**Question no. 376**

QUESTION PAPER DATE: FRIDAY, 07 March 2008

**376: Adv H C Schmidt (DA) to ask the Minister of Minerals and Energy:**

(1) Between the promulgation of the Mineral and Petroleum Resources Development Act, (MPRDA), Act 28 of 2002, on 1 May 2004 and 29 February 2008, how many (a) applications for (i) prospecting rights, (ii) mining rights, (iii) mining permits and (iv) conversions of (a) prospecting and (bb) mining rights were received, (b) appeals were lodged with (i) her and (ii) the Director-General in terms of section 96(1) of the MPRDA against the refusal of such rights and (c) of these appeals were (i) successful and (ii) unsuccessful;

(2) what does her department intend doing about improving the quality of its decision-making in view of (a) the settlement of a third of all judicial review applications and (b) its failure to oppose most of these applications?

**REPLY**

(1) Between 1 May 2004 and 29 February 2008 the Department received 8196 prospecting rights (ii) mining rights-1359,(iii) mining permits-4244, (iv) (aa) the period for conversion of prospecting rights expired in April 2006, a total of 378 conversions were received.(bb) mining rights conversions -549

(1) (b) (i) and (ii) A total of 504 appeals were received during the aforementioned period. What is however important to note at this stage, is that the majority of so-called appeals received by the Department, has been processed in terms of section103(4)(b) of the MPRDA, as it relates to Ministerial decisions taken under delegated authority, which as a result rendered an appeal in terms of section 96 of the Act, incompetent.

(c) (i) Of the appeals received, 23 were successful and (ii) 48 unsuccessful

The remainder of the appeals were either withdrawn (38), suspended pending litigation (32) or negotiations (48) or still pending (315).

2. (i) The department has not identified quality of decisions as a cause for settlement with parties, settlement is as per agreement between the Applicants and the Department, thus meaning that the matters were in effect settled between the parties.

(ii) As referred in 2(i) majority of matters not opposed is because of the agreements between the parties.

Question no. 1219

QUESTION PAPER DATE: FRIDAY, 01 August 2008

1219: Adv H C Schmidt (DA) to ask the Minister of Minerals and Energy:

With reference to her reply to Question 653 on 17 July 2008, how many applications for (a) prospecting rights, (b) mining (i) rights and (ii) permits and (c) conversions of (i) prospecting and (ii) mining rights did her department return to the applicants after acceptance of the application for purposes of further details and/or information and/or completion submitted in terms of the Mineral and Petroleum Resources Development Act, Act 28 of 2002?

REPLY

The Department does not return applications to applicants after acceptance, applications are only returned to applicants if they were rejected. After acceptance the department as stipulated in the Act, have to inform the applicant of such acceptance and request the applicant to consult with interested and affected parties and submit the results of such consultation and to submit an Environmental Management Plan/Programme within the specified time frames. Therefore the Department request information on all the accepted applications.

Question no. 1220

QUESTION PAPER DATE: FRIDAY, 01 August 2008

1220Adv H C Schmidt (DA) to ask the Minister of Minerals and Energy:

With reference to her reply to Question 653 on 17 July 2008, and the fact that no mining right conversions were refused, on what grounds were the judicial reviews instituted against her department based on applications for mining rights submitted in terms of the Mineral and Petroleum Resources Development Act, Act 28 of 2002?

REPLY

The grounds on which the judicial reviews were instituted in respect of conversion applications referred to in the reply to question 653 did not concern the merits of the applications *per se.*In two of the judicial review proceedings, the parties held different views on the interpretation of the time period for the lodgement of conversion of prospecting right application as per the transitional provisions of the MPRDA. The Court ruled in favour of the interpretation of the applicant. The third review which is still pending, essentially relates to a dispute between two parties, which arose subsequent to the granting of a conversion application to the Respondent in this matter. The Department has no material interest in the outcome of the review proceedings.

**Question no.551**

QUESTION PAPER DATE: FRIDAY, 28March 2008

**551: Mr. W D Spies (FF Plus) to ask the Minister of Minerals and Energy:**

Whether an increase in electricity tariffs will also come into force on 1 April 2008 for neighboring countries to which South Africa supplies electricity; if not, why not; if so, what is the (a) current tariff and (b) percentage increase for (i) Namibia, (ii) Botswana, (iii) Mozambique, (iv) Lesotho, (v) Swaziland

**RESPONSE:**

The electricity tariffs to neighbouring utilities escalate at the agreed rates in their supply agreements. In most cases this escalation is equal to or higher than the NERSA approved escalation and comes into effect from 1 April each year. In some instances however agreements allow escalation linked to other indices such as PPI and escalation dates of 1 January each year.

The specific detail requested per country is confidential information and therefore cannot be disclosed publicly. Should the Honourable Member require further clarity in this regard, he is welcome to contact the Honourable Minister of Minerals and Energy.

**Question no.588**

QUESTION PAPER DATE: FRIDAY, 28 March 2008

**588: Mr. M Waters (DA) to ask the Minister of Minerals and Energy:**

(1) What are the co-ordinates with regard to the mining rights on a certain farm in the Kempton Park area (Witfontein )**R/33/151R**

whether there are any restrictions which prohibit any mining from taking place near residential dwellings; if not, why not; if so, (a) what are the relevant details and (b) up to what distance from residential dwellings can mining take place?

**REPLY:**

Co ordinates on the remainder of the farm Witfontein No 15IR, wherein a mining permit has been issued.

**DATUM: WGS 84**

|  |  |
| --- | --- |
| LO-Y | LO-X |
| 70766.789 | 2883463.934 |
| 70676.433 | 2883953.612 |
| 70691.011 | 2884122.129 |
| 70780.737 | 2884125.445 |
| 70766.789 | 2883963.934 |

2(a) Yes, Section 48(1) of the MPRDA, restricts mining or prospecting in respect of land comprising a residential area, however Section 48(2) provides powers to the Minister to issue a right in respect of land mentioned above, if the Minister is satisfied that-

Having regard to the sustainable development of the mineral resources involved and national interest, it is desirable to issue it.

The right/permit will take place within the framework of national environmental management policies, norms and standards.

(b) Regulation 17(6)of Mine Health and Safety Act, provides that no mining operations are carried out under or within a horizontal distances of 100 metres from buildings, roads, railways, reserves, mine boundaries, any structure whatsoever.

**Question no.551**

QUESTION PAPER DATE: FRIDAY, 28March 2008

**551: Mr. W D Spies (FF Plus) to ask the Minister of Minerals and Energy:**

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**RESPONSE:**

The electricity tariffs to neighbouring utilities escalate at the agreed rates in their supply agreements. In most cases this escalation is equal to or higher than the NERSA approved escalation and comes into effect from 1 April each year. In some instances however agreements allow escalation linked to other indices such as PPI and escalation dates of 1 January each year.

The specific detail requested per country is confidential information and therefore cannot be disclosed publicly. Should the Honourable Member require further clarity in this regard, he is welcome to contact the Honourable Minister of Minerals and Energy.

**QUESTION NUMBER 1189**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 11 SEPTEMBER 2009**

**(INTERNAL QUESTION PAPER NUMBER 16)**

**Adv H C Schmidt (DA) to ask the Minister of Mineral Resources:**

In light of the appointment of a certain company (name furnished) to conduct an assessment of compliance in respect of the Mining Charter, (a) what is its mandate, (b) what is the date on which it must present its report to the department, (c) who are the (i) directors and (ii) members of this company and (d) what is the cost of commissioning the report?

**REPLY**

(a) The mandate of the company is to undertake an independent assessment of the cumulative progress (by the mining industry) against the targets of the Mining Charter, as agreed upon by all stakeholders prior to implementation of this Charter.

(b) End of September, 2009.

(c) (i) Ms. Kate Moloto and Mr. Titus Mpe.

(ii) Not applicable

(d) The report is commissioned at a total cost of R 3,659,172.00.

**Question No. 1515**

NATIONAL ASSEMBLY INTERNAL QUESTION PAPER

QUESTIONS FOR WRITTEN REPLY

Response by Hon. Buyelwa Sonjica. Minister of Minerals and Energy. To Adv HC Schmidt's

Parliamentarv **Question No. 1515**

**A. Question:**

Following recent allegations that PetroSA signed oil deals with associates of Mugabe,(sic) whether the Minister can indicate (a) when was the deal between Middle East South Africa Energy (MESA) and PetroSA entered into; (b) what the specific terms 0 the deal were; if not, why not; if so, what are the relevant details in each case; (c) whether PetroSA was aware of the UN Final Report by the Panel of Experts on the Illegal Exploration of Natural Resources and other forms of Wealth of the Democratic Republic of the Congo; if not, why not?

**B. Response:**

a) The agreement was signed by both parties on 17 June 2004 – effective for two years, commencing on 1 August 2004.

b) The agreement stipulates that MESA will supply condensate as a feedstock for the Mossel Bay Refinery at price that are dependent on the grade of condensate that would have been supplied to PetroSA.

(c) No. But at any rate, the report did not specifically mention DRC or MESA.

**BACKGROUND**

After the aforesaid condensate deal, MESA subsequently successfully bid for other spot deals for Reformate, amongst others, all of which had nothing to do with DRC.

**Recent News**

On 24th August 2008 the Sunday Times newspaper published a story in its business section that insinuates that PetroSA knowingly "dished out oil deals" to a consortium partly owned by foreign businessmen accused of being fronts for Zimbabwean President Robert Mugabe.

PetroSA then placed it on record that in 2004 they concluded a tender wherein MESA Energy, a majority-owned South African company, was contracted to supply them with gas condensate. At the time three separate South African companies owned 51% of MESA. A Mauritian-registered company Pegasus Energy (Ltd) owned the remaining 49%.

A forensic audit to verify the legal and BEE status of MESA was conducted in accordance with PetroSA's policies. The decision to award MESA Energy this highly competitive tender, was based on PetroSA's stringent selection criteria, which considered factors such as pricing, BEE participation levels, and the ability to introduce various condensate grades.

It is also true that in January 2008, PetroSA purchased a spot cargo of Reformate from MESA.

Throughout these transactions PetroSA has conducted itself with professional integrity, putting at the forefront the best interests of South Africa. At no time before or after the two deals, was PetroSA ever informed of any allegations of impropriety concerning MESA or any of its partners.

It is therefore mischievous of the Sunday Times to insinuate that PetroSA knowingly conducted business in defiance of United Nations resolutions or sanctions. A fact is that PetroSA, in good faith, concluded two deals with .

Mesa Energy. Both deals were conducted in full compliance with PetroSA's internal processes which are aligned with PFMA Act.

Possible link between the "UN Final Report by the Panel of Experts on the illegal Exploration of Natural Resources and other forms of Wealth of the Democratic Republic of the Congo" and MESA http://www .natural-resources.ora/minerals/law/docs/pdf/ N0262179.pd

Among the Government departments interviewed by the Panel of Experts was the Department of Minerals and Energy of South Africa (p.54 of the UN Final Report). However, no names of officials interviewed were provided.

The central focus of the Panel's work was gathering information about politically and economically powerful groups involved in the exploitation activities / illegal exploration of natural resources and other forms of wealth of the Democratic Republic of the Congo (DRC), which are often highly criminalized. The UN Report's main focus is on the micro conflicts that have been provoked by the DRC civil war that have resulted in some groups, politically connected persons and high-ranking government officials from states involved in the conflict criminally exploiting the situation for self enrichment.

The report then goes further to explain the modus operandi of the said groups but has no specific mention of MESA Energy.

The person posing the questions seems to be of the opinion that there is a link between MESA (shareholders or individuals within MESA) and the entities alleged to be involved in the illegal dealings in DRC (from a Zimbabwe front) as shown in the extracts of the Report below. Unfortunately, a detailed investigation could not be conducted to prove beyond reasonable doubt that there is no such link.

Extracts from the Report that could be relevant to the questions posed are as follows:

"12. The regional conflict that drew the armies of seven African States into the Democratic Republic of the Congo has diminished in intensity, but the overlapping micro conflicts that it provoked continue. These conflicts are fought over minerals, farm produce, land and even tax revenues. Criminal groups linked to the armies of Rwanda, Uganda and Zimbabwe and the Government of the Democratic Republic of the Congo have benefited from the micro conflicts. Those groups will not disband voluntarily even as the foreign military forces continue their withdrawals. They have built up a self-financing war economy centred on mineral exploitation.

13. Facilitated by South Africa and Angola, the Pretoria and Luanda Agreements have prompted the recent troop withdrawals from the eastern Democratic Republic of the Congo. Welcome as they may be, these withdrawals are unlikely to alter the determination of Rwanda and Zimbabwe, and Ugandan individuals, to exercise economic control over portions of the Democratic Republic of the Congo. The departure of their forces will do little to reduce economic control, or the means of achieving it, since the use of national armies is only one among many means for exercising it. All three countries have anticipated the day when pressure from the international community would make it impossible to maintain large forces in the Democratic Republic of the Congo. The Governments of Rwanda and Zimbabwe, as well as powerful individuals in Uganda, have adopted other strategies for maintaining the mechanisms for revenue generation, many of which involve criminal activities, once their troops have departed.

17. Although troops of the Zimbabwe Defence Forces have been a major guarantor of the security of the Government of the Democratic Republic of the Congo against regional rivals, its senior officers have enriched themselves from the country's mineral assets under the pretext of arrangements set up to repay Zimbabwe for military services. Now ZDF is establishing new companies and contractual arrangements to defend its economic interests in the longer term should there be a complete withdrawal of ZDF troops. New trade and service agreements were signed between the Democratic Republic of the Congo and Zimbabwe just prior to the announced withdrawal of ZDF troops from the diamond centre of Mbuji Mayi late in August 2002.

18. Towards the end of its mandate, the Panel received a copy of a memorandum dated August 2002 from the Defence Minister, Sidney Sekeramayi, to President Robert Mugabe, proposing that a joint Zimbabwe-Democratic Republic of the Congo company be set up in Mauritius to disguise the continuing economic interests of ZDF in the Democratic Republic of the Congo. The memorandum states: "Your Excellency would be aware of the wave of negative publicity and criticism that the DRC-Zimbabwe joint ventures have attracted, which tends to inform the current United Nations Panel investigations into our commercial activities." It also refers to plans to set up a private Zimbabwean military company to guard Zimbabwe's economic investments in the Democratic Republic of the Congo after the planned withdrawal of ZDF troops. It states that this company was formed to operate alongside a new military company owned by the Democratic Republic of the Congo.

19. At the same time, local militias and local politicians have supplemented the role that State armies previously played in ensuring access to and control of valuable resources and diverting State revenue. The 'looting that was previously conducted by the armies themselves has been replaced with organized systems of embezzlement, tax fraud, extortion, the use of stock options as kickbacks and diversion of State funds conducted by groups that closely resemble criminal organizations.

20. Such activities have become increasingly prominent in the techniques of exploitation in the Democratic Republic of the Congo. The Panel has identified three distinct groups engaged in activities in three different areas and refers to them as elite networks. These elite networks have control over a range of commercial activities involving the exploitation of natural resources, diversion of taxes and other revenue generation activities in the three separate areas controlled by the Government of the' Democratic Republic of the Congo, Rwanda and Uganda, respectively."

22. The elite network of Congolese and Zimbabwean political, military and commercial interests seeks to maintain its grip on the main mineral resources - diamonds, cobalt, copper, germanium - of the Government-controlled area. This network has transferred ownership of at least US$ 5 billion of assets from the State mining sector to private companies under its control in the past three years with no compensation or benefit for the State treasury of the Democratic Republic of the Congo.

23. This network benefits from instability in the Democratic Republic of the Congo. Its representatives in the Kinshasa Government and the Zimbabwe Defence Forces have fuelled instability by supporting armed groups opposing Rwanda and Burundi.

24. Even if present moves towards peace lead to a complete withdrawal of Zimbabwean forces, the network's grip on the richest mineral assets of the Democratic Republic of the Congo and related businesses will remain.

Zimbabwe's political-military elite signed six major trade and service agreements in August 2002 with the Government of the Democratic Republic of the Congo. Reliable sources have told the Panel about plans to set up new holding companies to disguise the continuing ZDF commercial operations in the Democratic Republic of the Congo and a ZDF-controlled private military company to be deployed in the country to guard those assets

27. The key strategist for the Zimbabwean branch of the elite network is the Speaker of the Parliament and former National Security Minister, Emmerson Dambudzo Mnangagwa. Mr. Mnangagwa has won strong support from senior military and intelligence officers for an aggressive policy in the Democratic Republic of the Congo. His key ally is a Commander of ZDF and Executive Chairman of COSLEG, General Vitalis Musunga Gava Zvinavashe. The General and his family have been involved in diamond trading and supply contracts in the Democratic Republic of the Congo. A long-time ally of President Mugabe, Air Marshal Perence Shiri, has been involved in military procurement and organizing air support for the pro- Kinshasa armed groups fighting in the eastern Democratic Republic of the Congo. He is also part of the inner circle of ZDF diamond traders who have turned Harare into a significant illicit diamond-trading centre.

28. Other prominent Zimbabwean members of the network include Brigadier General Sibusiso Busi Moyo, who is Director General of COSLEG. Brigadier Moyo advised both Tremalt and Oryx Natural Resources, which represented covert Zimbabwean military financial interests in negotiations with State mining companies of the Democratic Republic of the Congo. Air Commodore Mike Tichafa Karakadzai is Deputy Secretary of COSLEG, directing policy and procurement. He played a key role in arranging the Tremalt cobalt and copper deal. Colonel Simpson Sikhulile Nyathi is Director of defence policy for COSLEG. The Minister of Defence and former Security Minister, Sidney Sekeramayi, coordinates with the military leadership and is a shareholder in COSLEG. The Panel has a copy of a letter from Mr. Sekeramayi thanking the Chief Executive of Oryx Natural Resources, Thamer Bin Said Ahmed AIShanfari, for his material and moral support during the parliamentary elections of 2000. Such contributions violate Zimbabwean law.

29. In June 2002, the Panel learned of a secret new ZDF diamond mining operation in Kalobo in Kasai Occidental run by Dube Associates. This company is linked, according to banking documents, through Colonel Tshinga Dube of Zimbabwe Defence Industries to the Ukrainian diamond and arms dealer Leonid Minim, who currently faces smuggling charges in Italy. The diamond mining operations have been conducted in great secrecy.

31. The techniques used by Mr. Forrest have since been replicated by Zimbabwean-backed entrepreneurs John Arnold Bredenkamp and Mr. AIShanfari. Mr. Bredenkamp, who has an estimated personal net worth of over $500 million, is experienced in setting up clandestine companies and sanctions-busting operations. Mr. AI-Shanfari has gained privileged access to the Government of the Democratic Republic of the Congo and its diamond concessions in exchange for raising capital from some powerful entrepreneurs in the Gulf such as Issa a/-Kawari who manages the fortune of the deposed Amir of Qatar. Also working with ZDF is a convicted criminal based in South Africa, Nico Shefer, who has arranged for Zimbabwean officers to be trained in diamond valuation in Johannesburg. Mr. Shefer's company, Tandan Holdings, has a 50 per cent stake in Thorntree Industries, a joint venture diamond-trading company with ZDF.

32. Zimbabwean Billy Rautenbach headed a joint venture cobalt-mining company and was Chief Executive of Gecamines from November 1998 to March 2000. Although stripped of his cobalt concessions in Katanga, Mr. Rautenbach told the Panel that the Government of the Democratic Republic of the Congo had offered his company, Ridgepointe International, mining rights to Gecamines concessions at Shinkolobwe, which include substantial deposits of uranium, copper and cobalt. Mr. Rautenbach's representatives said that any new agreement would be subject to the new mining code of the Democratic Republic of the Congo and any uranium mining operations would be open to inspections by the International Atomic Energy

**QUESTION NO: 1539**

NATIONAL ASSEMBLYINTERNAL QUESTION PAPER

QUESTIONS FOR WRITTEN REPLY

1539. Mr LW (I D) to ask the Minister of Minerals and Energy:

(1) Whether public participation processeswere conducted regarding the Government's decision to build new nuclear power plant stations; if not, why not if so, how many submissions were received from public;

(2) Whether her department has considered the submissions; if not, whynot; if so, what are relevant details?

RESPONSES:

(1) No, this is OPE and DEAT's responsibility.

**QUESTION 1544**

NATIONAL ASSEMBLY INTERNAL QUESTION PAPER

QUESTIONS FOR WRITTEN REPLY

1544. Mr L W Greyling (ID) to ask the Minister of Minerals and Energy:

(1) Whether her department is currently running a wind source atlas programme if so (a) when did the programme start and (b) when will a comprehensive wind atlas be available to the public'

(2) Whether there have been any delays in the programme; if so what were the reasons for the delays?

Response:

1 (a) Yes, the programme started in May 2008

(b) The 1stiteration of the wind atlas, covering coastal areas of the Northern Western and Eastern provinces is planned for November 2009. The final comprehensive version (reports, facts sheets, web site, and database) of the atlas is planned for the 3rdquarter of 2012.

2. No delays