the world’s history, is an extreme proposal, with potentially adverse consequences and implications not apparently realised by the GP’s authors. We urge the government to reconsider this proposal for the following reasons:

General

1. It is instructive that the word “nationalise” is avoided, except for the purpose of repeating the government’s opposition to it (2.1, iv). This may be in recognition of the fact that nationalisation is no longer an internationally acceptable policy option in the modern world. That nationalisation is contemplated, however, cannot be concealed from the international community.
2. In its extensive contacts with some of the world’s leading investment advisors the Free Market Foundation found, as others have done, a wide-spread positive response to the pro-market evolution of economic policy in South Africa. Many observers have been waiting for convincing evidence of the government’s commitment in practice to its articulated policies. This wait-and-see attitude amongst investors and economic policy analysts amounts to a concern that the government might fall between the two stools of recognising, on the one hand, the importance of adopting bold and effective policies, whilst being unconvinced, on the other hand, of the paradigm that informs GEAR and related policies.
3. That nationalisation of minerals is being considered at a time when virtually nothing has been nationalised anywhere on earth for a decade sends a needlessly negative message to the world.
4. At this time in South Africa’s history it is particularly crucial for the government not only to adopt sound economic policies, but also to convince local and foreign investors and commentators that it is doing so. Departures from consistency should be contemplated in only exceptional circumstances.
5. Nationalisation of minerals — found in most countries — is, like the nationalisation of much else, an historic phenomenon. Reasons vary from those countries where minerals were never

privately owned to where nationalisation occurred at a time when the established view was still that nationalisation would result in improved efficiency.

6. Widespread nationalisation of mineral deposits is proving to be as flawed as widespread airline nationalisation is now recognised to have been.
7. There is now overwhelming empirical and theoretical evidence against nationalisation in general and minerals in particular.

ARGUMENTS FOR NATIONALISATION (1.3.3)

1. Nation's endowment; government as custodian (1.3.3.1.ii.a)

That something is a national endowment does not imply that the national interest is for it to be nationalised. The most obvious example is land. One of apartheid's great atrocities was the nationalisation of virtually all the land held by black South Africans and much of the land in "white" areas, which is now being returned to the people. Likewise government's custodianship: one of the most important things of which government is custodian is "private" property rights. Custodianship normally implies the safe keeping of someone else's person or property.

Whether or not the government is or ought to be the custodian of mineral deposits, or whether they are a private or national endowment, does not, in and of itself, establish what the optimal form of ownership might be.

2. Public ownership and successful exploration (1.2.2.1.ii.b)

Two issues arise in this context:

- 2.1 whether exploration *per se* constitutes "successful" exploration — clearly it does not — and
- 2.2 which form/s of ownership are optimal.

It is unlikely that nationalisation of mineral wealth will be more efficient than private ownership for the same reason that nationalisation is sub-optimal in other contexts. There are many reasons why this is so and there is voluminous evidence of the superiority of private ownership in the real world.

Amongst the reasons are that:

1. Economic incentives tend to be distorted in the government sector and positive in the private sector. Governments, for instance, do not keep balance sheets — they have no idea what their assets are — and this deprives them of any realistic prospect of efficient resource management.
2. Private ownership promotes exploitation at the right time and cost. Private owners are rewarded by the market when they make correct decisions and are penalised when they make the wrong ones. The self-interest of people in the private sector tends to coincide with both the optimal utilisation of resources and the government's objectives articulated in the GP — mining and marketing to maximal advantage at minimal cost — whereas the self-interest of government employees tends to coincide with the avoidance of innovation and responsible risk, and provides little or no incentive or reward for optimal performance.

3. Private ownership suppresses exploitation and alternative views (1.2.2.1.ii.c)

There is an implicit assumption in the GP that all resources ought to be exploited as soon as possible. One of the seemingly insurmountable problems with government ownership is the impossibility of efficient economic calculation. Prices and markets, and profits and losses, provide spontaneous and efficient signals to entrepreneurs on when and how best to exploit resources. Government is, by its nature, deprived of these signals.

In the ideal world implied by the GP all South African minerals would be extracted out of the ground immediately and gone forever. The nation's resources ought to be seen, as private owners see their resources, as investment capital to be exploited at the right time in the right way, and neither can be known with certainty. The best that governments can do is to create a positive enabling environment.

“Alternative views” are indeed important, because no one can have perfect knowledge. This is a case for private rather than government ownership. One of the main deficiencies of nationalisation is that alternative approaches are, by definition, stifled. Private competitive ownership is characterised by a dynamic diversity of approaches pursued by experts who pay the price when they are wrong. Private ownership results in rapid and continuous error identification and correction, which is impossible under state monopoly ownership.

4. Hoarding; barriers to entry (1.3.3.1.ii.d)

One person's hoarding is another's responsible conservation, investment or saving, a schizophrenia in the public policy discourse castigates private enterprise for “exploiting” scarce resources on the one hand and for “hoarding” them on the other hand.

The more responsible view is that complex decisions have to be made at all times regarding the optimal rate of resource exploitation, and that, since it is impossible to know in advance precisely what to do, a multiplicity of decisions should be allowed. This is achieved only through private ownership and/or control. Private ownership of tradable rights is the only effective way of guaranteeing the right of entry by newcomers, and of ridding the country of inefficient users of the nation's research endowment. If the government is an inefficient owner (a) the market signals that normally expose inefficiency will have been precluded and (b) there will be no process or even incentives towards efficiency.

5. Fragmented ownership militates against new investments (1.3.3.1.ii.e)

In other areas of economic life, diversity and competition are recognised as militating in favour of entry and efficiency. Mining is no different. The present situation entails diversity. The state as owner of one-third of all mineral rights can utilise them as it sees fit alongside dynamic and diverse ownership. Time will tell which form is superior. There is no need to make a final decision now. Both before and since transition the state has not shown itself to be a superior mineral resource owner. Until it does so, nationalisation should not be regarded as a policy option.

The problem of owner-identification is significant, but something as drastic as nationalisation is not a solution. It is an administrative rather than an economic policy challenge which cannot be addressed adequately here.

6. Small scale miners (1.3.3.1.ii.f)

Efficient utilisation of the country's resources ought to be the objective that informs policy. The Free Market Foundation has fought longer and harder than any other force in the country for the interests of small business, and has given evidence to the Portfolio Committee on various occasions in favour of removing the anti-small-business bias in existing policy. What

is needed, in the interests of small business and the country as a whole, is a level playing field for enterprise of all sizes with appropriate assistance and incentives for small business, such as training, mentoring and finance.

CONCLUSION

Private ownership has proven itself world-wide to be the most efficient form of economic resource ownership. Minerals are no exception. Theory and practice suggest that, if South Africa wants to achieve high rates of local and foreign investment, international competitiveness, rapid human resource empowerment, and efficient resource utilisation, it should be privatising rather than nationalising.

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Attachment 3

Evidence to the Parliamentary Portfolio Committee on Labour **Labour budget vote no. 22**

20 April 1998

Individual liberty is individual power, and as the power of a community is a mass compounded of individual powers, the nation which enjoys the most freedom must necessarily be in proportion to it's numbers the most powerful nation.

John Quincy Adams 1822 (1767 — 1848)

1 Context in which this evidence is submitted

Improved quality of life

The evidence submitted by the Foundation is based on the premise that the primary objective of the government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. An important part of that environment is the right to earn a living and to do so without the encumbrance of bureaucratic red tape.

2 Achieving global competitiveness

Evidence accumulated by the Free Market Foundation in conjunction with the world — wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. We have clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the GEAR policies of government.

3 An enabling environment

3.1 Occupational health and safety of persons

This is one of the most serious and legitimate concerns that the Department is addressing.

- However there should be an enterprise specific policy as opposed to a general policy that is universally applicable.
- The policy should take into account the reality that circumstances differ from industry to industry, and within industries from enterprise to enterprise.
- For example in the mining sector miners are exposed to different dangers in small scale mining as it does not occur at the same depth as deep level mining that is undertaken by large mining enterprises.
- Therefore to impose the same health and safety measures on large and small miners would imply onerous compliance costs on the former and put small miners at a disadvantage.
- Thus only appropriate and necessary legislation that addresses issues of health and safety should be in place.

3.2 Human resources development

It cannot be denied that companies are investing more and more in human capital.

- This happens when government opens up the industries and makes it less onerous for new entrants to participate.
- Simultaneously South African companies are exposed to global competition.
- As a consequence they have to enhance productivity, a key element of which is to invest in human capital development.
- To ensure that human resource development is accelerated the government need do only one thing.
- The government must remove all unnecessary encumbrances to enterprise thus stimulating competition.
- Competition will then inevitably result in enterprises investing more in factors of production.
- This will, in turn, create the greatest number of jobs.

4 Increasing the demand for labour

Unemployment is undeniably one of the most serious problems facing South Africa today. The Department of Labour has a primary role to play in overcoming this problem. We wish to make the following specific comments and proposals in this respect:

- It is very clear that it is in the interest of providers of goods and services that there should be the highest demand for what they offer.
- The rewards for their endeavours reflects any increase in the demand for what they provide.
- Strangely when it comes to labour this self-evident truth is not recognised. If the unemployment problem is to be solved policy-makers must realise that the way to solve the massive unemployment problem is to *increase the demand for labour*.
- This means creating a business-friendly and investment-friendly environment.
- Part of such an environment is a recognition that employers and employees are not antagonists but are on the same side. In any firm owners, management and employees are part of a team competing with other firms in the country and outside the country. Labour policy should therefore do everything possible to foster harmony within the firm if South Africa is to become a really competitive nation.

5 Conclusion

We believe therefore that the Department of Labour should spend the largest proportion of the budget which is presently being considered to achieve the following objectives:

- Creating an enabling environment for the highest possible economic growth.
- Creating an environment in which there will be the highest possible demand for labour.
- Fostering harmony and co-operation within South African firms.

Attachment 4

UK / Czech Republic Health trip

The FMF organised a fact-finding trip to the UK and the Czech Republic for five members of the Parliamentary Portfolio Committee on Health from 21 June through 29 June, 1998. The group consisted of the following:

HEALTH CARE STUDY GROUP VISITING THE UNITED KINGDOM AND THE CZECH REPUBLIC ABBREVIATED CURRICULUM VITAE

Members Of The South African Parliamentary Health Portfolio Committee

Dr J (Kobus) Gous – National Party MP

Born 24th March 1953 Niekershoop, RSA

Medical Qualification - MBChB (Pret) University of Pretoria 1976

Private/Hospital Practice, Springs, Gauteng since 1978

Member of Parliament for Springs 1993 (National Party)

Member of Parliament (National Party) 1996

Chief Spokesperson on Health – National Party 1997

Beatrice Marshoff – African National Congress MP

Professional Nurse (General Nurse, Midwifery, Intensive Care, Theatre Technique, Public Health)

Member of Portfolio Committees on Health, Finance, Reconstruction and Development Programme (RDP), Public Accounts.

Member of the ANC, Member of the South African Health and Social Services Organisation (SAHSSO), Founder Member of National Education, Health and Allied Workers Union (NEHAWU) - Free State.

Jeanette Ntombizodwa Vilakazi – Inkatha Freedom Party MP

Academic Qualifications

Professional Nurse (General Nursing, Midwifery Nursing, Psychiatric Nursing, Paediatric Nursing Care, TB Management)

BA Cur Degree (1987) - University of South Africa:

Nursing measured in Community

Nursing Science and Nursing Administration

BA Cur Honors in Nursing Administration (1994) – University of South Africa

Member of Portfolio Committees

Health Select Committee, Environmental Affairs & Tourism, Surrogate Motherhood

Inkatha Freedom Party Committees

Chair: Health Study Group, Sports and Recreation Study Group

Essop Jassat – African National Congress MP

Educational Qualifications

BSC (University of Witwatersrand) 1953; MB, BCh (University of Witwatersrand) 1960; MFGP (College of Medicine, SA) 1974

Member of Portfolio Committees

Health, Welfare, Members' Interest, (Parliamentary Representative – National Convention on AIDS)

Religious Activity

Chairperson: Talimul Islams Mosque and Madressa Trust

Nonkumbi Bertha Gxowa – African National Congress MP

Working Career

Retailing, Manufacturing, Medical Aid Societies and Trade Union (South African Clothing Workers' Union)

Member of Portfolio Committees

Health, Home Affairs

African National Congress Committees

Chair: ANC Women's League, Gauteng

FREE MARKET FOUNDATION REPRESENTATIVES

Rachel Jafta – Chair, Cape Regional Council

Senior Lecturer in Economics, University of Stellenbosch

Temba Nolutshungu – Director, Free Market Foundation

Cape Town office of the FMF

ITINERARY

SATURDAY, 20 JUNE

21H35 Depart SA for UK

SUNDAY, 21 JUNE

Free

MONDAY, 22 JUNE

11H00 Meeting with NERA (National Economic Research Association)

Mr Daniel Whitacker, Associate Director

13H00 Lunch with Mr Daniel Whitacker, Associate Director and Mr Clive Smee, Chief Economic Advisor, UK Department of Health

14H00 Meeting with Mr Clive Smee, Chief Economic Advisor, UK Department of Health

TUESDAY, 23 JUNE

08H00 Day at pharmaceutical company

WEDNESDAY, 24 JUNE

09H30 Half-day seminar at the IEA (Institute of Economic Affairs)

Speakers: Dr Nick Rickman (University of Surrey); Barry Hassell (Independent Healthcare Association); John Spiers (Health Authority Chair)

THURSDAY, 25 JUNE

11H05 Depart Heathrow Airport for Prague, Czech Republic

14H00 Arrive Prague (Ambassador Hotel to collect delegation at airport)

FRIDAY, 26 JUNE

09H00 Meeting with: Mr Tomas Szereghy Deputy Director

Venue: Fakultni Nemocnice Kralovske Vinohrady Hospital

11H00 Presentation and discussion with Mr Mazan and Mr Peter Morallee of MAFS

Venue: MAFS (International Association of Pharmaceutical Companies) offices

14H00 Presentation and discussion: Dr Miroslav Macek , Vice-chairman of the Civic Democratic Party and former advisor to the Minister of Health and Prof Robert Holman, former advisor to former Prime Minister Vaclav Klaus as well as deputies - MP of the Health and Social Committee (to be confirmed)

Venue: Liberalni Institute

SATURDAY, 27 JUNE

Free

SUNDAY, 28 JUNE

15H00 Depart Prague for London Heathrow

16H00 Arrive Heathrow

19H00 Depart London for South Africa

Submission to the Parliamentary Standing Committee on Finance Long-Term Insurance Bill

SUMMARY

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 *Improved quality of life*

The attached evidence is submitted on the premise that the primary objective of government is to create an environment in which citizens have the opportunity to improve the quality of their lives by increasing their standard of living.

1.2 *The Rule of Law*

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which do not attempt to bring about particular outcomes. All legislation enacted by Parliament should pass this test.

2. ACHIEVING GLOBAL COMPETITIVENESS

To become globally competitive all segments of the South African economy must be given greater economic freedom. This inescapably means that local suppliers of goods and services must also be exposed to the discipline of competition from outside South Africa's borders. The Long-Term Insurance Bill contains provisions that are inconsistent with this objective.

3. ENTRY INTO GLOBAL MARKETS

Entry into global markets requires that the type of "siege economy" legislation introduced by the previous government should be thoroughly re-examined. If South African goods and investors are to be welcome in foreign markets, foreigners must receive reciprocal treatment in this country. Economic nationalism is not in the long-term interests of the citizens of South Africa.

4. DISCRETIONARY POWERS AND THE RULE OF LAW

The analysis of this Bill shows that it is in conflict with the fundamental tenets of the rule of law due to the inclusion of unfettered administrative discretion.

5. LIMITATION OF REMUNERATION TO INTERMEDIARIES

Interference in the day-to-day management of businesses such as the fixing of remuneration of intermediaries creates rather than removes market distortions and is economically unsound.

6. UNDESIRABLE BUSINESS PRACTICES

What is intended to be consumer protection inevitably turns into a means for businesses to protect themselves from innovative competitors. A great and efficient industry such as the South African insurance industry does not deserve to be made subject to the far-reaching and unlimited discretionary powers contained in section 50 of this Bill.

7. CONCLUSION

This Bill should be entirely re-written, replacing all discretionary powers with objective stipulated requirements which are open and transparent. All arbitrary administrative powers should be removed.

SUBMISSION

1. CONTEXT IN WHICH THIS EVIDENCE IS SUBMITTED

1.1 Improved Quality of Life

The evidence submitted by the Foundation is based on the premise that the primary objective of government is to create an enabling environment in which South African citizens will have the opportunity to improve the quality of their lives by increasing their standard of living. This includes the right to decide how they should live their lives and what voluntary agreements they wish to conclude. An important part of an appropriate environment is that it should be free of bureaucratic red tape, and especially red tape based on extensive administrative discretion.

1.2 Consistent Underlying Policies

Government policies should have the welfare of the people as their primary objective. They should be consistent between alternative forms of activity and particular professions or occupations should not be singled out for either preferential treatment or harsh treatment merely because they are considered by government to supply a service of greater or lesser importance.

The rule of law requires that government should enact only such laws as are general in nature, are applicable to everyone including itself, and which do not attempt to bring about particular outcomes. The rule of law was described by Nobel Laureate Friedrich Hayek in his book *The Constitution of Liberty*:

The conception of freedom under the law ... rests on the contention that when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man's will and are therefore free. It is because the lawgiver does not know the particular cases to which the rule will apply, and it is because the judge who will apply them has no choice in drawing the conclusions that follow from the existing body of rules and the particular facts of the case, that it can be said that laws and not men rule. Because the rule is laid down in ignorance of the particular case and no man's will decides the coercion used to enforce it, the law is not arbitrary. This, however, is true only if by "law" we mean the general rules that apply equally to everybody.

The Long-term Insurance Bill contains provisions that are despotic in nature. Total power became so much a part of previous administrations that the elements of despotism are not recognised by most South Africans, not even by those who suffered most as a result of the bias and discretionary powers contained in legislation. In order to create the free society for which the majority of South Africans have been yearning for so long, it will take a conscious effort on the part of the new government to root out all provisions of a despotic nature contained in existing legislation. It will also be essential to ensure that no new despotic legislation is added to the statute book.

The infamous apartheid period was only possible because the rule of law was ignored and extensive arbitrary powers were given to the civil service to follow differing rules in dealing with different citizens of the country. The greater part of those arbitrary powers continue to exist and there is clear evidence that the civil service is asking for even greater powers. Citizens need protection against this trend. Two possible methods of affording that protection are:

- (i) That the Members of Parliament resolutely refuse to approve any legislation that is not in accordance with the rule of law as described above, and particularly, that they refuse to approve provisions in legislation that grant arbitrary discretionary powers to the civil service.

- (ii) That the courts be given the task of reviewing and controlling the acts of the administrative branch of government, especially to ensure that they do not exceed the powers that Parliament intends to grant when approving legislation.

2. ACHIEVING GLOBAL COMPETITIVENESS

Evidence accumulated by the Free Market Foundation in conjunction with the world-wide Economic Freedom Network demonstrates clearly that to become globally competitive South Africans must be given greater economic freedom. We have clear indications of the policies needed to achieve a freer economy. In broad terms the policies are consistent with the new economic policies announced by government. Some of the factors that impinge directly on long term insurance in South Africa are:

- Government consumption expenditure and involvement in the economy should be reduced substantially.
- Tax rates, and more importantly, aggregated tax rates as a proportion of GDP, should be reduced to allow for greater savings which in turn will bring about accelerated economic activity.
- Barriers to entry into occupations, professions and trade should be eliminated as far as possible.
- Government enterprises and services should be privatised and/or deprived of monopoly protection and other privileges.
- Government should uphold the rule of law and desist from introducing legislation which grants vast discretionary powers to the civil service.

The evidence shows that liberalisation of the economy will bring about:

1. Higher *per capita* incomes.
2. More rapid *growth* in per capita incomes.

Policy makers who do not take these findings into consideration will unavoidably harm consumers and the economy. In considering the Long-term Insurance Bill it is incumbent upon the Standing Committee to test every clause of the Bill on the basis of whether it is adding to or detracting from economic freedom in South Africa. In making the assessment of legislation it must be recognised that red tape is introduced incrementally. Piece by piece is added until it strangles productive enterprise.

Parliamentarians who are concerned about unemployment and poverty in the country, should demand that all unnecessary bureaucratic requirements be removed from all Bills that come before them. If they do not, they will be ultimately responsible for the job losses caused by harmful prohibitions and unnecessary regulatory requirements. These numbers swell to thousands and even millions as a result of accumulating regulation in every facet of the economy.

3. ENTRY INTO GLOBAL MARKETS

Section 16 of the Bill is exclusionary as it requires that:

16 (1) A long-term insurer shall-

- (a) **have its head office in the Republic**

Foreign insurers that have their head offices in other countries are therefore not allowed to offer their services and products to South African purchasers of insurance. This is not in the interests of the South African consumer who would be best served by a multiplicity of choices amongst insurers competing with each other. There appears to be no reason why foreign long-term insurers who are

subject to a competent authority in their own countries should not be able to offer their products to the South African market.

Entry into the global markets requires that the "siege economy" legislation introduced by the previous government be re-examined with a view to making South Africa investor-friendly from the point of view of foreign investors. If South African investors are to be welcomed into foreign markets, foreigners must receive reciprocal treatment in this country.

The proposed Section 16 should be removed from the Bill.

4. DISCRETIONARY POWERS

Many sections of the Long-term Insurance Bill contain the type of powers that the Administrative Justice clause in the Constitution should prevent. Discretionary powers that allow for arbitrary decision-making by government officials have no place in the laws of a modern democracy. Public Choice theory in economics has demonstrated only too well that the subjective judgements of civil servants tend to be used to further their own interests rather than the interests of the general public. Such powers lead to injustice and corruption and should be eliminated.

Some of the sections of the Long-term Insurance Bill requiring subjective value-judgements and granting discretionary powers to the Registrar are listed below, with comment where considered necessary:

Section 9(3)(b)

This section gives the Registrar the power to grant, or refuse to grant, registration to intending long-term insurers. Section 3(b) stipulates that registration shall not be granted if -

(i) **"the applicant does not have the financial resources, organisation or management that is necessary ..."**

There appears to be no reason why objective criteria cannot be established for resources, organisation and management, to which an applicant has to conform in order to qualify for registration. Intending applicants would then know in advance what is required of them, introducing greater certainty into the process.

(ii) **"any person who is, or will ... be a director or managing executive of the applicant is not fit and proper to hold the office concerned"**

On what basis does the Registrar decide whether the person is "fit and proper"? Presumably black people would not previously have been considered "fit and proper" to hold office as directors or executives of insurance companies. Is the gender, religion, political affiliation, ethnicity, nationality or physical capacity of the person to be taken into consideration? This provision makes it possible for Registrars to pursue personal vendettas against anyone who may offend them and invites misuse. If objective criteria cannot be established this section should be removed from the Bill.

(iii) **"the direct or indirect control of the applicant by another person ... will be contrary to the interests of the policyholders"**

Is the Registrar to decide that control by some person will be contrary to the interests of policyholders whilst control by some other person will not be contrary to their interests? If so, by what standard is the Registrar to judge? Are there objective tests to be applied to establish what will or will not be in the interests of policyholders or is the matter to rest on the subjective value judgements of the Registrar? If so, those tests should be clearly spelled out in the Bill.

(iv) **"the registration is contrary to the public interest"**

Friedrich von Hayek described the difficulties surrounding the concept of the "public interest" in his book *Law, Legislation and Liberty*:

The common welfare or the public good has to the present time remained a concept most recalcitrant to any precise definition and therefore capable of being given almost any content suggested by the interests of the ruling group.

Any ruling given by the Registrar in terms of this provision will be inescapably arbitrary in nature and therefore unjust. The board of appeal to which an aggrieved person may turn in terms of section 3(3) of the Bill will face a similar predicament. The conditions of Registration should therefore be clearly listed so that this "weasel clause" can be omitted from the Bill.

Section 10

Section 10 gives the Registrar further far-reaching discretionary powers. The Registrar has the power to determine conditions:

- (a) **requiring that "... the long-term insurer ... enter into only certain long-term policies determined by the Registrar"**
- (c) **requiring that "... the long-term insurer ... enter into certain long-term policies determined by the Registrar only if those policies contain, or do not contain, particular terms and conditions determined by the Registrar"**
- (d) **"limiting the amount or value of the policy benefits to be provided by the long-term insurer under certain long-term policies determined by the Registrar to an amount or value determined by the Registrar"**
- (e) **"limiting the amount of the premiums that the long-term insurer may contract to receive, during a period determined by the Registrar, in respect of all or certain long-term policies determined by the Registrar that may be entered into by that long-term insurer during that period"**
- (f) **"requiring the long-term insurer to enter into reinsurance policies in terms of which that long-term insurer reinsures at least a portion determined by the Registrar of liabilities incurred by it in terms of all or certain long-term policies determined by the Registrar that may be entered into by that long-term insurer during a period determined by the Registrar"**

Section 10 then concludes with a line that conflicts directly with the most fundamental tenet of the rule of law. It says:

and different conditions may be determined in respect of different long-term insurers.

Nothing can justify different rules for different participants in a particular type of economic activity. Such a provision is so blatantly open to abuse that it is remarkable to find it in a piece of proposed legislation. It is to be hoped that the legislators will strike out the sentence.

Section 26

- (1) **"... no person shall, without the approval of the Registrar, acquire or hold shares or any other interest in a long-term insurer which results in that person, directly or indirectly, alone or with an associate, exercising control over the long-term insurer"**
- (2) **"No person shall acquire shares in a long-term insurer if the aggregate nominal value of those shares ... will amount to 25 per cent or more of the total nominal value of all of the issued shares ... without first having obtained the approval of the Registrar."**

Section 26(3)

The approval referred to in subsection (2)-

- (a) may be given-
 - (i) "subject to the aggregate nominal value of the shares owned by the person concerned and ... not exceeding such percentage as may be determined by the Registrar ...
 - (ii) "subject to such other conditions as the Registrar may determine"
- (b) may be refused if the person concerned ... has not already owned share in the long-term insurer-
 - (i) of the aggregate nominal value; and
 - (ii) for the minimum period, not exceeding 12 months, that the Registrar may determine.

Section 31(1)

- (c) "a long-term insurer shall, in the Republic, have assets ... which are of the kinds ... and ... which have a market value ... which does not exceed the percentage specified in Schedule 2 in respect of particular kinds or categories of those assets, unless the Registrar otherwise approves ..."
- (c)(iii) "subject to such conditions as the Registrar may determine"
- (2)(b) "... the kinds of assets ... and the spread of those assets ... shall ... comply with any general requirements prescribed by the Registrar ..."

Section 34

- (1)(d) "A long-term insurer shall not- ... without the approval of the Registrar, given generally or in a particular case, and subject to such conditions as the Registrar may determine."

It is unconscionable that some of the largest institutions in South Africa are subjected to the arbitrary decisions of whoever may be the Registrar of Long-term Insurance from time to time. No person has the knowledge, nor is it possible to acquire the knowledge, to wield the discretionary powers contained in this Bill without causing harm. Even if the responsible person attempts in every way possible to act in an honest, equitable and just manner there will be times when lack of information will lead to errors which will be exceedingly costly to the victims of those errors. Some of the damage may not be visible because it will relate to activities that have not occurred because they have been erroneously disallowed. If, however, the person with these massive coercive powers should at any time, and for whatever reason, decide to act dishonestly or corruptly or in a biased manner, the damage to the economy of the country could be incalculable.

5. LIMITATION OF REMUNERATION TO INTERMEDIARIES

Limitation of remuneration imposed by regulation has the same effects as price control on goods. The market becomes distorted and if the market clearing rate is higher than the controlled price there is a high incentive to avoid or evade the regulation. Recent publicity in the newspapers suggests that the present commission structure is out of line with what some long-term insurers wish to pay to intermediaries. The companies themselves should decide the amount of remuneration payable and should not have rates imposed on them.

Premiums on long-term insurance policies are calculated by reference to the following items:

- Investments to be made on behalf of policyholders
- Underwriting the risk of death and/or disability
- Remuneration paid to intermediaries
- Overhead expenses
- Profits to the insurer

The assumption made in limiting the remuneration paid to intermediaries is that any remuneration paid which is greater than the amount allowed in the Act will reduce the benefits payable to policyholders. This does not automatically follow. If, for example, a long-term insurer can reduce its overheads, or is prepared to settle for a lower profit, it can pay more to its intermediaries without affecting the benefits to policyholders. Those insurers that attract the most capable or most innovative intermediaries will probably also be amongst the insurers with the lowest overheads. Efficient insurers should not be prevented from utilising a portion of their savings on other overheads to increase the remuneration of their intermediaries.

Long-term insurance in South Africa is exceptionally competitive. Policies are sold on the basis of benefits to policyholders and insurers cannot jeopardise future business by following practices that will result in their products being uncompetitively priced. Interference in aspects of the day to day management of businesses, such as the manner in which they remunerate those who provide services to them, will create rather than remove distortions, will prevent innovation, and most importantly, will reduce efficiency in the delivery of services to policyholders.

The consideration of this new legislation presents a good opportunity to remove this economically unsound provision from the statutes. Section 49 of the proposed Bill together with Schedule 5 should therefore be deleted.

6. UNDESIRABLE BUSINESS PRACTICE

Section 50(1) of the Bill provides that "**notwithstanding anything to the contrary in any law contained, the Registrar may, after consultation with the Advisory Committee and in concurrence with the Minister, declare a particular business practice to be undesirable for-**

- (a) all or a particular category of long-term insurers; or**
- (b) all or a particular category of persons who render services in respect of long-term policies.**

Section 50(3) further provides that "**If the Registrar is satisfied that a long-term insurer ... is carrying on a business practice which may become the subject of a declaration under this section, he or she may, in concurrence with the Minister, by notice direct that long-term insurer or person to suspend that particular business practice for such period, not exceeding three months, as he or she deems necessary ..."**

The type of business practice that is likely to be considered "undesirable" is not described in any way, which means that any insurer considering an innovation will not know whether the innovation will be considered "undesirable". Had a provision such as this existed at the time of introduction of South African designed insurance policies such as Linked Life, Dread Disease, Terminal Illness, and Universal Life, the competitors of the innovative companies would, without doubt, have tried to persuade the Registrar to prevent their introduction. What is intended to be consumer protection, becomes a means for businesses to protect themselves from innovative competition.

The arguments against subjective decision-making by civil servants are summarised here as they are particularly applicable to this proposed section:

1. Owners and managers of businesses are subject to a myriad uncertainties which operate in the market place. Known risks are constantly assessed and measures adopted to reduce their impact. What they cannot protect themselves against is a sudden change in the rules or framework within which they are compelled to operate. Even more damaging to proper management of their businesses is having the "Sword of Damocles" of civil service discretionary powers hanging over their heads - where they are suddenly informed that the administration has decided that something that was legal yesterday is not legal today. Only Parliament should have the power to change the rules in this fashion and only the Courts should have the power to change an interpretation of the law, an event that has an impact similar to that of new legislation on those who have relied on previous judgements. At least in these cases proper procedures and processes will have been followed and affected parties will not be at the mercy of the subjective value judgements of an individual or small group of individuals operating outside the channels of due process.
2. In a free and democratic society which sets a high value on the rule of law, transparency, and the tenets of an open society, administrative discretion has no place.
3. Civil servants should not expect to receive approval from Parliament for any section in a Bill which in effect says:

In case I have forgotten to include sufficient discretionary power to deal with some aspect of the insurance business which may offend me, grant me additional discretionary powers to make illegal tomorrow anything that may be legal today. I do not wish to be bound by existing legislation or the precedents that have been established by many years of closely reasoned argument in the Courts. Do not expect me to refer such matters to you, the legislators, for decision. In addition, do not expect me to rely on the Courts to interpret the law and decide what should and should not be illegal. I want unlimited power. I will decide!

The proposed section 50 offends all the rules of a just legal system as described in this submission and should be expunged from the Bill. All the provisions which the legislators wish to include in the Bill should be clearly spelled out so that insurance companies have no doubt about the regulatory framework within which they are required to operate. A great and efficient industry such as the South African insurance industry does not deserve to be made subject to the far-reaching and unlimited discretionary powers contained in section 50.

7. CONCLUSION

This Bill should be entirely re-written, replacing all discretionary powers with objective stipulated requirements which are open and transparent. The most invasive of these powers have been mentioned but this submission does not contain a complete list. All arbitrary administrative powers should be removed. Insurers are subject to the laws relating to fraud and cannot deceive policyholders with impunity. They are subject to independent audits and actuarial assessments in order to safeguard policyholders. In addition, the reputations of long-term insurers are of considerable importance to them and they dare not risk the goodwill they have built up over many years in order to gain dubious benefits at the expense of their policyholders.

Attachment 5 (cont)

Evidence to the Parliamentary Portfolio Committee on Finance **Long Term Insurance Bill** (Temba Nolutshungu's report-back)

Attendees: B. Turok (ANC) , A Feinstein (ANC), S Leeuw (ANC), T Alant (NP), K Andrew (DP), G Woods (IFP), M Mpahlwa (ANC & Chairman), S Khan (Secretary), four members of the Financial Services Board, Consumer Institute of South Africa, National Consumer Forum, The Life Officers' Association of South Africa, Hollard Insurance Group, Institute of Pension Consultants and Administrators, Liberty Life, Department of Trade and Industry, Department of Health

The Presentation by the consumer lobby centred around the need for effective mechanisms/ controls to ensure protection for the consumers. They expressed discomfort that the FSB had not fully consulted with them and that the insurance industry was not consulting effectively with them. Whereupon the Life Officers' Association representatives stated that the insurance industry had been addressing consumer concerns over a long period of time. Among other things they further stated, *inter alia*, that they were conducting market surveys on a regular and ongoing basis and that this afforded feedback from the consumer perspective.

The main thrust of the FMF's presentation was to draw attention to the discretionary powers of the bureaucracy generally and specifically the registrar as proposed in the bill.

The other matter was that the bill was very protectionist towards the South African Companies *vis-a-vis* competition posed by foreign based companies. This was evidenced *inter alia* by the exclusionary clause of **Section 16 (1) A long-term insurer shall have his head office in the Republic.**

TAN submitted further that the FMF believed that bearers to entry had to be removed thereby bringing about an enabling environment which would pave the way for new entrants. This scenario, he further elaborated, would ensure that these companies effectively competed for the Rand in the hands of the South African policyholder thus having the consequence of good, competitively priced products. On the point of the power that will be in the hands of the bureaucracy he cautioned that they would become a law unto themselves deciding who was to be in business amongst other things thus "hijacking power" from the elected representatives who "when the chickens came home to roost" would be left holding the baby. He stated that there was a "feeling of *deja vu* " about the unleashing of officials on the industry. This was one of the more characteristic features of the previous government.

The presentation generated a hostile reaction from a member of parliament (AF) who said that what the FMF was proposing was ludicrous and not grounded in reality and that he had had the misfortune of listening to an earlier presentation by the FMF on the Estate Agents Bill. In which he had described the speaker at the presentation as "he did not know what he was talking about."

The Financial Services Board in the fashion of AF did not comment directly on the issues raised by the FMF but mentioned that what the FMF was proposing was impractical.

The Chairman in wrapping up stated that he hoped the FMF would not be discouraged by the criticism and TAN interjected by saying that the FMF was accustomed to that kind of criticism but always invariably its' position was ultimately vindicated.

Remarks: Whilst the presentation drew a lot of flack TAN took solace from the fact that the FMF we had the opportunity to state its case and that the mere fact that the points we raised ruffled some feathers meant that though they may have been ignored and the reaction had been emotional *ipso facto* a point had been driven home. The FMF had probably struck a raw nerve. However, it was not a very good day for TAN and TAN believes the FMF's perspective needs to be further cultivated on a one-on-one basis.