

Chemical workers - the struggle over disinvestment

Last year Chemical Workers Industrial Union (CWIU) declared a dispute over disinvestment with 41 foreign multinational companies. The dispute marked a new stage in the position of unions on disinvestment. ROBYN RAFEL reports on the dispute and the disinvestment debate in COSATU.

On 30 August last year Chemical Workers Industrial Union (CWIU), affiliated to COSATU, announced that it had applied for a conciliation board in a dispute with 41 foreign-controlled multi-national companies (MNC's). The union was demanding negotiations to establish procedures to be followed if the companies disinvest from South Africa.

The announcement caused a stir. Firstly, 11,000 workers were covered by the dispute and if it was not settled there was the prospect of a very big legal strike. Secondly, and perhaps

more importantly, it raised many questions about the overall issue of sanctions and disinvestment.

The overriding aim of the various campaigns for sanctions and disinvestment is to weaken South Africa economically in the hope that this will force the government to abandon apartheid. COSATU and NACTU both support these campaigns because they support the anti-apartheid struggle. Nevertheless, unions exist to protect and fight for workers. Many people have found it difficult to understand their position, if sanctions and

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disinvestment mean that jobs will be lost and their membership eroded. What was CWIU trying to say with this dispute?

To understand why the union embarked on its campaign we have to understand its and COSATU's positions on these matters. We also have to look at what has actually happened when MNCs have disinvested.

Disinvestment and COSATU's founding congress

At its inaugural congress in Durban in December 1985, COSATU adopted a resolution saying it believed all forms of international pressure - including sanctions and disinvestment, or the threat of disinvestment - are an essential and effective form of pressure on the government - and should be supported. Furthermore, if the government remained intransigent, the pressure should be increased.

A third part to the resolution added that COSATU was committed "to ensuring that the social wealth of South Africa remains the property of the people of SA for the benefit of all." What exactly was meant by this, and the means by which it was to be achieved, were to become thorny issues. Soon too, doubts would also be voiced as to whether sanctions and disinvestment really were being effective against the government.

Indeed, when COSATU convened



for its second congress in Johannesburg in July 1987 and assessed developments, it radically refined its thinking on both issues. In the intervening period the campaign for international economic action

against Pretoria had grown enormously. Several new sanctions were imposed, the best known of which were probably those applied in terms of the Comprehensive Anti-Apartheid Act which came into effect in the United States in 1986. Yet even though the S.A. government clearly did not like sanctions, it was equally clear that it was still very much in power. Furthermore, despite the passage of the American legislation, neither the United States administration nor the Thatcher government in Britain - two of South Africa's major trading partners - were in favour of sanctions. The West German government felt the same way, while Japan was well on its way to becoming this country's leading supplier.

Disinvestment at COSATU's second congress

At the second congress COSATU was at pains to point out that the organised working class in South Africa had not had control of sanctions campaigns and that the government and its "imperialist backers" would try to shift the burden of sanctions onto workers. And the federation was careful to limit its support for sanctions to

comprehensive mandatory sanctions as they were "the only sanctions which were likely to bring effective pressure which will assist in bringing about a non-violent, truly democratic and non-racial SA."

Selective sanctions packages - which is what applies at present - would not be effective, COSATU said. Instead, "they cause serious regional unemployment". Furthermore, self-interest rather than the interests of the South African working class had often been the motive behind the imposition of various sanctions measures. In other words, at the second congress COSATU adopted an "all or nothing" approach to sanctions. Given that it is an organization of workers, it is hard to see what else it could have done.

As its contribution to the direction of sanctions campaigns, COSATU declared, it supported calls for:

- An end to loans and credit to the government, South African business, municipalities and bantustans;
- Diplomatic isolation of South Africa;
- An end to South African tourists, businessmen and State officials travelling overseas;
- South Africans to be stopped from emigrating abroad;
- The effective and comprehensive implementation of the UN arms embargo;
- A stop to the SA State and business recruiting skilled workers' overseas;

- Sporting groups and individuals to be stopped from visiting and playing in this country, while SA sporting groups should not play abroad.

In the preamble to the resolution on disinvestment adopted at the congress, COSATU stated that it believed effective economic pressure was essential for bringing about a system of justice and equality in a peaceful manner, and with the least pain and suffering by the poor. Disinvestment as currently practiced, however, was nothing more than "corporate camouflage" which often allowed those companies to increase their support for the government. COSATU then resolved that companies should give notice of any intention to pull out of South Africa so that bona fide negotiations could take place on the issue. The resolution restates COSATU's commitment to ensuring that the social wealth of South Africa remained the property of the people.

CWIU debates disinvestment

CWIU was the union which proposed both resolutions at the COSATU congress. At the CWIU national congress the month before, debate on sanctions and disinvestment had been one of the key items on the agenda, and the resolutions COSATU adopted were virtually identical to the ones the CWIU congress had ratified. CWIU is particularly concerned about these issues, says general secretary Rod Crompton, because the chemical

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sector has a higher concentration of MNCs than other industries. "Lots of unions within COSATU are very distant from disinvestment," Crompton told *Labour Bulletin*. "This is true for those organising the railways and municipalities and, to some extent, even for those operating in other industrial sectors. Our situation is very different."

CWIU notes that 150 MNCs have disinvested from South Africa, many claiming that they did so in response to the disinvestment lobby, thereby gaining a lot of political mileage in their home countries. In the vast majority of these cases, the companies were sold to South African companies or the local management of the company, often at extremely low prices. In most cases also, the departing company has entered into agreement with the new management providing for things like franchises, licensing rights, and the supply of technology.

CWIU believes that the maintenance of such links and the income they generate for the departed MNCs is not disinvestment in the true sense of the word, but what it calls "corporate camouflage". It believes that the bargain prices paid when local managements have been the buyers shows that "disinvesting" companies expect other benefits from the deal.

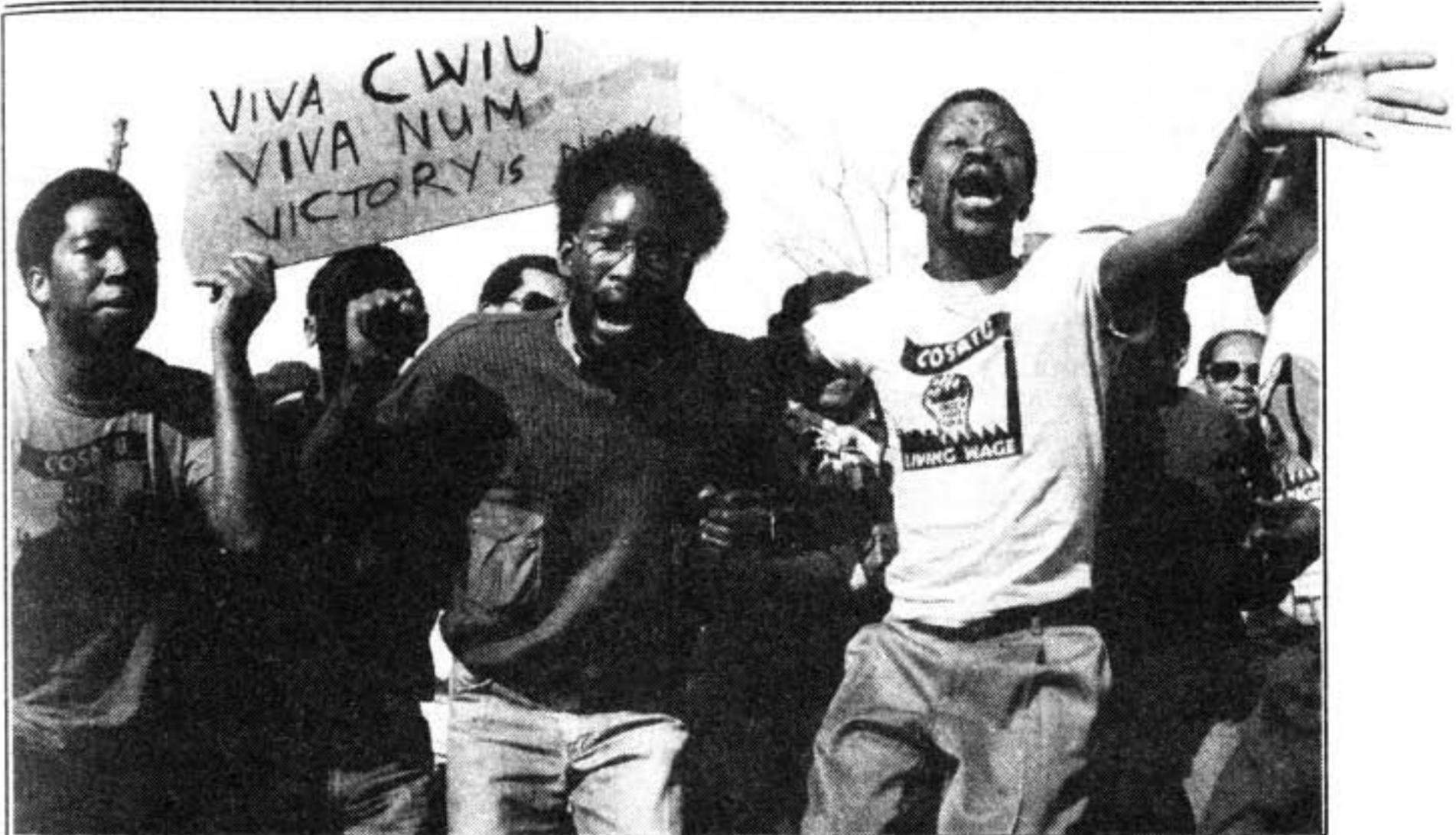
In contrast to the benefits that have flowed to South African business, workers have received the raw end of the deal, says the union. Unlike the new managements they have not been allowed to negotiate the terms of

the deal. In virtually all cases unions have received no prior notification of companies' intention to disinvest. Many of the new managements have adopted a harsher attitude to their unions. In some cases new and worse conditions of work have been imposed, and there have also been instances where the new owners have retrenched workers immediately after the sale.

CWIU is not alone in arguing that many disinvestments have been "corporate camouflage". Even business leaders have a similar view. Take, for example, comments made by Escom chairman Dr J B Maree in December last year at the AGM of the SA Mutual Life Assurance Society.

Maree said: "The decision in recent times by American companies to disinvest from South Africa has again clearly illustrated the importance of the large corporation. Disinvestment involves the withdrawal of foreign management and enterprise from South Africa. If there had not been the capacity to acquire these foreign-owned, often large, organisations, then their activities would have ceased, their assets would have been dissipated and vital technology would have been lost, *but this has in fact not happened.*

"These corporations have been acquired in their entirety by South African companies who have both the financial and the managerial capacity to do so. They have continued to function as local businesses and in the process the business activity, the jobs and technology have been preserved



CWIU workers - not opposing disinvestment, but demanding negotiations on the issue

Photo: Eric Miller/Afrapix

to the benefit of the South African economy. *In this way the potentially serious negative effects of disinvestment have largely been negated.*"

Disinvestment has empowered management

Crompton comments: "The fact is that disinvestment has to be examined in terms of whether it has been an effective form of pressure on the government. From Maree's observations, this is clearly not always the case. I think it was never envisaged by disinvestment lobbyists that the process of disinvestment should empower management over workers. If anything, it was meant to be the other way around. We are saying that disinvestment must take place in line with

our terms and on our terms. If things are not done this way it is not disinvestment but corporate camouflage."

Part of the problem about sanctions and disinvestment, according to Crompton, is not only that international anti-apartheid campaigners have very few other options for applying pressure, but also that many foreigners have only a limited understanding of what apartheid is. "In the United States, for instance, many people see it in terms of the civil rights movement. They have never had to deal with an economic system that has race built into it," says Crompton. "They don't have to deal with the kind of monster we do."

"For complex reasons South Africa has become the key focus of everything that is bad in the world and

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a very wide range of groups are involved in lobbying for sanctions and disinvestment - from very conservative church groups to very radical groups," he adds. "I think that the people doing the mobilizing do have a genuine concern for the oppressed people of this country. But they are also using the issue to mobilize on other issues which they are fighting in their countries."

CWIU launches campaign

To turn now to CWIU's campaign to force MNC's to negotiate the terms of disinvestment. Shortly after the union's 1987 congress where it adopted its approach to disinvestment, a multi-national shop stewards' council was established to develop a strategy for the campaign. The first step was taken in July when CWIU wrote to 41 MNCs where it was recognised requesting a joint meeting to negotiate its demands. Of the 41, the majority - 18 - are British controlled. Then there are seven Dutch companies, six American, three German, three French, one Australian, one Swiss, and one owned by an offshore consortium (two MNCs - one US controlled and the other French controlled - were later excluded from the dispute).

CWIU's first demand was that the companies should agree to negotiate in a joint forum. The other demands were that:

- Companies must give one years' notice of the intention to dis-

invest. During this period they must enter into bona fide negotiations on a closure package, no agreements or contracts with the union should be terminated, and less favourable conditions of employment must not be introduced;

- All workers should be paid separation pay of one months' wages per year of service;
- Workers' wages must be guaranteed for one year from the date of closure or disinvestment;
- Loans granted to employees for things like housing should be written off;
- Employers should contribute a lump sum, which should be equal to what they would have paid as the employer's contribution to a pension or provident fund, on behalf of all CWIU members up to retirement age. The destiny of such funds should be negotiated with the union;
- The reasons for the disinvestment must be fully disclosed as well as details about the sale of assets, and details of any remaining financial or business connections with South Africa. Copies of any contracts of the sale of assets, and details about the winding up process, should also be supplied;
- The proceeds from the disinvestment or sale, together with the proceeds of any remaining non-equity ties, should be paid into a trust nominated by the union;
- In cases of partial disinvestment, information on the identity of the new owners must be revealed as

well as the pre-sale value of shares, the selling prices, agreements of sale, and details of remaining business connections. Furthermore, a condition of the sale must be that the new owners guarantee that no changes will be made to the prevailing conditions of employment, pensions or provident funds, and matters like manning levels. New owners must also undertake to recognise the union and honour all agreements and contracts with it;

- In situations where ownership changes, it must be a condition of sale that the buyer guarantees prevailing conditions of employment. Pension or provident fund provisions, manning levels, and so on, must not be less favourable than prevailing conditions.

Just about all the companies refused to entertain CWIU's demands claiming they had no intention of disinvesting. They also rejected the idea

of negotiating in a joint forum. One of these companies was the US-owned Sterling Drugs in Durban. Its dishonesty in its dealings with CWIU, illustrates only too graphically why the union has embarked on its campaign (see box).

In November 1987 the union wrote to the 41 companies again urging them to reconsider their previous responses, and requesting that they meet in a joint forum to negotiate on its demands. A dispute would be declared if they refused to do so. All the companies refused to accede.

CWIU's conciliation board application was submitted just two days before last September's tough amendments to the Labour Relations Act became law, in order to avoid legal technicalities in the new measures. Soon afterwards three companies - Pilkington Flat Glass, Pilkington Shatterprufe Safety Glass and SA Cyanamide - launched legal proceedings against CWIU. They claimed that the union had committed an unfair la-

Sterling Drug Saga Sterling Drug Saga Sterling

Sterling Drug in Durban was a subsidiary of the American MNC Sterling Inc. In June 1987 CWIU received information that Sterling was intending to disinvest. When it approached the company, however, management denied this. And in July, when Sterling and 40 other MNCs received CWIU's letter of demand, it reiterated that position. Nine months later, however, the company asked CWIU to attend a meeting to discuss its "continued operation in South Africa."

At the meeting the union was told that Sterling Inc had already disinvested and that arrangements were being made to sell the company. According to the union, this was in stark contrast to a press statement issued in the United States by Sterling Inc which noted it was *withdrawing* from South Africa and that no Sterling unit anywhere in the world would be allowed to supply the country after August 1988.

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bour practice by filing the board application before following agreed plant-based negotiating and dispute procedures.

The two Pilkington companies launched an urgent interdict in the Industrial Court asking it to restrain the union from embarking on industrial action. They also asked the court to instruct the union to remove their names from the board application. The court turned down their requests. At two subsequent meetings of conciliation boards appointed at the request of the companies, they agreed to suspend unfair labour practice litigation until the end of January 1989, pending the outcome of their talks.

On 30 September last year the Minister decided against appointing the board CWIU had requested, opening the way for a legal strike. The Minister cited two reasons for his decision. One was that he believed the dispute did not concern an unfair labour practice - which was never alleged in the first place. The other

was that he did not consider it to be expedient to appoint one. The union noted that, "The Minister seems to have decided that negotiation was not in the interests of resolving the dispute."

Most companies agree to negotiate

If the Manpower Minister was against negotiation, a number of companies did an about turn after the board application had been filed. The majority indicated that were willing to talk, but only at plant level - not in a joint forum. CWIU reacted by inviting the companies to attend meetings to discuss the issue. Only 10 companies agreed to attend - Ciba-Geigy, Colgate-Palmolive, Expandite, Fedgas, Gillette, Hoechst, Liquid Air, Nicholas Kiwi, and the two Pilkington companies.

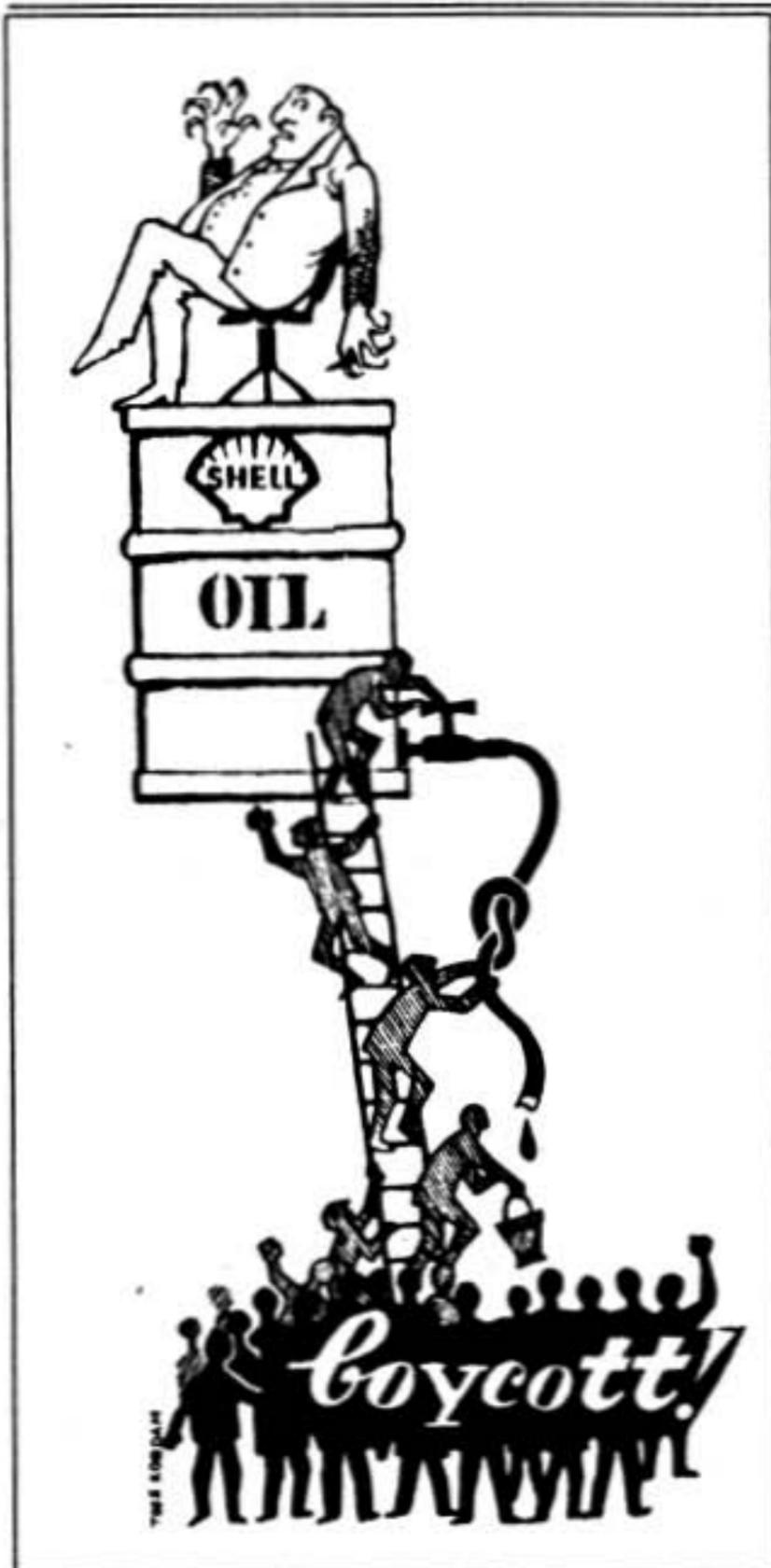
Even though CWIU members were entitled to strike legally once the Minister refused the board applica-

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Sterling refused to negotiate on any of CWIU's demands. The union declared a dispute and applied for a conciliation board. When the Manpower Minister failed to appoint a board Sterling workers began a legal strike. Soon afterwards a conciliation board was appointed.

At meetings of the board management claimed that Sterling was not disinvesting. Sterling was taken over by Eastman Kodak which has a policy of not dealing with South Africa and Kodak had ordered that Sterling sell off its subsidiary here. The buyer Adcock Ingram, a Barlow Rand subsidiary, paid R52.5 million.

The Sterling workers downed tools for five weeks and then suspended the strike. Meetings of the board were also suspended. According to the union, the dispute over the CWIU demands still exists, however, and the board can be revived at any time. ☆



Shell - refuses to leave, but won't negotiate either

Graphic: ILR

tion, they decided against industrial action. "Our approach is that there is no point in going out on a big strike until you have exhausted all the possibilities, and employers were now agreeable to plant negotiations," explains Crompton.

In January this year a union meeting was held to assess the situation. Factory delegates felt that although the demand for joint forum negotia-

tions had not been met, the fact that the majority of companies had changed position and were prepared to talk was a major victory. The union decided to drop its demand for a joint forum and commenced company-based negotiations. When the union notified employers of this decision the two Pilkington companies agreed to withdraw their disputes with it, and to drop court action scheduled for 1 February. In turn, CWIU agreed to drop its dispute against them and enter into negotiations over its demands.

But Shell and BP refuse

As things now stand, BP, Mobil Oil and Mobil Refinery, seven Shell companies, Associated Glass, Maybaker and Chrome Chemicals are the only companies that have refused to negotiate. All say they have no intention of disinvesting.

Negotiations on CWIU's demands are now underway with the companies that have agreed to talk, but with so many companies involved it's obviously going to be a lengthy business. In the process there will no doubt be difficulties and CWIU will have to exercise great care to avoid the problems other unions have faced on this issue. When it comes to negotiating the demand for a trust it will be particularly anxious to apply the lessons learnt from NUMSA's disastrous experience at Samcor. The union will also have to review its strategy towards the 12 companies which have refused to negotiate.

Says Crompton: "This is not just a

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wage dispute. We are dealing with long-term processes in the economy and there is still a lot of talk in the United States and the European Economic Community about passing legislation on disinvestment. We wanted to deal with the dispute across-the-board because if something does happen which prompts a mass exodus, workers would easily be able to act together if management does not comply with their demands. The companies have rejected joint negotiations with us, but most are now at least willing to talk individually. If any one of the respondent companies prove intransigent, we could bring out the other companies in support. We live in a very volatile situation, and circumstances can change very quickly."

In essence then, the CWIU dispute is not about whether MNCs should go, but how they should behave if they do. Nevertheless, there is no doubt that the campaign will have an impact on the debate about disinvestment. If CWIU succeeds in clinching agreements with managements it will, at the very least, have pressurized MNCs into acting with a greater degree of honesty. ☆

Interview with Colgate shop steward

Dusty Ngwane is a full-time shop steward at US-owned Colgate-Palmolive in Boksburg. He has been actively involved with CWIU since it first began recruiting at the plant in 1979. At that stage he was a member of the union's

steering committee and played a key role in the 1981 struggle for recognition at Colgate.

At that time, the emerging unions were still weak and employers were strongly resisting demands for the right to bargain wages at plant level outside of the industrial council system. Colgate was a prominent signatory to the Sullivan Code, but that did not mean it welcomed unions.

With the Colgate struggle CWIU became the first of the unions to use the post-Wiehahn strike procedures. It declared an official dispute on the point, and placed additional pressure on the company when it called for a consumer boycott of Colgate products. The screws were turned even tighter after a conciliation board failed to resolve the dispute and the workforce voted overwhelming in favour of a legal strike. Colgate capitulated on the last working day before the strike was due to start.

Ngwane has been the full-time steward since May 1987 and is a member of CWIU's multi-national shop steward council. *Labour Bulletin* spoke to him about the union's campaign.

Labour Bulletin: *What do you think about sanctions and disinvestment?*

Ngwane: My view is the same as the union's. We support any kind of pressure for change in South Africa. So if sanctions will help to hasten change, we would be in favour. But sanctions are not being applied totally, and partial sanctions are not effective. As for

disinvestment, our stand does not mean that we don't want companies to go. They can go whenever they like, but if they do, they must do it on our terms.

Labour Bulletin: *Do the other Colgate workers share your views?*

Ngwane: Yes, they do. In 1987 an independent survey by the American Chamber of Commerce in South Africa was conducted at the plant in which workers were asked three questions. First, did they think US companies should stay in SA and contribute to change. Second, whether they thought US firms should close down their plants entirely. And third, if companies left should they sell to South African managements. An overwhelming majority of the workers - 99% - said the companies should go.

When this survey was done, shop stewards met with workers beforehand to explain the questions and also handed out the survey papers which workers then filled in and placed in a ballot box. Management was upset by this result, and later sent two people from the personnel department to redo the survey. The result, however, was the same.

Labour Bulletin: *When did disinvestment first become an issue for Colgate workers?*

Ngwane: In 1987 the union noticed that companies were disinvesting on unacceptable terms. They did not inform the unions of their intentions,

conditions of work changed after the disinvestment, and the new managements did not have the same relationships with the unions in their factories.

The disinvestment that really upset workers at this plant was the Robertson Spices disinvestment in 1987 (see box on next page).

Labour Bulletin: *As a shop steward what role have you played in CWIU's disinvestment campaign?*

Ngwane: I was present at CWIU's national congress in June 1987 when we adopted our resolutions on sanctions and disinvestment, and later became a member of the CWIU multi-national shop stewards council. Our letter of demands went out to the employers in July 1987, and were followed up in November.

There was a bit of lull in the campaign for a while after that, but the shop steward council met in Durban in July 1988 and decided that it should go forward. We also decided a delegation from the union should visit the US to explain our campaign. The recommendations from this meeting went to the NEC. Later, a party of three, including our president, went to the US.

Labour Bulletin: *Why was it decided not to take industrial action after the Minister of Manpower failed to appoint the conciliation board and you were free to go on a legal strike?*

Ngwane: Since this issue is a national issue we had to sit down and discuss

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ROBERTSON SPICES, with plants in Alrode in Johannesburg and Prospecton in Durban, was a subsidiary of the international food giant Corn Products Company (CPC) which has its headquarters in the US. CWIU was recognised at the Alrode plant and FAWU at Prospecton.

According to a union source, the first time CWIU and FAWU heard about CPC's disinvestment was in April 1987 when they read newspaper reports that a consortium of South African investors had acquired ownership. CWIU members at Alrode reacted to the news by staging a one-day strike demanding to know what would happen about their pensions.

The two unions subsequently tabled a list of demands with the company. Amongst other things, they wanted details of who the new owners were, the sum they paid, and whether the disinvestment had occurred as a result of pressure from CPC's US shareholders. They also demanded that there should be no changes to workers' conditions of employment, that the company should honour agreement, and that workers should be paid severance pay. Furthermore, they demanded that Robertsons should negotiate on these issues with both unions in a joint forum.

The company initially refused to meet in a

joint forum, but later recanted. The meeting was held on May 3 1987. In response to the demands for information, the company made the unlikely claim that it itself did not know who the buyers were, or the price they paid, as the sale had been handled by its American parent. It did, however, say the sale had been promoted by shareholder pressure. The company guaranteed that all agreements would be honoured and that conditions of service would remain the same. But it refused to accede to the demand for severance pay.

It later transpired that 56% of Robertson had been acquired by Hunt Leuchars and Hepburn (HLC), a Rembrandt controlled company, and the remaining shares by the Mine Officials' Pension Fund, the Mine Employees' Pension Fund, Rand Merchant Bank and Entek Investments. In October 1988 - just over a year later - it was announced that HLC had bought the outstanding 44% in a R59,4m deal.

"In other words, this was another example of corporate camouflage which in the end placed yet more economic power in the hands of the big South African multi-nationals. We suspect that it was always the intention that HLH should assume full ownership, and that the initial consortium was put together with that understanding," says the union source. ☆

whether it was feasible to strike at that time and whether a strike would achieve our objective. In our analysis we noted that the Labour Relations Act says you cannot strike over the same issue twice within one year. We also noted that the companies said we had not exhausted negotiation. We then looked at the issue of sanctions and disinvestment and decided that they would remain as issues for a long time.

Basically, when we started the campaign, we wanted some form of negotiation with the companies and we used the threat of a conciliation board and a national strike to get the companies to the negotiating table.

Labour Bulletin: Colgate has said it

has no intention of disinvesting. Do you believe the company?

Ngwane: We've asked this question many times and I have spoken to Roderrick Turner, senior executive vice-president at Colgate in the US, who comes to SA every year. But it's hard to know whether it will always be so.

Labour Bulletin: How has Colgate reacted in the dispute?

Ngwane: The union invited all the employers to a meeting to discuss the dispute in October 1988. Colgate was one of about six companies that attended. We will be continuing our negotiations with the company. ☆