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**SASOL**  
reaching new frontiers

2 October 2015

The Secretary to Parliament  
P O Box 15  
Cape Town  
8000

**Attention:** Mr Gengezi Mgidlana

Email: gmgidlana@parliament.gov.za and luyandam@da.org.za

Dear Sir

**RE: SASOL COMMENTS ON PROTECTION OF CRITICAL INFRASTRUCTURE BILL**

Sasol welcomes the opportunity to comment on the Bill, given its experience as a designated national key point. Below is a preamble and brief summary on key matters to assist in contextualising our submission.

**INTRODUCTION**

Sasol supports the need for national security to reflect the resolve of South Africans, as individuals and as a nation, to live in peace and harmony, to be free from fear and to seek a better life. As such, Sasol acknowledges the importance of having appropriate policies in place, to oversee the designation of infrastructure that is of a strategic nature for the wellbeing of the country. Sasol's Synfuels production facility in Secunda, the Natref refinery in Sasolburg and a few smaller sites has been designated a "National Key Point" under the National Key Point Act of 1980.

The Department of Trade and Industry (dti) established the Industrial Policy Action Plan (IPAP) realising the need for sustainable, long-term development underpinned by higher

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growth, labour-intensive and value-adding economic activity in the production sectors, led by manufacturing. According to the Energy Security Master Plan, energy is the life line of the economy. Mindful of this, petrochemicals is one such sector which endeavours to create jobs while injecting life to our economy through energy. According to the South African Petroleum Association (SAPIA), the local petroleum industry employs supports direct and indirect employment for over 100 000 people (SAPIA 2014 Annual Report). In financial year 2014, Sasol created 12 500 construction jobs and 29 000 shutdown employment opportunities at our Secunda and Sasolburg sites alone.

## DELIBERATION

Below, we have provided a list of comments to the Bill, detailed as per the relevant chapters and sections. Where possible, we have also included recommendations for consideration.

REFERENCE IN THE BILL	COMMENTS/ CONCERNS / CLARIFICATION	RECOMMENDATION
<b>DEFINITIONS:</b>  “Committee” means the portfolio committee responsible for police  “area” means any soil or water surface, whether with a building, an installation or a structure thereon or not, and includes air space;	<ul style="list-style-type: none"> <li>Will there be a separate Committee for each province? In terms of the NKPA, a Joint Planning Committee was established with meetings every quarter where representation of owners was required.</li> <li>The definition of “area” is not fully inclusive of below the surface assets</li> </ul>	<ul style="list-style-type: none"> <li>Delegate quarterly meetings per province for reporting on security issues and costs</li> <li>“Surface” should also include below the surface to include pipelines.</li> </ul>
<b>CHAPTER 2, Section 9(1)(d)</b> Inform owners of critical infrastructure of relevant security measures; <b>(e)</b> coordinate the security of Critical Infrastructure; <b>(f)</b> consider petitions within a reasonable period of time from owners claiming unnecessary inconvenience in the	<ul style="list-style-type: none"> <li>The decision to prescribe security measures is heavily weighted on the Board, implying that the owners have limited capacity to influence the decisions.</li> <li>Although owners can submit petitions claiming unnecessary inconvenience in the implementation it is not clear if the Board may give consideration to the</li> </ul>	<ul style="list-style-type: none"> <li>It is proposed that owners rather be given the opportunity and freedom to decide on the security measures that are based on an approved risk profile and protection plan in conjunction with the NKP Authorities</li> <li>These can be presented to the Board for approval.</li> <li>The benefit of this approach is that it will give owners who are experts within their particular field and who are fully aware of the required security needs, the</li> </ul>

<p>implementation of security measures</p> <p><b>Read with</b></p> <p>Chapter 3, section 13(9) Once a place or area has been determined as Critical Infrastructure, the Board must declare it as such and must-</p> <ul style="list-style-type: none"> <li>(a) Decide on the security measures necessary to protect such Critical Infrastructure in accordance with section 14;</li> <li>(b)</li> <li>(c)</li> <li>(d) Order the implementation of such security measures decided upon.</li> </ul> <p><b>And</b></p> <p>Chapter 3, section 14(1) When deciding on the security measures to be implemented at the Critical Infrastructure, the Board must ;</p> <ul style="list-style-type: none"> <li>(a) Hear submissions from owners who allege that security measures can be implemented in a more convenient way;</li> </ul>	<p>contents of these petitions.</p> <ul style="list-style-type: none"> <li>• This can result in either ineffective or inadequate measures being prescribed or overly cumbersome and impractical measures being prescribed.</li> </ul>	<p>freedom to recommend pragmatic measure for implementation.</p>
<p><b>CHAPTER 3 Section 13(2)</b></p> <p><b>Dealing with Non-listed categories</b></p>	<ul style="list-style-type: none"> <li>• This subsection provides that Critical Infrastructure must fall within one of the listed categories.</li> <li>• The criteria do not include mining activities although the Synfuels Operations (Coal to Liquid) will fall within the</li> </ul>	<ul style="list-style-type: none"> <li>• The Joint Planning Committee had the authority as in the past to extend the border of the NKP area and to include non-critical infrastructure as part of the NKP to mitigate certain risks. This should be included in the new Act.</li> <li>• It is proposed that owners of</li> </ul>

	<p>set criteria. The Synfuels Operations is dependent on water, electricity and raw material and associated infrastructure. Being a CTL operations the mines supplying coal is critical to the operations</p> <ul style="list-style-type: none"> <li>• The effect hereof is that we will not be able to have any mining operations declared as Critical Infrastructure although the mining operations are critical to Synfuels' operations, as it produces the feedstock that leads to the production of the fuels.</li> </ul>	<p>infrastructure that do not fall within the categories listed in section 13(2) should be given the opportunity to apply to the Board to have such infrastructure declared Critical Infrastructure, particularly more so when part of the facilities are already declared and designated critical infrastructure.</p>
<p><b>CHAPTER 3</b> <b>Section 13(2)(d) (aa) and (dd)</b> (d) energy, which includes— (i) the production and holding facilities for— (aa) natural gas; (bb) crude and refined petroleum; (cc) petroleum-derived fuels; or (dd) the refining and processing facilities for the fuels and pipelines that transport the commodities referred to in items (aa), (bb) and (cc); (ii) generation stations, transmission and distribution networks that create and supply electricity to end users;</p>	<ul style="list-style-type: none"> <li>• Is only "natural" gas a designated category? What about other gas like Methane Rich Gas (MRG)?</li> <li>• Clarity on whether the <u>transmission pipeline</u> of natural gas and methane rich gas will be included as critical infrastructure.</li> <li>• Clarity on whether the transmission and distribution networks <u>includes power cables</u></li> <li>• Sasol owns thousands of kilometres of pipelines. How will these pipelines be identified and managed / secured as envisaged in the Act.</li> </ul>	<ul style="list-style-type: none"> <li>• Consider inclusion of other feedstock gas, like MRG</li> <li>• Split sub-clause (dd) into two (i.e. (dd) and (ee). to avoid confusion with the first line in (dd).</li> <li>• Sub-clause (ee) should read "pipelines that transport the commodities referred to in items (aa), (bb) and (cc)"</li> <li>• It may be difficult to provide security at such pipelines but it would be important to at least provide some importance/ status to the pipelines which could be a protection against third party infringement or mining/blasting activities.</li> </ul>
<p><b>CHAPTER 3</b> <b>Clause 13 (7)</b> Before a determination of the place or area as Critical Infrastructure, the owner must be notified of the intended determination.</p>	<p>The provision only provides for notice to the owner before determination:</p> <ul style="list-style-type: none"> <li>• It does not specify the how such notice will be effected;</li> <li>• It does not specify if the owners have a right to</li> </ul>	<ul style="list-style-type: none"> <li>• Clarity on how notice will be effected will eliminate any confusion. Notice should be published in the Government Gazette; or by written notice delivered to owner.</li> <li>• Right to object/supply further information will enable Board to</li> </ul>

	object/furnish further information to assist board in making determination.	make an informed decision to ensure basis on which determination was made was correct.
<b>CHAPTER 3</b> <b>Clause 13 (8)</b> The Board must — (a) after considering the factors listed in subsections (1) to (6); and (b) after it has notified the owner in terms of subsection (7), determine a place or area as Critical Infrastructure.	<ul style="list-style-type: none"> <li>Does not provide for any consideration of any objection raised or further information that may be supplied by owner.</li> <li>Onerous obligations will be placed on owner thus consideration should be given to any objections raised.</li> </ul>	A third requirement should be added in clause 8:  c) after considering any objection raised/information provided by the owner
<b>CHAPTER 3</b> <b>Section 13 (10):</b> The Minister must ensure that a list of the names and categories of all the places and areas declared as Critical Infrastructure must be made available on the website of the SA Police Service unless.	How confidential will this website be and who has access thereto? SECTION 16(3) limits access to the information which implies that the two sections are contradictory.	Proposal to delete 13(10) and keep 16(3) to ensure confidentiality.
<b>CHAPTER 3</b> <b>Clause 14(1)(a)</b> 1) When deciding on the security measures to be implemented at Critical Infrastructure, the Board must— (a) hear submissions from owners who allege that security measures can be implemented in a more convenient way;	Provides that the board will <u>hear</u> owner's submissions.	<ul style="list-style-type: none"> <li>This is a concern as owners' submissions should not just be heard but be factored into the determination made by the board.</li> <li>Slight amendment should be included: "a) <u>hear and take into consideration</u> submissions from owners....."</li> </ul>
<b>CHAPTER 3</b> <b>Clause 14.4(b)(ii)</b> (b) In the event of a disaster— (ii) members of emergency services will not be committing an offence based on the sole fact that they	<ul style="list-style-type: none"> <li>Will the emergency services personnel be trained on how to conduct themselves in our facilities, since they can access facilities without authorization?</li> <li>And who is responsible of ensuring that such</li> </ul>	

<p>are gaining access to a Critical Infrastructure without the required authorisation.</p> <p><b>Read with</b></p> <p><b>Clause 20.(1)(a) and 20 (2)(a)</b>  (1) Any person who in the course of their duties under this Act, intentionally or negligently—  (a) hinders, obstructs or disobeys any person in the fulfillment of their functions in terms of this Act;  (2) Any person who, intentionally or negligently—  (a) hinders, obstructs or disobeys any person in the fulfillment of their functions in terms of this Act;</p>	<p>training takes place?</p> <ul style="list-style-type: none"> <li>Who is responsible for their wellbeing since they can enter facilities without authorization?</li> </ul>	
<p><b>CHAPTER 3</b>  <b>Clause 15 (1) (a)</b> The Board must, at least once in a financial year, review the security measures of all Critical Infrastructure, which excludes places or areas that have been declared as Critical Infrastructure within the same financial year of the review.</p>	<p>Financial year is not defined, period not specified and may lead to confusion as when review will occur</p>	<p>Financial year period should be defined and clearly stated</p>
<p><b>CHAPTER 4</b>  <b>Clause 16: 3(C)</b>  (3) Access to the contents of the Register is restricted to—  (c) persons who have security clearance and have obtained the permission of the Board.</p>	<ul style="list-style-type: none"> <li>Will owners of designated sites be informed which of its facilities will be listed on the register?</li> </ul>	

<p><b>CHAPTER 5, Section 17(1)</b> An owner must cooperate with the Board and security services in respect of security measures decided upon from Critical Infrastructure by the Board. An owner must not be made to bear any costs for the provision of security measures ordered by the Board unless the owner deems it necessary to bear some or all of the costs.</p>	<ul style="list-style-type: none"> <li>• This section makes it compulsory for an owner to cooperate in respect of the security measures ordered by the Board, irrespective of whether the owner believes it to be adequate or practical. Right and duties of owners appears very limited – unlike as previously obtained through the Joint Planning Committees in terms of the National Key Point Act.</li> <li>• It is unclear how Government will carry all the costs to ensure the security measures ordered by the Board are implemented and maintained.</li> <li>• The section does not refer to ongoing costs like security guards etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Owners must be given more rights to decide on appropriate security measures. It is proposed that owners rather be given the opportunity and freedom to decide on the security measures that are required. See recommendation under CHAPTER 2, Section 9(1)(d).</li> <li>• The obligations of Government needs to be clarified for example in respect of continued operating and maintenance costs in respect of security services;</li> </ul>
<p><b>CHAPTER 5 Clause 17</b> (1) An owner must cooperate with the Board and security services in respect of security measures decided upon for Critical Infrastructure by the Board.</p>	<p>Only stipulates that Owners must cooperate with the board.</p>	<p>Owners should be afforded the right to challenge determinations and / or make recommendations to the board.</p>
<p><b>CHAPTER 7 GENERAL PROVISIONS: Regulations 21</b></p>	<p>The regulations section does not cover key performance requirements.</p>	<p>Consider making regulations with respect to:</p> <ul style="list-style-type: none"> <li>• The requirements for security threat and vulnerability assessments;</li> <li>• The processes for carrying out site inspections, reviews or audits by relevant external parties as dictated by the Board</li> <li>• The security review and audit principles</li> </ul>
<p><b>CHAPTER 7, Section 20(2)(b)</b> unlawfully discloses, in any</p>	<ul style="list-style-type: none"> <li>• The wide ambit of this section insofar as it refers to "in any manner"</li> </ul>	<ul style="list-style-type: none"> <li>• There should not be a blanket requirement for all designated sites to meet this requirement, as</li> </ul>

<p>manner, any information relating to the security measures implemented at a Critical Infrastructure without being legally obliged or entitled to do so, or as may be necessary for the performance of functions under this Act;</p>	<p>and "any information" is too wide.</p> <ul style="list-style-type: none"> <li>• This requirement may be applicable to only a limited numbers of Critical Infrastructure, and not the entire list of designated infrastructure.</li> <li>• In some instances the security measures are obviously visible.</li> <li>• In addition, as a company, Sasol does disclose some security related information to service providers etc, as the service providers will need to comply thereto and again enforce it to some extent.</li> </ul>	<p>it may not be relevant for their industry.</p> <ul style="list-style-type: none"> <li>• It is proposed that the level of secrecy regarding the security measures should be part of the owner's presentation to the Board and part of the approval process of the required security measures.</li> </ul>
<p><b>CHAPTER 7</b> <b>Section 22 (4):</b> The Minister must, within 5 days of the Board being fully appointed, provide a list of all National Key Points to the Board.</p>	<p>The requirement to provide list of Key Points within 5 days is very short.</p>	<p>Propose 14 days</p>

### CONCLUDING REMARKS

Sasol supports initiatives that seek to enhance the safety and protection of strategic assets of the country. We remain committed to the strategic imperatives of the various government departments and will continue to support initiatives that endeavour to achieve energy security for South Africa "Incorporated".

We sincerely hope our comments will be duly considered. Due to our experience as an existing "National Key Point", we avail ourselves for further discussion, should the need arise.

Sincerely,



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