

LIQUOR POLICY PAPER

DEPARTMENT OF TRADE AND INDUSTRY

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CHAPTER ONE

Introduction

1.1 VISION

The people of South Africa recognise the importance of an approach to economic and social policy which balances the broader benefits and costs of our daily activities. Government is proposing two major policy shifts in its role as regulator: firstly, to restructure the liquor industry and give priority to facilitation of entry and empowerment of new entrants; and secondly, to better reflect all costs associated with liquor, including alcohol-related problems in health and other fields. Our vision is to arrive at the appropriate mix of enterprise and regulation, to balance the interests of all participants in the liquor trade and of society as a whole,

1.2 PROBLEM STATEMENT

1.2,1 The use and abuse of liquor

1,2,1,1 The history of liquor in South Africa is an integral part of the history of segregation and apartheid. Liquor was alternately made available, and prohibited, as a means of economic and social control. Liquor was used to attract and retain workers on the farms, mines and urban industry. Legislation was promulgated to prohibit Africans from producing and obtaining liquor. Liquor was used to entrench segregation and apartheid in the urban areas.

1.2.1.2 Responses by ordinary people to such control have included both complex struggles and ambivalence, involving defiance and resistance as well as abuse and social decay. For many, the brewing and consumption of alcohol in urbanizing communities represented a form of continuity with rural life, a means of economic survival and a social response to the harsh realities of urban life. Alcohol was also increasingly abused, leading to increasing levels of conflict in the family, violence, crime and alcohol related disease. There remains a legacy of untold damage to the fabric of society, including serious health impacts on both users of alcohol and their children, domestic violence, child abuse, road accidents, crime and the associated economic costs.

1.2.1,3 The liquor industry evolved into one now characterised by a few companies with high levels of horizontal and

vertical integration. In addition, there is a large illegal sector, confined mainly to retail, resulting in employment of a mainly survivalist nature.

1.2.2 Alcohol as a form of social and economic control

- 1.2.2.1** Liquor has been the basis, in South Africa's history, for a great deal of explicit authoritarian activity by the police. Raids, harassment, and arrests, were common, and during the 1950's prosecutions and imprisonment affected more than 200 000 black people annually. Only in 1962 was it made legal for black people to purchase from white liquor outlets, and then under strict conditions.
- 1.2.2.2** Liquor was traditionally used as a means of labour mobilisation and control. Employers in the emerging diamond and gold industries used alcohol as a means of attracting workers from the rural areas and keeping them on the mines. Employers in the wine industry and other farms in the Cape used similar methods.
- 1.2.2.3** The demand for black labour led to the emergence and intensified use of the "tot" (wine-for-work) system on the wine farms of the Western Cape. Employers provided wine rations to farm workers at various times of the working day as a repressive and debilitating method of labour control. The mines used alcohol as a magnet to attract workers and to confine them to the closed compound. Tokens which were redeemable at compound stores and beerhalls were used as a form of payment. Urban employers used sorghum beer as a form of payment.
- 1.2.2.4** The "tot" system is still widespread on the wine and other farms of the Western and Northern Cape today. Its practice takes on many forms, including payment in lieu of wages, provision of large quantities on weekends in addition to wages and payment of casual labour in the form of wine in small towns and urban areas.
- 1.2.2.5** In townships, alcohol was relatively tightly regulated, and segregation of drinking spaces contributed to the broader racial hierarchy and lack of interracial mixing. State licensing requirements and municipal monopolies on production of sorghum beer also stifled black enterprise such as brewing and retail shebeens. The

state's activities had some of their most important negative affects on women's survival income.

- 1.2.2.6 In addition, alcohol reflected the broader pattern of racial segregation that evolved over more than three centuries in South Africa. Abuse of alcohol was often cited in legislation governing the prohibition of drunkenness and disorder, which had differential applications across racial lines,
- 1.2.2.7 In townships, municipal beerhalls were constructed by apartheid local governments as a means of self-financing township development. Indeed, alcohol became the primary source of revenue for Bantu Administration Boards, later named Development Boards. But beer sales were an insufficient source of revenue, so townships services were always underfunded. In addition, local administrators used alcohol as a means of social engineering and control. In 1976, beerhalls and liquor stores were identified as symbols of oppression and destroyed. The "Black Christmas" campaigns of the 1980's included boycotts of drinking establishments,
- 1.2.2.8 The role of liquor control in South Africa's apartheid history was, hence, formidable, spanning authoritarian police activity, the stifling of local enterprises, the financing of residential segregation, and the control of leisure. With control of liquor playing these multiple roles, it is clear that alcohol was the basis for the accumulation of massive wealth and the concentration of commercial, financial and political power in the hands of a few, In turn, resistance emerged and led to enormous popular resentment about beerhalls.
- 1.2.2.9 Due in part to this resistance, and to the inability of the state to impose illegitimate laws and regulations (as well as police corruption, incapacity and unwillingness to enforce the law), many people turned to illegal activity related to alcohol. Racially-biased regulation led to the criminalisation of tens of thousands of liquor traders and, ironically, to a regulatory breakdown which means that today, the state controls and licences less than 10% of the estimated 250 000 liquor outlets across South Africa.
- 1.2.2.10 In addition, the lack of development, high levels of unemployment, isolation and lack of stimulation in the province have contributed to particularly high levels of

alcohol abuse across poorer regions and in rural areas.

- 1.2.2.11 Given this background, a new approach to liquor policy must be ambitious but also extremely sensitive. It must seek to combine competing interests and serve the overall public good, not only that of those who produce, distribute, sell and consume liquor.

1.3 A NEW APPROACH TO LIQUOR POLICY

1.3.1 The new approach

- 1.3.1.1 The proposed new liquor policy marks a decisive break with the past. It addresses two broad concerns: regulation of the production, distribution and sale of liquor (in part as a tool for correcting market imperfections); and controlling the economic and social costs of excessive alcohol consumption.

1.3.2 The regulation of liquor production, distribution and sales

- 1,3,2.1 New liquor regulation entails two key aspects: firstly, a change in legislation which will facilitate easy entry into the liquor trade; and secondly, harsh penalties for those who contravene the legislation.
- 1.3.2.2 The legislation which flows from this policy will seek to be fair and just; to redress the inequities and discrimination of the past; and to effectively regulate the liquor trade insofar as the social, economic, health, welfare and other needs of society are concerned.
- 1.3.2.3 New liquor laws must normalise the operation of this sector of the economy by pro-actively restructuring the sale and distribution of liquor to achieve economic empowerment of historically disadvantaged sectors of our society. In particular, new laws must seek to empower informal liquor traders - those individuals who earn their living by trading in liquor - but against whom the strictures of past and current legislation discriminate unfairly,
- 1.3.2,4 Normalisation of this sector must also ensure the participation of public representatives and of the public itself in the registration process.

- 1.3.2.5** Recognizing that liquor is a potentially harmful substance, and recognizing that its abuse is widespread in our society, we seek to introduce laws which will regulate the sale and distribution of alcohol in the public interest and in a way which will promote economic development and empowerment,
- 1.3.2.6** The legislation will include harsh penalties and will be enforced by an inspectorate which will monitor the industry and ensure that these penalties are imposed on those who contravene the legislation and act against the public interest. The Department of Trade and Industry is committed to ensuring compliance and has initiated a study on the establishment of inspectorate services.
- 1.3.2.7** The initial legislation flowing from this policy must be enacted without delay in order to facilitate the necessary restructuring of the industry as rapidly as possible. However, that initial legislation must be seen as part of an ongoing process. There are various pieces of legislation relating to the liquor industry, including notably the Liquor Products Act and the Wine and Spirits Control Act under the Department of Agriculture, which must be reviewed. A process of consolidating this legislation in a consistent and coherent manner will be undertaken over the medium term,

1.3.3 Addressing the economic and social costs of excessive alcohol consumption

- 1.3.3.1** The first democratic government has demonstrated a new approach to policy in that policy formulation is taking the broader public interest into account. Many new policies explicitly incorporate cross-cutting socio-economic goals and objectives. They identify the social and economic costs of existing approaches as well as strategies to address these costs.
- 1.3.3.2** The socio-economic costs of the historical development of alcohol production and consumption are enormous and must be addressed as a matter of urgency.

The Reconstruction and Development Programme provides a mandate to take strong action in mitigating the effects of liquor:

*"Millions of South Africans abuse **alcohol**, tobacco, **cannabis (dagga)**, solvents, **glue**, and other harder drugs. Unless **action** is taken, substance **abuse** is likely to increase enormously. Abuse of those substances causes immense **physical**, mental and social damage and costs the country millions of **rands** each year. The RDP must aim to reduce greatly the present levels of substance abuse and to prevent any increase. Comprehensive strategies to change **behaviour** must include **education** programmed, reduction of advertising and increasing the price of tobacco and alcohol. "*

- 1.3.3.3 The new liquor policy is therefor centrally concerned with making socio-economic interventions, particularly with regard to public health, welfare, transport, religion, gender and youth.**

1,4 LIQUOR POLICY OBJECTIVES

- 1 .4.1 There are two primary objectives of the new policy: restructuring the liquor industry and addressing the socio-economic costs of alcohol abuse.**

- 1 .4.2 First, restructuring the liquor industry entails several objectives:**

- 1.4,2.1 introduce a simplified procedure for entry into the liquor trade;**
- 1,4.2.2 promote participation by communities and local government in the establishment and control of liquor outlets;**
- 1,4.2,3 promote economic empowerment, job creation and small business development;**
- 1.4.2.4 provide for severe and enforceable penal provisions for transgressors of the Act;**
- 1,4,2.5 promote continuous training and development of service providers in the industry; and**
- 1.4,2.6 monitor and evaluate trends and developments in the industry.**

1 .4.3 Second, addressing the socio-economic costs of alcohol abuse entails the following objectives:

- 1.4.3.1 promote public education programmed on the harmful effects of the abuse of liquor;**
- 1.4.3.2 promote social responsibility programmed;**
- 1.4.3.3 promote the establishment of recreational facilities for youth;**
- 1.4.3.4 promote the establishment and maintenance of support structures for the rehabilitation of individuals and communities affected by alcohol abuse;**
- 1.4.3.5 promote further research on the nature and extent of the socio-economic effects of alcohol abuse; and**
- 1.4.3,6 promote interaction between government and civil society, notably civic, youth and religious formations.**

1 .4.4 In the following pages, the interventions government envisages to achieve these objectives are set out. Public participation is seen as central not only to the way programmed are established and the way the new regulatory framework evolves, but also to monitoring and feeding back with input into ways in which local problems are more effectively addressed than in the past,

CHAPTER TWO

Restructuring the Liquor Industry

2.1 INDUSTRY STRUCTURE AND CONDUCT

2.1.1 Industry characteristics

- 2.1.1.1** The liquor "industry is characterised by a high degree of monopolisation. There is extensive horizontal and vertical integration. At the lowest tier, there is a large **unregulated** informal sector. And there remains a strong racial bias within the industry. Each issue is considered in examining the key components of the industry.

2.1.2 Production

- 2.1.2.1** Production of liquor is characterised by a high degree of monopolisation. Two corporations, SAB and RK Investments (Rembrandt and KWV), dominate the industry. SAB has interests in beer as well as wine and spirits, whereas RK Investments is primarily involved in wine and spirits.
- 2.1.2.2** Most South African wine is produced in the Western Cape. The major producer is KWV. Other producers include Distillers, Stellenbosch Farmers Winery, Gilbeys, Douglas Green Bellingham and E Snell and Co.
- 2.1.2.3** The main wholesalers of wine and spirits are Distillers, Stellenbosch Farmers Winery, Gilbeys, Seagram and DGB. They are all members of the Cape Wine and Spirit Institute (CWSI), which accounts for 90% of wine and spirit sales in South Africa.
- 2.1.2.4** Distillers and Stellenbosch Farmers Winery play a major role in the retail sector through their ownership of Western Province Cellars.
- 2.1.2.5** Distillers and Stellenbosch Farmers Winery are, in turn, controlled by RK Investments and SAB. In each case, RK Investments holds 60% of shares and SAB 30%.
- 2.1.2.6** Almost all malt beer consumed in South Africa is produced in the country, primarily by one producer, South African Breweries (SAB). SAB Beer Division has 98% of the local malt market. (Malt Beer or "Clear Beer" is brewed from malted barley and flavoured with hops, includes lager, ale, stout etc, and in SA has an

alcohol content of between 4 and 5,5 %. Sorghum Beer is brewed from sorghum malt and mielie-grits. The maximum alcohol content of sorghum beer is restricted by law to 3% by weight).

- 2.1.2.7 There has been a massive growth in per capita malt beer consumption in South Africa since the early 1970's. In 1970, malt beer consumption was 13,72 litres per capita. By 1987, it was 51,04 litres, an almost fourfold increase. Since then, the rate of increase has slowed down.
- 2.1,2.% Malt beer sales grew by 2,2% in 1995 to 2330000 000 litres, after a growth of 2,3% the previous year. Malt beer has a market share of 81% of the total of all categories of alcohol. More than half of all malt beer is sold through unlicensed outlets.
- 2.1.2.9 National Sorghum Breweries established Vivo Breweries which opened a malt beer plant in July 1994, An Indian company, United Breweries, bought 30% shares in NSB. However, to date NSB and Vivo have not made an impact on SAB's virtual monopoly.
- 2.1.2.10 Cider, draught beer and smaller volume labels are growing well ahead of the market, but off a low base. Namibia Breweries showed a 30% surge in sales. These sales are mainly through the formal sector, but Licensee's Guardian predicts that in the medium term the informal sector may also turn to other brands,
- 2.1,2.11 SAB's monopoly is reflected in its performance. SAB's beer interest (including South African Breweries Beer Division and International Beer Interests) have consistently performed better than SAB's other interests, including complementary beverages, retail and hotels, and manufacturing,
- 2.1.2.12 Despite the slow down of growth of per capita consumption since the late 1980's, SAB's beer interests have shown consistently high growth in turnover and profit after tax. From 1990 to 1996, turnover grew at a compound growth rate of 21,0% per annum. Profit after tax grew at 26,1 % per annum. South African Breweries Beer Division's attributable earnings grew from R806 million in 1995 to R1 003 million in 1996, a 24,4% increase.

2.1.3 Distribution and Sales

- 2.1.3.1** Traditionally, the variety of establishments formally licensed for sale of alcohol have been located nearly exclusively in former white-only areas: Hotels, Restaurants, Theatres, Clubs, Special Accommodation (including some hotels, lodges, etc); Special Other (including pool clubs, music venues, nightclubs, etc); Section 4 (including colleges, institutions, parastatals, etc.) and Wholesale and Grocer's Wine, Licensed Liquor Taverns are all in the former black areas. Licences for Special Eating Houses (including bars, lounges, some restaurants, residences, etc), Liquor Stores and Special Off-Consumption Licences have been granted to establishments in both former white and black areas.
- 2.1.3.2** The bulk of increased licensing of liquor outlets is accounted for by the rapid growth in on-consumption establishments in the former white areas. The number of restaurant licences increased by 81 % from 1992 to 1995 and has continued to increase rapidly since. There has been a modest growth in the number of liquor stores, but the number of liquor taverns declined after 1992 and has not yet recovered to the pre-1 992 figure.
- 2.1.3.3** Historically, South African legislation prevented vertical integration in the alcohol industry and only allowed limited integration at the retail level. However, more recent government policy has allowed greater horizontal and vertical integration. The liquor store sector today consists of:
- 2.1.3.3.1** the vertically integrated Western Province Cellars (WPC) group;
 - 2.1,3.3.2** independent retail chains, the biggest of which are: Sony Kramer's, Aroma Drop Inn, Picardi/Rebel, Spot-On and Makro; and
 - 2.1.3,3,3** a large number of individually owned stores.
- 2,1,3.4** In South Africa as a whole, there are approximately 0,74 liquor stores per 1 000 of the population in formerly white areas and only 0,05 in traditionally black residential areas. In other words, there are 15 times as

many liquor stores per unit population in former white areas. Although there is not a complete overlap between the racial breakdown of ownership and location, the vast majority of liquor stores are still white owned. Many of the white owned stores are situated on the periphery of the townships and sell almost exclusively to township customers,

2,1.3,5

With respect to unlicensed, illegal outlets - particularly shebeens - there are large numbers, mainly in traditionally black areas. Because they are unlicensed, it is not possible to arrive at a precise figure, but various attempts have been made to quantify the number and it is possible to reach a rough estimate. In a national survey, with a sample of 5000 households, the Eskom OMNI Panel identified 718000 "in home businesses" in South Africa. Of this total, 118 200, or 16%, are related to liquor. This figure includes 109600 shebeens and 8 600 brewers. In 1995, a study conducted on behalf of SAB estimated that in Gauteng alone there were 35 889 shebeens (excluding spaza shops). Extrapolation to the national level on the basis of population size gives a figure of roughly 190000. This is perhaps an overestimate, in that Gauteng is highly urbanised (the number of shebeens per unit population tends to be somewhat higher in urban areas). Such data suggest that there are particularly high number of shebeens in certain areas, but that the numbers are high throughout the traditionally black residential areas. The number of shebeens is continuing to grow, in particular in informal settlements and inner city areas, but also, more recently, in "coloured" and Indian areas. The total number of shebeens in South Africa is probably somewhere between the Eskom OMNI Panel and Nielsen figures of 118200 and 190000, with continued growth taking the number towards the latter.

2.1.3.6

With respect to liquor taverns, the ratios of unlicensed outlets highlight the degree of inappropriateness of current licensing legislation in South Africa today. Applicants experience a range of difficulties in obtaining a Special Liquor Tavern licence. The process of issuing licences by means of engaging lawyers is expensive. Applicants' legal fees are R5 000 and above. Almost all taverns are on residential premises. The Special Liquor Tavern licence requires substantial renovations to existing premises, typically costing R20 000- R50 000. There is also the cost of the licence (sometimes included

in the legal fees), annual renewal and tax,

- 2,1.3.7 Running a licensed outlet also require management and training skills. Some suppliers have offered training in an attempt to ensure that taverns remained viable concerns and that the suppliers continue to receive payment for supplies.

2,2 A NEW APPROACH TO REGISTRATION

2.2.1 General approach

- 2,2,1.1 In order to promote economic empowerment, create sustainable jobs and promote small business development and competition, the liquor industry must be restructured, A very limited number of companies have virtual monopolies over the manufacture and distribution of all types of liquor in South Africa. Consistent with government's emerging approach to competition policy, new liquor legislation will require these assets to be unbundled in ways which will achieve the objective of economic empowerment of historically disadvantaged sectors of our society. This should apply especially to those traders who earn a living by trading in liquor, but who have been marginalised and criminalised in the past.

2.2.2 Types of registration

- 2.2,2.1 Four types of registration will be provided for: manufacturers, wholesalers, retailers, and special events. A person holding an interest in any one type of registration may not acquire an interest in any of the other types of registration. The holder of any type of registration may sell all kinds of liquor on any day during hours determined by the local authority.
- 2.2.2.2 In addition, government will play a pro-active role in facilitating the unbundling process by:
- 2.2.2.2.1 detailing the criteria for ownership in each category;
- 2.2.2.2.2 facilitating and co-ordinating access to finance; and

2.2.2,2.3 facilitating the establishment of co-operative and other initiatives by new participants in the liquor distribution and retail sector.

2,2.2,3 Increased manufacturing diversity is one of the likely outcomes of the shift in policy. This is common, given the role of new technologies and transportation innovations that across the world have opened up the manufacturing of liquor to many new market entrants. In the other countries, formerly concentrated beer markets have been enhanced by the introduction of hundreds of micro-breweries with distinctive brands. This process of diversification and industry reconcentration will be encouraged.

2,2.2.4 More than half of the wholesale trade in liquor is carried out on a retail pricing basis, due to the unlicensed and illegal character of many retail purchasers, With legalisation of retail outlets, this will change. But wholesale distribution will also have to become far more competitive.

2.2.2.5 Retail trading in liquor will be the greatest beneficiary of legalisation, registration and simplification of regulation. However, there will also be additional requirements associated with the role of communities in regulating retail activity in their area.

CHAPTER THREE Socio-Economic Goals

3.1 INCORPORATING SOCIO-ECONOMIC GOALS

3.1.1 South Africa's first democratic government was tasked not only with transforming apartheid structures and systems, but with fundamentally changing the basis of the country's government so as to achieve objectives in an integrated way. As argued in the Reconstruction and Development Programme, "The RDP requires collaborative, integrated planning and decision-making. "

3.1.2 The "long-term vision" established in the Growth, Employment and Redistribution strategy suggests that such integration must be enhanced, if we are to achieve the key objectives of social and economic policy:

As South Africa moves toward the next century, we seek:

a competitive fast-growing economy which creates sufficient jobs for all work seekers;

a redistribution of income and opportunities in fa vour of the poor;

a society in which sound health, education and other services are available to all; and

an environment in which homes are secure and places of work are productive.

3.1.3 In each of these objectives, liquor policy can play an important role, if the relationships between liquor and other "externalities" are firmly established. Very directly, the abuse of liquor has a detrimental affect upon employment and productivity, the distribution of income and opportunities, sound public health and security within the home and society at large,

3.1.4 Government has come to increasingly adopt a "polluter pays" approach to externalities. Too often, those who cause negative externalities are not provided with any direct incentives to alter behaviour. In order to address the externalities associated with liquor, it is proposed that a levy be applied to its manufacture and importation, and expenditure will be directly targeted to the low-income communities which are most severely affected by abuse of liquor. Further discussions follow concerning some of the specific externalities associated with liquor, including public health, social and religious considerations, women and youth, and transport.

3.2 PUBLIC HEALTH EXTERNALITIES

3.2.1 Excessive alcohol consumption is associated with a range of severe health impacts:

3.2.1.1 Roughly a quarter to a third of all hospital admissions are directly or indirectly related to alcohol.

3.2,1,2 Alcohol is associated with a wide range of medical conditions, including:

Cirrhosis of the liver;
Cancers of the tongue, mouth, throat, larynx, oesophagus and liver;
Central Nervous System impairments;
Nutritional disorders;
Cardiovascular abnormalities;
Depression; and
Increased susceptibility to diseases such as TB and pneumonia.

3.2.1.3 Maternal alcohol consumption can lead to miscarriages, low birth weight infants, or Foetal Alcohol Syndrome, which includes mental and physical stunting and various physical deformities. In advanced industrial societies, Foetal Alcohol Syndrome is relatively rare, occurring in one out of every 750 children. This is roughly equal to Downs Syndrome, one child in 600. In South Africa, it is by far the commonest antenatal cause of mental and physical disability. Little comprehensive research has been done, but initial findings suggest a social problem of massive scale, with particularly high levels in the Western and Northern Cape provinces. It is likely that as many as one in every eight children in the poorer socio economic group in large parts of the Western Cape will be affected. The figure in many parts of the Northern Cape may be just as high.

3.3 SOCIAL AND RELIGIOUS CONSIDERATIONS

3.3.1 Alcohol abuse results in a range of serious family and social effects:

3.3,1.1 Alcohol is a major factor in domestic violence. Research suggests that alcohol and drugs are the main factor in the majority of cases in which women in South African communities are abused by their spouses.

3.3.1.2 Excessive drinking is also associated with child abuse.

3.3.2 There is a strong relationship between alcohol and a wide range of criminal activity. Lack of jobs and poor living conditions together with alcohol and drugs, are causative factors in the majority of crimes, in parts of the country, in excess of 80% of all assaults and murders are alcohol related in that either the assaulter or victim or both were under the influence of alcohol.

3.4 GENDER AND YOUTH

3.4.1 Women suffer from alcohol in that they are often victims of alcohol related violence. There is also an increase in alcohol consumption amongst women, in particular in the lower socio-economic group.

3.4.2 There is a significant increase in the consumption of alcohol amongst youth. This sets in place high consumption patterns and related problems into adulthood. The reasons for increased consumption include high levels of unemployment as well as a lack of recreational facilities to cater for social needs.

3.5 TRANSPORT EXTERNALITIES

3.5.1 Accidents on roads in South Africa cost R9 billion a year. At least 50% of these accidents are alcohol related, with intoxication on the part of either the driver or pedestrians.

3.6 ADDRESSING THE EXTERNALITIES

3.6.1 The negative effects of alcohol can only ultimately be resolved on the successful implementation of the RDP, in which enough jobs are created and basic needs met. However, immediate solutions are required.

3.6.2 This liquor policy, the legislation flowing from it and other interventions will be guided by the need to decrease per capita consumption of alcohol and to encourage responsible alcohol consumption in order to counteract the negative health, social and economic effects of alcohol.

3.6.3 In particular, it will involve an integrated approach which cuts across departments and sectors as well as different tiers of government. Integration at a national level will in part take place through the proposed National Liquor Advisory Committee. This will bring

together representatives of government departments, community organisations, churches, unions and the liquor industry at a national level.

3.6.4 Similar interaction will be required at provincial government, local authority and community levels. Local authorities and representative community organisations and forums should work together in ensuring that the way in which liquor is distributed and sold limits the negative externalities as well as in addressing the negative effects which have already occurred. Religious formations have played a key, and in some areas a solitary role in addressing the devastation caused by alcohol in their communities and must be encouraged to be integrally involved in these initiatives.

3.6.5 Addressing the externalities involves addressing issues common to all sectors as well as sector specific issues, but particular interventions are required in relation to education, the “tot” system, rehabilitation and youth. These issues will be discussed next.

3.6.6 Education

3.6.6s1 There is a need for education at a range of levels. Firstly, there is a need for general education about the potentially harmful effects of alcohol by means of the media, schools, public health facilities, community organisations and other vehicles. Central to any education initiative is the goal of community empowerment to enable people to take control over their lives.

3.6.6.2 There is also a need for the expansion of a comprehensive education programme for people within the liquor industry, in particular those who serve alcohol to the public. The programme will need to cater for the educational needs of both those in the formal industry as well as the informal sector. The informal sector will be brought into the formal sector on the introduction of new legislation for registration.

3.6,7 The “tot” system

3.6.7.1 In April 1996, the President called on the wine industry to use “their considerable influence to help eliminate once and for all the last remnants of the ‘tot’ system”. A coherent inter-disciplinary approach must be developed to achieve this goal, taking into consideration

the complex nature of the problem, the need for social rehabilitation and the resources and personnel required.

3.6.8 Rehabilitating victims of alcohol abuse

- 3.6.8.1** Extensive welfare programmes are required to meet the needs of both alcohol abusers and the victims of alcohol related domestic violence, rape assault and other crimes.

3.6.9 Youth

- 3.6.9.1** The alcohol related effects on youth require urgent attention. Two key interventions in this regard are job creation initiatives and the provision of recreational facilities in communities across the country.
- 3.6.9.2** The above are some of the issues which need to be addressed. Other issues include an integrated approach to alcohol related accidents on public roads and an approach to ensure that advertising highlights the potentially harmful effects of alcohol.
- 3.6.9.3** The availability of adequate funding to address these issues is central to their successful implementation. The proposed levy or the securing of funds (on budget) by the Department of Trade and Industry (see chapter 4) are key mechanisms for generating the necessary funds.

CHAPTER FOUR

Implementing Liquor Policy

4.1 IMPLEMENTATION : A NEW INSTITUTIONAL FRAMEWORK

4.1.1 New regulatory institutions

- 4,1.1.1** Major changes will occur in the implementation of a new liquor policy, Two bodies will be created to perform the duties conferred upon them by the proposed new Liquor Act. The new bodies are a Provincial Liquor Authorities per province and a National Liquor Advisory Committee.
- 4,1.1.2** Provincial Liquor Authorities will process registration applications, keep records of registrations and appoint inspectors to ensure compliance with the act and impose penalties and instigate procedures against offenders,
- 4.1.1.3** The National Liquor Advisory Committee will advise on all liquor policy matters, notably socio-economic interventions in relation to education, rehabilitation and the provision of recreational facilities in historically disadvantaged communities.

4.1.2 Provincial Liquor Authorities

- 4,1.2.1** A Provincial Liquor Authority, to process all registration applications, will be established in each of the nine provinces. The Authority will have the power to:
 - 4.1,2.1.1** register all unopposed registration applications;
 - 4,1.2,1.2** grant or refuse opposed applications;
 - 4.1.2.1.3** view premises; and
 - 4,1.2.1.4** withdraw or suspend registrations.
- 4.1.2.2** Members of the public may approach the Provincial Liquor Authority with representations on the granting, inspecting, withdrawal or suspension of registrations.

- 4.1.2,3 The Provincial Liquor Authority will be appointed by the MEC and will consist of:**
- 4.1.2.3.1 a chairperson in the employ of the state and with a qualification in law; and**
- 4,1.2.3.2 one community representative for each geographical subregion of the province (regional member), appointed on the basis of their knowledge and representativity of a particular area,**
- 4.1.2.4 The appointment of the regional members will take place through an open and transparent public process. Persons with an interest in the liquor trade may not be appointed as members of a Provincial Authority, The chairperson and two members shall form a quorum.**
- 4.1.2.5 The Minister and Member of the Executive Council will have the authority to appoint liquor inspectors. All inspectors must be designated peace officers in terms of the provision of Section 334 of the Criminal Procedure Act. Inspectors will have the powers to:**
- 4.1.2.5.1 enter any premises;**
- 4.1.2.5.2 ascertain compliance with the basic conditions stipulated in the Act;**
- 4.1,2,5,3 if offenses are committed an inspector can instigate a procedure which could lead to the suspension or withdrawal of the registration of the business; and**
- 4.1,2.5.4 submit reports to the Provincial Liquor Authority.**
- 4,1.2.6 The Provincial Liquor Authority will be responsible for keeping a record of:**
- 4.1.2.6.1 licensed traders;**
- 4.1,2.6,2 registrations granted;**
- 4,1.2.6.3 registrations refused; and**
- 4.1,2,6.4 registrations withdrawn/suspended.**

- 4.1.2.7** **The Provincial Liquor Authority must forward these statistics on a monthly basis to the Department of Trade and Industry which will be responsible for a central register.**

4.1.3 The National Liquor Advisory Committee

- 4.1.3.1** **A National Liquor Advisory Committee will be established to perform a policy advisory function. This Committee will consist of 18 members, who will be representative of:**

4.1.3.1.1 **the liquor industry (3);**

4.1.3.1.2 **Seven of the following Government Departments: Health, Welfare, Education, Transport, Safety and Security, Trade and Industry, Agriculture, Sport and Recreation, Public Works, Constitutional Development, Arts and Culture, Tourism, Finance (7);**

4.1.3.1.3 **community and civil organisations, including unions and churches (8).**

- 4.1.3.2** **The Minister will appoint members through an open and transparent public process.**

- 4.1.3.3** **The National Liquor Advisory Committee will meet at least twice a year to advise the Minister and MEC'S on any matters referred to the Committee by the Minister or MEC'S for consideration.**

- 4.1.3.4** **The Committee will need to play a key role in developing an approach to and monitoring socio-economic interventions. Its advice must be channeled to the relevant departments to ensure intersectoral collaboration,**

- 4.1.3.5** **The Committee will be funded by the proposed levy or from funds secured by the Department of Trade and Industry (see paragraph).**

4.2 REGISTRATION PROCEDURES

4.2.1 Registration objectives

- 4,2.1.1** Registration procedures will be simple, speedy and affordable. Greater powers should be devolved to elected local authorities in consultation with representative community organisations to make decisions about the siting of liquor outlets and granting of liquor registrations. Community policing forums also have an important role to play in ensuring that liquor sale ordinances are properly enforced with regard to where and when alcohol is sold, and to whom.

4.2.2 Unopposed applications

- 4,2.2.1** All unopposed applications will be processed by the Provincial Liquor Authority upon payment of a prescribed application fee. Registration will take place if a person:
- 4.2.2.1.1** is a permanent resident or citizen of the Republic of South Africa;
 - 4.2.2.1.2** is not disqualified eg. by being a minor or having been charged with murder, rape, robbery, child abuse, any of fence involving an element of dishonesty, assault, or trade in or are in possession of drugs;
 - 4,2.2.1.3** provides confirmation that the premises comply with minimum requirements of the local authority having jurisdiction in the area in which the premises are situated;
 - 4.2.2.1.4** provides confirmation that prior notice of the intention to register has been placed and maintained on the premises in a conspicuous place where it is clearly visible and legible to anyone in the immediate vicinity for the prescribed period prior to lodgement of the application and in a newspaper circulating in the area and if there are no newspapers, in three public buildings (if any) in the community concerned;

- 4.2.2.1.5 provides a sketch plan of the premises which also indicates that, where business will be conducted from residential premises, the business will be separated from the residential portion;
 - 4,2.2.1.6 provides proof that the premises have been zoned or approved for the purpose of the proposed business. The aforementioned must be discussed with the National Department of Constitutional Development and Local Government, Provincial Departments of Local Government and the South African Local Government Association; and
 - 4,2.2,1.7 provides proof that appropriate facilities exist if liquor is to be consumed on the premises.
- 4.2.2.2 If an applicant complies with all these conditions the business will be registered and a registration certificate will be issued upon payment of a registration fee.
- 4,2.2.3 The application form will be simple, providing for a limited number of questions and requiring certain documents to be submitted. It will contain an undertaking that the obligations relating to the conduct of the business will be complied with and also contain an affidavit by the applicant wherein he/she confirms that the information provided in the application is true and correct. Application forms will be made available at local authorities, magistrates, courts, libraries, etc.
- 4.2.2.4 An application for a special events registration shall be lodged with the Provincial Liquor Authority. If granted, a registration certificate will be issued upon payment of the prescribed fee. .

4.2.3 Opposed applications

- 4.2.3,1 All applications which are opposed must be considered by the Provincial Liquor Authority upon payment of the prescribed application fee, The chairperson together with the member of the region where the application

originated and the member from any other region in the province shall consider the granting or refusal of the opposed applications.

- 4.2.3.2 The Provincial Liquor Authority will have the power to grant or refuse applications on the basis of only the information or documentation submitted or by hearing the parties concerned. This authority shall give applicants and objectors at least two weeks written notice of the hearing.

4.2.4 Renewals

- 4.2.4.1 All registrations must be renewed annually upon payment of the prescribed fees appropriate to the type of registration, In the case of an initial registration, the registration will not be renewed unless the holder can provide proof that the business has been registered:
- 4.2,4.1.1 for tax purposes within twelve months of the registration being granted; and
 - 4.2.4.1,2 by the Office of the Registrar of Companies within twelve months of the registration being granted.

4.2.5 Obligations of the registered person

- 4.2.5.1 A registered person shall:
- 4.2,5.1.1 only employ persons above the age of 18, except where persons above the age of 16 are undergoing training in catering services;
 - 4.2.5.1,2 display a notice on the premises that indicate that:
 - no liquor may be sold to any person under the age of 18 years or to intoxicated persons, and
 - the consumption of alcohol by a pregnant or breast feeding woman is dangerous to her baby;
 - 4,2,5,1,3 undergo training and ensure that all employees receive training in order to facilitate the responsible selling of liquor;
 - 4.2.5.1.4 in the case of a manufacturer of liquor, sell liquor only to a wholesaler of liquor; and
 - 4.2.5.1,5 in the case of a wholesaler of liquor, only sell liquor to a holder of a retail liquor registration certificate.

4,3 OFFENCES AND PENALTIES

4.3.1 Offences

It will be considered an offence, in terms of the Liquor Act, to:

- 4,3,1.1 sell liquor without a registration certificate;
- 4,3,1.2 sell liquor to persons under the age of 18 years;
- 4,3,1.3 falsely present him or herself to be over the age of 18 years;
- 4,3,1.4 fail to display a notice on the premises - or on a bottle label, in the case of manufacturers - that no liquor may be sold to any person under the age of 18 years or to intoxicated persons and that the consumption of alcohol by a pregnant or breast feeding woman is dangerous to her baby;
- 4,3,1.5 sell liquor to intoxicated persons;
- 4,3,1.6 supply liquor to a person as wages or remuneration or as a supplement thereof;
- 4,3,1.7 be drunk, violent or disorderly in premises which have been licensed or in public places;
- 4,3,1.8 enter into or being a party to a "tie"- agreement;
- 4,3,1,9 consume liquor on a road, street, lane or thoroughfare;
- 4,3,1,10 introduce or sell liquor on sports grounds; or
- 4,3,1.11 sell liquor from a vehicle.

4.3.2 Penalties

- 4,3.2.1 Appropriately harsh fines and imprisonment for the above offenses will be imposed. Possible avenues to appropriate the fines imposed, will be investigated by the Department of Trade and Industry. Should it be possible the funds thus generated will be utilised for the rehabilitation of alcoholics and awareness campaigns relating to alcohol abuse.

4.4 FUNDING THE POLICY

OPTION 1

4.4.1 The liquor levy

4.4.1.1 By all accounts, consumer expenditure on liquor is “regressive” in economic terms, in that the household budget impact affects poor persons the most. This is the case at the point of consumption - purchase of alcohol - as well as with regard to the costs of many of the other externalities discussed below,

4.4.1.2 It is crucial that the proposed liquor levy be spent in a manner sensitive to the needs and interest of the low-income South Africans because of the disproportionate affect of liquor on them. It is suggested that the liquor levy should be introduced as high up the value-added chain as possible - at the point of manufacture and importation - and should be explicitly targeted at education and social programmed that will reach low-income South Africans.

4.4.1.3 The details of such a levy are still to be developed, The collection of such a levy can be accomplished by using existing channels. No additional administrative expenses are anticipated with respect to collection.

4.4.2.4 With respect to disbursement of the fund generated through the levy, several categories of expenditure will be specified and prioritised, including education programmed, recreational alternatives, rehabilitation of alcoholics and other appropriate users, and construction and maintenance of community facilities. In some cases, the levy will be applied through existing government departments at national, provincial and local levels (for example, the Departments of Health, Education and Public Works). in other cases, specific project proposals that demonstrate effective targeting to low-income communities will be considered by the administrators of the fund. In all cases, additional expenses associated with maintenance and monitoring/evaluation should be built into project proposals. There is hence likely to be a minor administrative cost associated with disbursement of the fund, not to exceed 2% of the fund itself. As this will come from within the fund, the liquor levy will not pose any additional expenses to the general fiscus.

OPTION 2**4.4.2 Departmental Budget item**

- 4.4.2.1** The second option open to the Department is to motivate for the creation of an on-budget line item to secure money to carry the operational costs of the National Liquor Advisory Committee and to ensure that money are channeled to education and social programmed that will reach low-income South Africans.

4.4.3 General financial implications

- 4.4.3.1** The implications of the new liquor policy will be revenue-enhancing or will provide cost-savings for the fiscus, and will provide a net benefit to society once the overall social and economic costs and benefits are factored.

4.4.4 Economic benefits of the liquor industry

- 4.4.4.1** The liquor industry has a number of economic positive impacts, including the following:

- 4.4.4.1,1** the state received nearly R2 billion in excise duty in 1994 on all alcohol sales (1,4% of the annual budget);
- 4.4.4.1,2** SAB alone paid R2 414,9 million rand in excise duty in 1996;
- 4.4.4.1,3** the state receives other taxes from the production, distribution and sale of alcohol; and
- 4.4.4.1,4** the liquor industry is also a significant source of employment as well as self employment.

- 4.4.4.2** SAB estimates that there were 367 000 beer related jobs in June 1995, including 9000 in SAB's Beer Division, 14000 in packaging, 20000 in agriculture 95000 in the formal retail sector and 229000 in the informal retail sector. In the Western and Northern Cape, the wine industry is a significant generator of employment.

4.4.5 Economic costs

- 4.4.5.1** Alcohol abuse entails enormous costs to the public sector including:

- 4.4.5.1.1** health costs;

4.4.5.1.2 police, court and penal system costs; and

4,4.5.1,3 social welfare payments.

4.4.5,2 There has been very little research to quantify the negative effects of alcohol in monetary terms. SANCA has estimated that the negative effects amount to R5 billion a year, but it is likely that the real figure is far in excess of this estimate,

4.4.5.3 The Minister of Transport, Mac Maharaj, has estimated that accidents on roads in South Africa cost R9 billion a year. At least 50% of these accidents are alcohol related.

4.4,5.4 The economic burden on society resulting from alcohol abuse in various member states of the European Union has been estimated to be 2 - 3% of Gross National Product (GNP) per year on average, and as high as 5-6% in some countries. Researchers at the Medical Research Council of SA estimate that the economic costs associated with alcohol abuse in South Africa are in excess of 4% of GNP per year (RI 8,9 billion).

4.4.5,5 To the degree that the new liquor policy has the effect of reducing alcohol abuse, the costs associated with liquor will decrease, and net benefits will likely increase substantially.

4.4.6 Costs of regulation

4.4,6,1 In addition to overall social benefits, the new liquor policy will also have lower regulatory costs than the existing system. Presently, liquor licensing and enforcement activities are unnecessarily complex and contradictory, and have differential racial impacts. The new, more simple framework for registration, will ensure a more rapid and fair approach,

4.4.6.2 In addition, as noted, the proposed liquor levy (option 1) or Departmental budget (option 2) will pay for the activities of the National Liquor Advisory Committee, as well as for other educational and liquor abuse prevention activities.

CHAPTER FIVE

Conclusion: The Way Forward

5.1 LIQUOR POLICY AND LEGISLATION

5.1.1 This document serves to detail the Government's proposed liquor policy as well as outline the content of the proposed new liquor legislation. The legislation is the first part of a more thorough review of all legislation relating to liquor and must be enacted without delay in order to facilitate the necessary restructuring of the industry as soon as possible.

5.2 TRANSITIONAL MEASURES

5.2.1 To accommodate the provisions of the proposed new legislation, the following transitional measures will be provided for, namely:

- 5.2.1.1** the conversion of existing licences to the new types of registration provided for;
- 5.2.1.2** the phasing out of existing licences where the holder has an interest in more than one type of registration, in accordance with guidelines to be agreed upon with the industry; and
- 5.2.1.3** the phasing out of depots and the conversion thereof into wholesale registrations.

5.3 CONCLUSION

- 5.3.1** The preceding chapters have outlined the monopoly character of the formal liquor industry, the small scale survivalist nature of much of the informal sector and the racial division in the industry which largely coincides with the formal/informal divide.
- 5.3.2** The severe harmful effects of alcohol abuse on men, women, youth and unborn children in communities across the country have also been outlined.
- 5.3.3** This historical legacy needs to be addressed urgently. The document has stressed the need for new legislation to facilitate ease of entry into the liquor trade and address the racially based monopoly characteristics of the industry.

- 5.3.4** The document has also proposed institutional and funding mechanisms to assist the previously disadvantaged to become equal players in the industry as well as to address the negative health, social and economic effects of alcohol.
- 5.3.5** The proposals in this policy document will be widely circulated. The Department of Trade and Industry invites feedback from all interested parties on both the policy directives in this document as well as the proposals outlined for new liquor legislation. The Department of Trade and Industry is committed to a speedy implementation of the policy directives. The new legislation will be in the interest of creating opportunities for those who wish to participate in the industry and implementing an approach to alcohol which is in the interests of all citizens,