LEGISLATIVE AND REGULATORY FRAMEWORK REVIEW, THE ROLE OF SOEs IN SKILLS DEVELOPMENT AND JOB CREATION, SOEs CONTRIBUTION TO ENTERPRISE AND SOCIO-ECONOMIC DEVELOPMENT AND THE QUALITATIVE REVIEW OF THE SOEs LANDSCAPE IN SOUTH AFRICA

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1. LEGISLATIVE AND REGULATORY FRAMEWORK REVIEW: A REVIEW OF THE CURRENT POLICY AND REGULATORY FRAMEWORK

1.1. Introduction

State-owned enterprises in South Africa operate within a broad policy framework that is consistent with, and complements the Government’s broad developmental, strategic, economic and social objectives. The Public Service Commission acknowledges that state-owned enterprises should be aligned to:

- South African circumstances and strategic priorities;
- Political imperatives;
- Social impact (creation of jobs, development of critical skills, quality and access of services, pricing, economic empowerment and facilitation);
- Economic impact (creation of new industries, facilitating value creation by Government, and effective utilization of state resource in driving economic growth); and
- Increasingly, environmental imperatives that have gained momentum through the Kyoto protocol, etc.¹

Broad government policy that impacts on state-owned enterprises is contained in various policy documents, and implemented through various Acts of Parliament. These include constitutional policies, as well as the social and economic policies of Government that impact on all state-owned enterprises. In addition, the overwhelming majority of state-owned enterprises operate within an additional narrower policy framework that is drawn from policy arising from one or other sector of government, such as the National Energy Policy, National Transport Policy, National Environmental Policy, National Industrial Policy, etc.

¹ Presidential SOE Review Committee. Request for input from role-players and stakeholders: South Africa’s review of state-owned enterprises.
Regulatory frameworks for state-owned enterprises are equally vast in number, and range from frameworks common to a range of enterprises, such as the Companies Act, Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA), to those enterprises that have specific sector or individual regulatory needs and regulatory structures. Regulation also takes a variety of forms, from financial regulation, performance regulation, safety regulation, and environmental regulation, to regulation of standards. Regulations for state-owned enterprises are also found in the Protocol on Corporate Governance in the Public Sector, Shareholder Compacts and Policy Frameworks for SOEs released by the relevant Executive Authorities from time to time.

This paper begins by examining the policy framework of state-owned enterprises arising from the constitution, the social and economic policies of the Government, and policies of specific Government departments relating to specific sectors or enterprises. This is followed by a discussion of the regulatory framework of state-owned enterprises, with a focus on those entities regulated by government departments at different levels, including those subject to the Companies Act, and regulatory frameworks and bodies for specific state-owned enterprises or sectors.

1.2. The Policy Framework of State-Owned Enterprises

1.2.1. The Policy framework of state-owned enterprises arising from the constitution

The government, as well as state-owned enterprises, is obliged to meet the requirements of a number of aspects of the constitution. The principles and values found in the South African constitution have an influence on policies and legislation that impact on state-owned enterprises. For instance, South Africa’s new Constitution enshrined the right of all South Africans to equality and provided for specific measures to be taken to redress historical imbalances. A whole range of constitutionally prescribed policies have been introduced since 1994, and particularly after the final constitution was implemented in 1996 to address this
constitutional imperative. In addition, new legislation aimed at dismantling the machinery of Apartheid and transforming society in all areas, from education to the arts, from health care to the justice system, was enacted since 1994. Key values and principles found in the constitution have given rise to the following policies: affirmative action, black economic empowerment, gender policy, environmental policy, etc.

- **Affirmative action**

Section 8 of the Interim constitution of 1993 stipulates that:

1. Every person shall have the right to equality before the law and to equal protection by the law.
2. No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.

However, it added that:

3. a. This section shall not preclude measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms.

In 1995, a Presidential Labour Market Commission was established to, among other things, propose mechanisms to redress discrimination in the labour market, in particular, “a policy framework for Affirmative Action in employment with due regard (to) the objectives of employment creation, fair remuneration, productivity enhancement and macroeconomic
stability”. The Commission defined employment equity as a broad term intended to describe the labour market as both ‘non-discriminatory and socially equitable’. The report of the Commission fed into processes that gave rise to the Constitution of the Republic of South Africa Act, (No. 108 of 1996). Section 9 (2) of the 1996 constitution provides that:

Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.

This clause is the basis of the affirmative action arrangements that have been put in place since 1996. This was followed by the Green Paper on Employment Equity, which proposed that employer organisations embark on an organisational audit, develop equity plans and fulfill certain obligations towards stakeholders in this process. There was subsequently a whole range of laws, codes, charters, policies and practices developed in order to attempt to put flesh on the bones that are set out in section 9 (2) of the Constitution. Among the most important is the Employment Equity Act, (No. 55 of 1998).

The Employment Equity Act aims for equality by imposing the duty to (i) eliminate unfair discrimination (i.e. in current employment and remuneration practices) and (ii) take positive or affirmative measures to attract, develop and retain individuals from previously disadvantaged groups. These groups are designated in the Act as “Blacks (including African, Coloured and Indians), women and people with disabilities”.

The purpose of the Act is therefore to ensure workplace equity. It prohibits unfair discrimination in the workplace and guarantees equal opportunity and fair treatment to all
employees. However, it recognises that, given the historical disparities, simply removing discrimination does not in itself result in substantive equality. The Act therefore imposes an obligation on certain employers ("designated employers") to implement affirmative action measures to advance the "designated groups". Chapter III of the Act makes it compulsory for organs of state, including state-owned enterprises, as "designated employers" to implement affirmative action measures in their workplaces. Employers are required to report progress on the implementation of their employment equity plans to the Department of Labour. Data from these reports are captured in the Employment Equity Registry and used by the Commission for Employment Equity (a body created under the terms of the EE Act) to compile annual reports on progress with respect to employment equity.\(^4\)

However, according to Werner Böhler, the *South Africa Survey* for 2010 of the South African Institute of Race Relations notes that even the state-owned enterprises cannot meet the affirmative action quotas and that their employee-structure does not correspond to the overall distribution of the population. This is attributed to the lack of qualified workers, and is proportionate in every population group. The manager of the project, Marius Roodt, confirmed this in a press release on January 26, 2011 as follows: “This is a reflection of the dire skills shortage in the country. Companies, and indeed Parastatals, have to take on skilled personnel, no matter what the colour of their skin.”\(^5\)

**Black Economic Empowerment**

Section 217 of the 1996 Constitution provides that:

(1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for:

a. categories of preference in the allocation of contracts; and

b. the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) may be implemented.

The Constitution thus provides a constitutional mandate for black economic empowerment, as it authorises measures aimed at advancing categories of persons disadvantaged by unfair discrimination. However, efforts to promote black economic empowerment preceded the promulgation of the constitution. In 1995, a national strategy for the development and promotion of small business in South Africa was tabled in Parliament. The creation of new black-owned and black-controlled enterprises was seen as a key component of the strategy. The National Small Business Act was introduced in 1996 to provide an enabling environment for small, medium and micro-enterprises (SMMEs), and to establish several institutions to provide financial and other support to entrepreneurs. These institutions, Khula and Ntsika, were charged with providing support to black entrepreneurs.⁶

In 1997, government issued a Green Paper on public sector procurement reform. This policy document recognised that government, as the largest buyer of goods and services in the economy had the responsibility to leverage this purchasing power in support of its economic policy objectives of broad-based black economic empowerment, small enterprise development, and labour-intensive construction. Mechanisms were introduced to give effect to a preferential procurement policy.

● The tendering process was made more accessible to black people.

● Tenders were ‘unbundled’ into smaller tenders to allow smaller enterprises to tender for work.

● A point system was introduced to award tenders on the basis of the combination of price and preference for targeted groups.

This latter mechanism was given legislative force with the enactment of the Preferential Procurement Act in 2000 (dealt with in greater detail below).\(^7\)

In 1998, government created the National Empowerment Fund, a trust to hold equity stakes in state-owned enterprises and other private enterprises on behalf of historically disadvantaged persons. The NEF Corporation, established in terms of the NEF Act, 1998, was tasked with managing the trust in order to:

● provide historically disadvantaged persons with the opportunity to, directly and indirectly, acquire shares;

● encourage and promote savings, investment and meaningful economic participation by historically disadvantaged persons; and

● promote and support business ventures pioneered and run by historically disadvantaged persons.\(^8\)

The South African Government’s strategy to promote BEE was outlined in 2003.\(^9\) The underlying principle is the use of the state’s purchasing and regulatory power to increase participation by black people in the South African economy by giving recognition and


\(^8\) Ibid., p 9.

\(^9\) Ibid.
preference to enterprises which contribute to BEE. The BEE strategy was introduced, in part, as a result of dissatisfaction with transformation initiatives that were limited to the sale of equity in existing businesses to a limited number of well-resourced and politically connected black South African investors and appointing black persons to the boards of directors of existing companies. The BEE strategy, therefore, proposed that BEE be measured across seven aspects (or “elements”) of an enterprise in order to promote BEE at all levels of the economy on the basis of ‘Broad Based’ BEE, rather than only on the basis of the ownership and management control aspects of an enterprise. The seven elements were: employment equity, skills development, preferential procurement, enterprise development, socio-economic development, ownership and management control. It also proposed a rule-based BEE system to ensure consistency and certainty in the application and measurement of contributions made by an enterprise to BEE, across all industries. The BEE strategy thus paved the way for legislation to promote BEE, and the Broad-based Black Economic Empowerment Act, 2003 (‘the BEE Act’) was promulgated in April 2004.

The Broad-Based Black Economic Empowerment (B-BBEE) Act, No. 53 of 2003, establishes a legal framework for BEE and empowers the Minister for Trade and Industry to issue Codes of Good Practice and Transformation Charters and establishes the BEE Advisory Council. The Broad Based BEE (B-BBEE) Codes of Good Practice (February 2007) is an implementation framework and institutional mechanisms were established for the monitoring and evaluation of B-BBEE.

The Codes of Good Practice include measures of:

- Ownership: effective ownership of enterprises by black people.
- Management Control: effective control of enterprises by black people.
- Employment Equity: initiatives intended to achieve equity in the workplace.
- Skills Development: the extent that employers carry out initiatives designed to develop the competencies of black employees.
• Preferential Procurement: the extent that enterprises buy goods and services from BEE compliant suppliers as well as black owned entities.
• Enterprise Development: the extent to which enterprises carry out initiatives contributing to enterprise development.
• Socio-Economic Development: the extent to which enterprises carry initiatives contributing to socio-economic development.
• Qualifying Small Enterprises: the extent to which enterprises carry out contributions made by qualifying small enterprises.

The Codes of Good Practice are binding on all state bodies and public companies, and the government is required to apply them when making economic decisions on procurement, licensing and concessions, public-private partnerships, and the sale of state-owned assets or businesses. Private companies must apply the codes of good practice if they want to do business with any government enterprise or organ of state whether they wish to tender for business, apply for licenses and concessions, enter into public-private partnerships, or buy state-owned assets. Companies are encouraged to apply the codes of good practice in their interactions with one another, since preferential procurement will affect most private companies throughout the supply chain.

The preferential procurement policy is used to enhance the participation of historically disadvantaged individuals. Procurement has been used by governments to: stimulate economic activity; protect national industry against foreign competition; improve the competitiveness of certain industrial sectors; remedy regional disparities; foster the creation of jobs; promote fair labour conditions; promote the use of local labour as a means to prevent discrimination against minority groups; protect the environment; encourage equality of opportunity between men and women; and promote the increased utilisation of the disabled in employment. In South Africa, procurement is linked to stimulating local industry as well as to correcting the inequalities inherited from the apartheid past. Procurement is

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thus also used as a policy tool to meet the constitutional requirement to afford preferential treatment to certain sections of the South African community when awarding government contracts.\textsuperscript{11}

The policy framework for procurement by government agencies, including state-owned enterprises, began with the Department of Public Works' Ten-Point Plan released in November 1995. The significant aspect of the Plan included ‘the development of a preference system for SMMEs owned by historically disadvantaged individuals (HDIs)’.\textsuperscript{12} This was followed by the Green Paper on Public Sector Procurement Reform, released in April 1997, which included all the elements of the Ten-Point Plan and added ‘the drafting of an affirmative procurement policy with its essential characteristics being the use of targeted procurement to achieve socio-economic objectives and the specific targeting of groups in accordance with national policy objectives’.\textsuperscript{13} In February 2000, effect was given to section 217(3) of the Constitution with the promulgation of the Procurement Act and Regulations arising from the Act. Section 2(1) of the Procurement Act makes it obligatory for organs of state to implement a preferential procurement policy.

The Procurement Act and the current Regulations apply to certain listed organs of state, and other entities that have been recognised by the Minister by notice in the Government Gazette. The Act and current Regulations do not apply to numerous state-owned enterprises as the Minister has not extended the application of the legislation to these enterprises by notice in the Gazette. However, there is a concern that currently exempt SOEs may be included in future. Nevertheless, many state-owned enterprises that are exempt from the Procurement Act have endorsed in their policies the underlying principles of the Act in order to further the objectives of the Broad-Based Black Economic Empowerment Act by allowing for a system of preferences for B-BBEE companies. Many SOEs, however, have considerable concerns regarding the proposal to make state-owned enterprises subject to the Regulations. One of the problems identified is that:

\textsuperscript{11} Ibid., p. 195.
\textsuperscript{12} Ibid., p. 205.
\textsuperscript{13} Ibid., p. 205.
Some SOEs such as Eskom, Transnet and PetroSA have embarked upon huge multi-billion Rand infrastructure programmes that involve the procurement of highly specialised goods and services from a limited number of suppliers. These SOEs are forced to procure a large percentage of their requirements from foreign companies and Original Equipment Manufacturers (OEMs). Constant changes in overseas markets require SOEs to modify their policies to meet operational demands that are unique to their environment and supply base. Therefore, SOEs operating in this environment require a great degree of flexibility in their processes to accommodate these complex and unique requirements. The imposition of rigid rules and inflexible processes such as those contained in the PPPFA and Regulations would compel SOEs to operate within a highly prescriptive procurement environment, which would in turn reduce its responsiveness and increase its costs. Experience has shown that failure to respond rapidly to a change in the market has cost SOEs invaluable time in securing deals and deriving value for money. If a SOE is required to lobby National Treasury for exclusions based on unique occurrences every time it procures from international suppliers this would severely impact on its ability to deliver in a timely manner and will increase its procurement administrative costs.\footnote{Ashney Chetty, ‘Comment: Draft preferential procurement regulations’ effect on currently exempt SOEs’, SmartProcurement, 3 March 2010. Available at www.smartprocurement.co.za. At the time the comment was made Chetty was the Manager of Policy and Governance at Transnet.}

Thus, although there is support among state-owned enterprises for the primary goals of preferential procurement, there are some dangers in applying the provisions and regulations arising from the Procurement Act rigidly to all state-owned enterprises and rigidly in all situations.

- Gender Policy
The Bill of Rights of the constitution also recognizes equality between men and women. This arises from the historical legacy of the triple oppression of Black women in particular: that they were discriminated against because of their race, their class status as workers, and because of their gender. The result was that women were defined as inferior to men, and as such assigned them the position of minors in both the public and private spheres of life. In part, then, gender policies that have emerged since 1994 have targeted the historical inequalities between the genders. The Office of the Status of Women, located in the presidency, developed a national strategy for women’s empowerment and gender equality. This Gender Policy Framework establishes guidelines for South Africa as a nation to take action to remedy the historical legacy by defining new terms of reference for interacting with each other in both the private and public spheres, and by proposing and recommending an institutional framework that facilitates equal access to goods and services for both women and men.

The Framework recommended, among other things: that women’s rights be seen as human rights; that affirmative action programmes targeting women be developed and implemented; that economic empowerment of women be promoted; that serious attention be placed on changing policies and practices which have hitherto hindered women’s access to basic needs, the economy and decision-making; that where the need arises, additional legislation be developed to make it possible for women’s empowerment and gender equality to be attained; that efficient machinery be set up at national and provincial levels and in public and private organisations to ensure that the policy is implemented; and that appropriate training to improve knowledge, skills and attitudes in gender analysis and gender equality be provided to all policy makers, strategic and operational managers.

This framework policy set the basis for gender policy that could be found in existing policy and legislation, and for the introduction of policy in various government departments and state-owned entities.

Environmental Policy

Section 24 of the Bill of Rights in the constitution guarantees environmental rights for the people of South Africa. It states that “…Everyone has the right:

(a) to an environment that is not harmful to their health or well-being; and
(b) to have the environment protected for the benefit of present and future generations,
   (i) through reasonable legislative and other measures that prevent pollution and ecological degradation;
   (ii) promote conservation; and
   (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development…”

Other rights that are relevant to environmental governance include section 25 (Property), section 26 (Housing), section 27 (Health care, food, water and social security), section 32 (Access to information) and section 33 (Just administrative action).

In terms of section 8 of the Constitution, the Bill of Rights applies to all law, and binds the legislature, executive, judiciary and all organs of state. This means that government must give effect to the rights in the exercise of environmental governance. In terms of section 24 people can take legal action to protect their environmental and other rights, even where government has no obligation in terms of any other statute to give effect to these rights. Section 24 also compels government to pass reasonable legislation to protect the environment, prevent pollution and ecological degradation, and secure sustainable development. Government must also ensure compliance with legislation.
The 1996 *Green Paper on Environmental Policy for South Africa*\(^\text{17}\) stipulates that environmental policy has a major part to play in meeting the development needs of people in the democratic South Africa. It adds that the country is currently undergoing a major process of socio-economic transformation as it attempts to correct the negative impacts caused by previous political regimes which denied the majority of South Africans the right to participate in democratic decision-making and access to the country’s natural resources. This has given rise to a wide array of social, economic, legal and environmental ills whose legacy needs to be addressed. Hunger, poverty, disease, illiteracy, unemployment, powerlessness, inequity with regard to access to resources, lack of services, and environmental degradation are a few of these ills.

The democratic government, through its macroeconomic programmes and economic policies, such as the Reconstruction and Development Programme (RDP), Growth, Employment and Redistribution (GEAR) and the New Growth Path (NGP), set out a development vision for the country to correct many of these previous injustices. For instance, the concept of achieving sustainable development is central to the RDP, GEAR and the NGP. This means that development should be aimed at improving the quality of life of all the country’s people, without adversely affecting the options for future generations of South Africans. Clauses dealing with protection of the environment are enshrined in the constitution. Sustainable development requires that there is participation, equity and sustainable use of natural resources, and includes protection of the environment. It is thus important to ensure that management of development conforms to recommended principles which have been outlined in Agenda 21, the United Nations programme for global sustainable development.

The Green Paper indicates that there are many areas which the government needs to address in its environmental policy. These include, amongst others: improved pollution and waste control, focusing on people and their participation in environmental decision-making, developing an improved system of governance, and ensuring that environmental decision-making employs an integrated and macroeconomic perspective. The Green Paper proposed

a framework of principles, structures, processes and mechanisms to integrate environmental governance and enable the development of policy, strategy and action to address specific issues and sectors.

The Green Paper adapted the following priority objectives from the Southern African Development Community (SADC) document titled *SADC Policy and Strategy for Environment and Sustainable Development* as the most relevant to sustainable development in the South African situation:

- To accelerate environmentally and economically sustainable growth with greater equity and self-reliance.
- To improve the health, income and living conditions of the poor majority.
- To ensure equitable and sustainable use of environmental and natural resources for the benefit of present and future generations.

A number of problems were identified that had an impact on environmental policy, including: the large income disparity between rich and poor; the high level of unemployment; the limited access of the poor in the rural and urban areas to water, energy, land and other resources; the inadequate provision of services such as sanitation, waste removal, transport and housing; the rise in infectious diseases that are a major cause of deaths in early childhood due to the lack of clean and/or adequate water supplies, sanitation and waste removal services; and air pollution, that results in acute and chronic respiratory infections (the second largest cause of early childhood deaths), in and around households that use wood and coal as their primary energy source and in areas where many of the country’s coal-fired power stations are located.

Another set of problems relate to pollution and waste, and include: a relatively high level of waste and pollution impacting on air, land and water that is the result of unsatisfactory waste disposal practices and poor regulatory controls that allow waste producers to externalise waste management costs on to the environment and society; the impact of waste on poorer
communities near industrial areas and waste disposal sites; exposure of workers in all sectors – in particular those in sectors like waste disposal, agriculture, mining, mineral refining, chemicals and nuclear energy – to toxic and hazardous substances; the lack of effective incentives to encourage all waste producers to adopt cleaner production processes and minimise waste generation; and the crisis in the handling and disposal of toxic and hazardous waste because many existing sites have closed for environmental and social reasons and the illegal dumping of toxic and hazardous materials.

Despite all these problems, a number of recent developments suggest that South Africa is responding to the global trend towards greater environmental awareness and enhanced environmental performance. This is evident in a growing capacity for, and acceptance of, the need for better management of environmental impacts in all sectors. These positive factors include:

- South Africa’s participation in and ratification of many major international environmental protocols;
- the introduction of many ‘environmentally friendly’ goods and services used in everyday household and industrial applications to cleaning agents and cosmetics;
- major public and commercial initiatives in recycling in many cases achieving rates of return comparing favourably to the rest of the world, without having to resort to burdensome or costly regulation;
- the decline in important indicators of industrial pollution, for example efficiency improvements have meant that although electricity output has increased, overall associated carbon dioxide emissions have declined; and
- significant investment by industry in rehabilitation funds and on current and planned capital expenditure on pollution controls and cleaner technology.

The Green Paper recognized that industry was a major source of pollution and waste, and, as the most organised area of human activity, has some of the most extensive impacts on the environment. Some of the major polluters include state-owned enterprises, such as
Eskom with its coal-fired power stations. Environmental concerns, as well as the objectives of environmental policy raised in the Green Paper, therefore impact on state-owned enterprises such as Eskom.

The Green Paper was followed by the *White Paper on Environmental Management Policy*, which, among other things, set out the objective of the policy to be to integrate and coordinate its approach to environmental management in all government agencies, including state-owned enterprises. The White Paper stipulates that Integrated Environmental Management (IEM) will be a prerequisite for government approval of all activities with potentially adverse environmental impacts. The relevant national, provincial or local government structure will set the norms and standards for IEM, applying the principles in this policy. The purpose of making IEM compulsory is to give decision makers at all levels adequate information on possible adverse environmental effects of the activity. This will enable them to make decisions on possible alternatives to mitigate impacts or to adopt the ‘no go’ option. The IEM process must provide for the participation of interested and affected parties in the planning, assessment and implementation of activities.

Tools and instruments that may be used in securing integrated environmental management and planning include:

- Environmental Impact Assessment.
- Risk Assessment.
- Market Based Instruments.
- Environmental Management Systems.
- Environmental Management Programmes.

Economic policies and strategies and spatial development plans impact on the environment and must be dealt with in the context of IEM. In order to ensure sustainable development,
environmental issues have to be integrated into all development processes at all levels of decision making. Mechanisms and instruments to integrate environmental concerns include:

- Strategic Environmental Assessment of policies, plans and programmes; and
- Strategic Environmental Plans.

With this solid policy foundation, by 1998, government had published new legislation empowering it to implement the policy, namely, the National Environmental Management Act (Act No. 107 of 1998). Immediately following the publication of the National Environmental Management Policy, work started on specific policy relating to pollution and waste and the White Paper on Integrated Pollution and Waste Management was published in 2000. Since then, government has been driving the development of various pieces of legislation that will empower government to implement this policy. The National Environment Management: Air Quality Act (Act No. 39 of 2004) reformed the law regulating air quality in order to protect the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development while promoting justifiable economic and social development; to provide for national norms and standards regulating air quality monitoring, management and control by all spheres of government; and for specific air quality measures.

The Kyoto Protocol was adopted at the 3rd Conference of Parties in 1997. The Protocol provides that developed nations accept commitments to limit, or reduce, the emission of greenhouse gases according to different targets. South Africa ratified the United Nations Framework on Climate Change in August 1997 and acceded to the Kyoto Protocol in March 2002 as a non-Annex 1 signatory. Annex 1 countries are committed to a 5% overall reduction in the period 2008 –2012. This has a particular implication for a state-owned enterprise such as Eskom.

1.2.2. Social and Economic Policies
The government’s policies on social and economic aspects are contained in a number of documents, some of the more salient being:

- Reconstruction and Development Programme (RDP), 1994;
- Development Facilitation Act, 1995 (Act No. 67 of 1995);
- Proposal for a National Spatial Development Framework, August 1995;
- National Framework Agreement, February 1996;
- Growth, Employment and Redistribution: A Macro-economic Strategy (GEAR), June 1996;
- National Strategic Vision, 1996;
- Towards a National Growth and Development Strategy, 1996;
- White Paper on National Defence, 1997;
- White Paper on the Environment, August 1997;
- Competition Act, 1998 (Act No. 89 of 1998);
- Skills Development Act, 1998 (Act No. 97 of 1998);
- Public Finance Management Act, 1999 (Act No. 1 of 1999);
- National Land Transport Transition Act, 2000 (Act No. 22 of 2000);
- The Accelerated and Shared Growth Initiative for South Africa (AsgiSA), 2006;
- The National Framework for Local Economic Development, 2006;
- National Industrial Policy Framework (NIPF), 2007; and
The starting point of a discussion of economic policy is the various macro-economic policy documents that have underpinned policy formulation in South Africa since the advent of democracy in 1994. These include the RDP, GEAR, the Accelerated and Shared Growth Initiative for South Africa (AsgiSA), and the New Growth Path (NGP). According to two economists based at the National Treasury:

In 1994, the first democratic government faced the enormous political and societal task of transforming South Africa from a nation that only knew segregation, marginalisation and exclusion to one based on cohesion, inclusion and opportunity. The economic challenges were equally daunting. The inherited economic environment was precarious, suffering from both short-term crises and long-term structural weaknesses manifested in the variable and, on average, declining economic growth of the previous decade. The new government chose to focus policy on political, economic and social consolidation. From an economic perspective, the priority was to restore South Africa’s economic and social health and therefore provide the platform for robust growth. The government’s inaugural approach to economic policy was demand-driven under the auspices of the Reconstruction and Development Programme (RDP). The RDP reprioritised spending towards social development, and was predicated on the key mandates of meeting basic needs, developing human resources, building the economy and democratising state and society.\(^{19}\)

The RDP was the first socio-economic policy framework of the democratic government, from which it was able to develop detailed policy positions and a legislative programme of

government. The RDP sought to mobilise all the people and the country’s resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future. The RDP was necessary because of the country’s history of colonialism, racism, apartheid, sexism and repressive labour policies. The result of these policies was: high levels of poverty and degradation; a racially distorted income distribution which ranks as one of the most unequal in the world; underdeveloped Bantustans and towns and cities without basic infrastructure for blacks; deep scars of inequality and economic inefficiency due to segregation in education, health, welfare, transport and employment; and the need for a comprehensive approach to harnessing the resources of the country to reverse the crisis created by apartheid.

The RDP was based on six basic principles: an integrated and sustainable programme that aimed to bring together strategies to harness all resources in a coherent and purposeful effort to be implemented by government, state-owned enterprises and organisations within civil society working within the framework of the RDP; a people-driven process that focused on the most immediate needs of the people, and relied, in turn, on their energies to drive the process of meeting these needs; a programme that sought peace and security for all; a programme that embarked on nation-building by removing the massive divisions and inequalities left behind by apartheid; a programme that aimed to link reconstruction and development by integrating growth, development, reconstruction and redistribution into a unified programme through an infrastructural programme that was to provide access to modern and effective services like electricity, water, telecommunications, transport, health, education and training for all to meet both basic needs and open up previously suppressed economic and human potential in urban and rural areas; and a programme that aimed at the democratization of South Africa by ensuring that the people affected by policy participate in decision-making through the transformation of both the state and civil society.

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The many proposals, strategies and policy programmes contained in the RDP were grouped into five major policy programmes that were linked to each other:

- meeting basic needs;
- developing our human resources;
- building the economy;
- democratising the state and society, and
- implementing the RDP.

The first priority was to begin to meet the basic needs of people – jobs, land, housing, water, electricity, telecommunications, and transport, a clean and healthy environment, nutrition, health care and social welfare. Achievable programmes were set out in the RDP for the next five years, including programmes to redistribute a substantial amount of land to landless people, build over one million houses, provide clean water and sanitation to all, electrify 2,5 million new homes and provide access for all to affordable health care and telecommunications. The strategy for meeting basic needs rested on four pillars, namely creating opportunities for all South Africans to develop to their full potential; boosting production and household income through job creation, productivity and efficiency, improving conditions of employment, and creating opportunities for all to sustain themselves through productive activity; improving living conditions through better access to basic physical and social services, health care, and education and training for urban and rural communities; and establishing a social security system and other safety nets to protect the poor, the disabled, the elderly and other vulnerable groups. Priority areas that were considered included job creation through public works programmes, and provision of a variety of basic needs including, among others, housing and services, water and sanitation, health care and social security and social welfare.

The second priority was to involve the people in these programmes by being made part of the decision-making on where infrastructure was located, by being employed in its construction and by being empowered to manage and administer these large-scale
programmes. Crucial here was an education and training programme designed to build the human resources of the country. The underlying approach of this programme was that education and training: should be available to all from cradle to grave; ensures a full and equal role for women in every aspect of the economy and society; pays particular attention to the challenges posed by the restructuring of the country’s industries as South Africa re-entered the world economy; includes an arts and culture programme that assists in unlocking the creativity of the country’s people, allows for cultural diversity within the project of developing a unifying national culture, rediscovering the country’s historical heritage and assuring that adequate resources are allocated; ensures that there are adequate facilities for sport and recreation in all communities; and aims at reversing youth marginalisation, empowering youth, and allowing them to reach their full potential.

Among the mechanisms, institutions and legislation proposed for the implementation of the human resource programme were a single national ministry responsible for education and training; provincial departments responsible for education and training; statutory bodies, based on appropriate democratic representation of stakeholders, to establish standards and advise the national ministry and provincial departments on policy and development programmes in education and training; industry-based education and training boards with union and employer participation, to design and implement programmes within industries (with such boards partly financed by industry); structures of institutional governance which reflect the interests of all stakeholders and the broader community served by the institution; and a statutory South African Qualifications Authority with responsibility for accreditation, certification and the maintenance of national standards. The RDP also recognized that the government was responsible for the provision of cultural amenities for each community, which included support for existing publicly funded and state-owned cultural and arts structures, such as the Performing Arts Councils, the National Gallery, museums, libraries, archives and monuments, and the establishment, together with local and provincial government, of libraries, museums, galleries, monuments and historical sites.
The RDP envisaged a national youth service programme to give young people structured work experience while continuing their education and training; youth development to focus generally on education and training, job creation, and enabling young people to realise their full potential and participate fully in the society and their future; a national institution to coordinate the programme in consultation with other sectors; and an autonomous National Youth Council to coordinate youth activities, lobby for the rights of young people, and represent South Africa internationally.

The third priority was to build the economy, which included, among other things, addressing racial and gender inequalities in ownership, employment and skills, removing all repressive labour practices, and overcoming the previous neglect of training, isolation from the world economy and excessive concentration of economic power that led to low levels of investment in research and development, low and inappropriate skill levels, high costs, low productivity and declining employment. The RDP also envisaged, among other things, the establishment of broadly representative institutions to address local economic development needs. Their purpose was to formulate strategies to address job creation and community development (for example, leveraging private sector funds for community development, investment strategies, training, small business and agricultural development, etc.). In its strategies for building the economy it also proposed an infrastructure building programme that included electrification to meet the basic energy and lighting needs for households, and to make electricity available to micro, small, medium-sized and agricultural enterprises in both urban and rural areas in an effort to extend the benefits of cheap electricity enjoyed by large corporations to all parts of the economy. It also proposed the development of an advanced information network to play a crucial role in facilitating the provision of high-quality services to all the people of South Africa, and to provide a significant advantage to the business sector through reduced costs and increased productivity, and serve as an integral part of financial services, the commodities market, trade and manufacturing. The RDP also proposed the development of an integrated and rapid transportation system that linked the domestic economy, Southern Africa, and world markets. This entailed the upgrading of road and rail networks and their extension to the whole area, but also a rapid interface between road, rail, air and sea.
The fourth priority was democratization of state and society, with an emphasis on the role of the Constitution and Bill of Rights, of national, provincial and local government, the administration of justice, the public sector, state-owned enterprises, the police and security forces, social movements and NGOs, and a democratic information system in facilitating socio-economic development. In this regard, what is relevant here is the RDP proposal that parastatals, public corporations and advisory boards must be structured and run in a manner that reinforces and supports the RDP. Civil society had to be adequately represented on the boards of state-owned enterprises and public corporations. Institutions were required to be transparent and open in both structure and decision-making. They had to act within the framework of public policy and there had to give a duty to inform the general public as well as to account to parliament. The statutory bodies were to be controlled by general government policies and by their governance councils.

The final priority was implementing the RDP, which included proposed strategies for: improving the capacity of the financial sector to mobilise more resources and to direct these to activities set out in the RDP, from housing to small and medium-sized enterprises; ensuring that electrification and telecommunications would be self-financing; reallocating and rationalizing of existing funds needed for implementation of the RDP; improving and reforming the tax systems to ensure that more tax was collected without having to raise tax levels; and raising new funds in a number of areas. Most importantly for the purposes of this discussion, the RDP proposed that the programmes of the democratic government and state-owned enterprises must be based on publicly-determined priorities in line with the RDP.

The RDP subsequently gave rise to new national policy (see below), new institutions and agencies, new priorities for state-owned enterprises, and a change in their management structures and regulation.
The RDP was followed by GEAR.\textsuperscript{21} GEAR was a macroeconomic strategy adopted by the Department of Finance in June 1996 as a five year plans aimed at strengthening economic development, broadening of employment, and redistribution of income and socio-economic opportunities in favour of the poor. The key goals of the policy as originally outlined were the target of economic growth of 6\% per annum by the year 2000, inflation less than 10\%, employment growth above the increase in economically active population, deficit on the current account and the balance of payments between 2 and 3 percent, a ratio of gross domestic savings to GDP of 21.5 percent in the year 2000, improvement in income distribution, relaxation of exchange controls, job creation of 400,000 per annum by the year 2000, and reduction of the budget deficit to below 4 percent of GDP. Several inter-related developments were called for:

- accelerated growth of non-gold exports;
- a brisk expansion in private sector capital formation;
- an acceleration in public sector investment;
- an improvement in the employment intensity of investment and output growth; and
- an increase in infrastructural development and service delivery making intensive use of labour-based techniques.

The expansion envisaged in the above aggregates was substantial and entailed a major transformation in the environment and behaviour of both the private and the public sectors. This included:

- a competitive platform for a powerful expansion by the tradable goods sector;
- a stable environment for confidence and a profitable surge in private investment;

● a restructured public sector to increase the efficiency of both capital expenditure and service delivery;
● new sectoral and regional emphases in industrial and infrastructural development;
● greater labour market flexibility; and
● enhanced human resource development.

Under the auspices of GEAR, macroeconomic stability became a core objective of economic policy-making. Prudent fiscal policy was aimed at lowering the size of the budget deficit, reaching 2.3 per cent of GDP in 2003/04, consolidating debt and cutting debt service costs. This fiscal consolidation supported the introduction of inflation targeting, established in 2001, as a framework for monetary policy. Institutional change provided the South African Reserve Bank with constitutional independence to pursue an inflation target of 3-6 per cent for CPIX inflation. The inflation targeting regime has anchored inflation expectations in the economy and guided inflation to low levels and interest rates to historical lows. Trade liberalisation and public sector restructuring that included wage restraint also helped to contain domestic prices and lower inflation.22

GEAR included an integrated strategy, in which it recommended, among other things: tax incentives to stimulate new investment in competitive and labour absorbing projects; speeding up the restructuring of state assets to optimise investment resources; and an expansionary infrastructure programme to address service deficiencies and backlogs. Emphasis was placed on the implementation of the public sector asset restructuring programme, including guidelines for the governance, regulation and financing of public corporations, and leading off with the sale of non-strategic assets and the creation of public-private partnerships in transport and telecommunications; and an expansionary public infrastructure investment programme to provide for more adequate and efficient economic infrastructure services in support of industrial and regional development and to address

major backlogs in the provision of municipal and rural services. GEAR identified public sector reforms, comprising asset restructuring, budgetary reprioritisation and improved service delivery, as critical objectives to underpin social and infrastructural development in both urban and rural areas and contribute to the redistribution of opportunities and income.

The underlying premise of the GEAR strategy was, among other things, that growth would best be promoted by reducing the size and scope of public sector activity. The aim was to create a balanced budget – or even a fiscal surplus – at full employment. Most importantly, the state embarked on a programme of privatising state assets, most notably state-owned enterprises, as we will demonstrate further below. However, GEAR also placed a constraint on expansion of state-owned enterprises due to fiscal constraint. In consequence, while state-owned enterprises such as Eskom were required to make a substantial contribution to meeting basic needs such as electrification, they were constrained from increasing their capacity to supply services through the building of new power stations, for example.

GEAR was replaced by the Accelerated and Shared Growth Initiative for South Africa (AsgiSA) in February 2006, with the goal of halving unemployment and poverty by 2014. Six points were identified as factors in preventing higher growth:

- Volatility of the currency. It was noted that in spite of major improvements in the administration of fiscal and monetary policy, currency volatility was deterring investors in tradable goods and services outside of the commodity sector. The rand remained somewhat volatile, though the degree of volatility might have been reducing. At times, the relative volatility was accompanied by an overvalued currency – overvalued in the sense that economic resources were being diverted into narrow areas of investment, laying an unsteady foundation for the future. This compounded the effects of volatility. A further area where macro-economic policies or implementation could be improved was in expenditure management, particularly in government capital investment, where several agencies budgets were considerably under spent and some ran out of funds before the end of the financial year.
- Costs, efficiency and capacity of the national logistics system. Because of backlogs in infrastructure, investment, inadequate planning, and in some cases market structures that did not encourage competition, the price of moving goods and conveying services over distance was higher than it should have been. In South Africa, which is a fairly large country, with considerable concentration of production inland, and which is some distance from all major industrial markets, deficiencies in logistics are keenly felt.

- Lack of training and lack of skilled workers. Those parts of the legacy of apartheid most difficult to unwind were the deliberately inferior system of education and the irrational patterns of population settlement. In a period of growth it was evident that the country lacked sufficient skilled professionals, managers and artisans, and that the uneven quality of education remained a contributory factor. In addition the price of labour of the poor was pushed up by the fact that many live a great distance from their places of work.

- Entry barriers, constraints on competition, and lack of investment opportunities. The South African economy was relatively concentrated, especially in upstream production sectors such as iron and steel, paper and chemicals and inputs such as telecommunications and energy. In some cases market structure negatively influenced the possibilities of downstream production or service industry development. Competition law and industrial policies needed to be strengthened to counteract these factors.

- Overregulation, in particular with respect to small and medium enterprises (SMEs). The mediocre performance of the small, medium and micro business sector in terms of contribution to GDP and employment partly arose from the sub-optimal regulatory environment. The administration of tax, the planning system (including EIAs), municipal regulation, the administration of labour law, and in specific sectoral regulatory environments, regulation unnecessarily hampered the development of businesses.
● Deficits of state administration and leadership. Certain weaknesses in the way government was organised, in the capacity of key institutions, including some of those providing economic services, and insufficiently decisive leadership in policy development and implementation all negatively impacted on the country’s growth potential.²³

In order to counter these constraints, the new initiative called for a number of interventions, which were seen not as a shift in economic policy so much as a set of initiatives designed to achieve the government’s objectives more effectively. These initiatives were organised into six categories:

● Macroeconomic issues;
● Infrastructure programmes;
● Sector investment strategies (or industrial strategies);
● Skills and education initiatives,
● Second economy interventions; and
● Public administration issues.

It was an initiative that was to involve the business, trade unions, state-owned enterprises, and all government institutions, including ministries and state-owned enterprises. The new initiative proposed a radical increase in government and public enterprise investment expenditure on infrastructure, 40% of which was forthcoming from state-owned enterprises, mostly Eskom (R84bn) and Transnet (R47bn), and mostly on power generation, power distribution, rail transport, harbours and an oil pipeline. The general purpose was to improve the availability and reliability of infrastructure services in response to rapidly growing demand. Electronic communications was identified as a key commercial and social infrastructure. Plans to be implemented in this sector included:

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the implementation of a strategy to rapidly grow South Africa’s broadband network;
implementation of a plan to reduce telephony costs more rapidly;
the completion of a submarine cable project that aimed at providing competitive and reliable international access, especially to Africa and Asia; and
the provision of subsidies to encourage the establishment of telecommunications- and labour-intensive business in poor areas.\(^\text{24}\)

Infrastructure expenditure raises an economy’s growth potential through two channels; the direct channel, as an additional factor of production, and the indirect channel through increasing the productivity of private investment. There has been significant empirical support for the growth enhancing effects of infrastructure expenditure with the direct channel receiving particularly strong support within South Africa. From 2001, when the cost of capital had fallen sharply, government picked up the pace of expenditure on key infrastructure investments, the renewal of telecommunications and transport networks, and energy production systems that would crowd-in, complement and raise the efficiency of private sector investment. Real public expenditure on infrastructure in South Africa, in both per capita terms and as a share of GDP, reached a forty-year low in 2001. Since 2002, infrastructure investment has expanded rapidly, growing at an annual rate of 12.4 per cent in per capita terms. Infrastructure was identified as a binding constraint within the ASGISA.\(^\text{25}\)

ASGISA also recommended the expansion of investment for the small, medium manufacturing
By this time the ANC was now ruling out privatization of state-owned enterprises, as discussed in the first decade of the democratic South Africa. Rather, the state-owned enterprises now came to be viewed as strategic instruments in the hands of the state and should contribute to the reduction in unemployment, to the education of youth, and the modernization of infrastructure.\(^\text{26}\)

\(^{24}\) Refer to the Media Briefing by Deputy President Phumzile Mlambo-Ngcuka, 6 February 2006, ‘Background Document: A Catalyst for Accelerated and Shared Growth-South Africa (ASGISA)’. Available at www.info.gov.za.
One outcome of the ANC’s 2007 Polokwane conference was the demand for a more interventionist state that intervened directly in the economy to build a developmental state. In addition, the ANC resolved to strengthen “the role of state-owned enterprises” and ensure that “state-owned enterprises, agencies and utilities – as well as companies in which the state has significant shareholding – respond to a clearly defined public mandate and act in terms of our overarching industrial policy and economic transformation objectives.”

In 2008, ANC President Jacob Zuma stated: “The developmental state should maintain its strategic role in shaping the key sectors of the economy. This means that we need to… strengthen the role of state owned enterprises and agencies in advancing our overarching industrial policy and economic transformation objectives.”

South Africa’s New Growth Path was released by Minister Ebrahim Patel on 23 November 2010. The New Growth Path outlines an approach to accelerate growth and employment, focusing on job-creation targets and sector-based actions that will help to achieve them. Jobs drivers are identified as:

- continuing public investment in infrastructure, creating employment directly in construction, operation, maintenance and the production of inputs, and indirectly by improving efficiency across the economy;
- targeting more labour-absorbing activities in the agricultural and mining value chains, manufacturing, construction and services;
- promoting innovation through “green economy” initiatives; and
- supporting rural development and regional integration.

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Prudent macroeconomic policy that takes into account global volatility and the need to sustain growth will support the New Growth Path. While many countries are tightening their fiscal belts, South Africa’s macroeconomic approach affords government the space to grow expenditure at a moderate pace to support social and economic priorities. Public spending in support of social programmes has been strong and, if combined with more rapid job creation, will significantly increase inclusion and income equality.

The New Growth Path outlines government’s commitment to inclusive growth. South Africa’s economic development must contribute to, and reinforce complementary efforts to overcome widespread poverty and income inequality. Inclusive growth also aims to address the low quality of life associated with poverty and inequity – poor education, poor health and poor opportunities of all kinds. Government’s view is that higher levels of economic growth, accompanied by sustainable job creation through efficient and competitive enterprises and appropriate government interventions, can reduce poverty and inequality directly. In addition, economic and employment growth will provide growing revenues to finance public-sector investment in housing, education and health services, enabling millions of South Africans to seize the opportunities that poverty and inequality have denied them.

With the NGP, the ANC government has clearly settled for state control and intervention, and thus effectively put an end to the market-oriented GEAR policy. That plan was described by ANC speaker Jackson Mthembu to the media as a liberal concept that had led to “jobless growth”. The NGP envisages the following key roles for state-owned enterprises:

- maximising of local procurement in the state-owned enterprise (SOE) build programme so as to minimize the impact of currency depreciation on costs while enhancing domestic demand;
- setting annual targets for state-owned enterprises to train artisans, so that at least 50,000 additional artisans are trained by 2015;

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• state-owned enterprises, together with Finance Development Institutions, to be used to address backlogs in regional logistics, water and electricity infrastructure; and

• to align the resources of state-owned enterprises so that they are compatible with the growth path envisaged in the framework.

The NGP highlights the crucial role played by state-owned development finance institutions (DFIs) in creating jobs, raising shared economic growth and enabling pro-poor expansion of infrastructure. It proposes that:

The DFIs will review their activities to expand support for developmental investments. Government will explore ways to improve financing for these activities, including collaborating with organised business and labour on a development bond, consistent with the commitments at the Growth and Development Summit, which can mobilize resources from retirement funds; and utilising Government Employee Pension Fund (GEPF) and Public Investment Corporation resources. We can build on the experience of the current R2 billion Development Bond for job creation issued by the IDC and subscribed by the UIF.  

1.2.3. The Policy framework of state-owned enterprises arising from policies of national government departments

The most significant national policy documents are those dealing with industrial policy and the restructuring of state assets. Nevertheless, other national policies, such as the national housing policy, national transport policy, and national energy policy impact on significant categories of, or individual state-owned enterprises, and brief mention will be made of them in the subsequent section.
• **Industrial Policy**

State-owned enterprises are expected to respond to the industrial policy imperatives of the government. Industrial policy in post-apartheid South Africa, as elsewhere, reflects certain economic and political priorities, as we shall demonstrate. The overarching instrument is the Accelerated and Shared Growth Initiative (ASGI-SA). ASGI-SA identified manufactured exports as essential to economic and employment growth and a series of studies have been undertaken to identify competitive strengths and weaknesses, and to design measures to make key sectors globally competitive. To complement the ASGI-SA, the Department of Trade and Industry (DTI) completed a National Industrial Policy Framework (NIPF)\(^{31}\) and an Industrial Policy Action Plan (IPAP) in 2007.

The Government’s aims, which were to be achieved principally through ASGI-SA, were to achieve six percent growth by 2014 from 2010 onwards, and to reduce unemployment and poverty by half. The industrial strategy adopted in 2007 sought to consolidate the competitiveness of existing industries and foster the emergence of new, technology-intensive industries. The objectives of the NIPF include not only diversification and greater value addition, but also employment and the inclusion of marginalised segments of the population. It sought to promote “a more labour-absorbing industrialisation path with a particular emphasis on tradable labour-absorbing goods and services and economic linkages that catalyse employment creation”. The NIPF approach to industrialisation had the following core objectives:

- To facilitate diversification beyond our current reliance on traditional commodities and non-tradable services. This requires the promotion of increased value-addition characterised particularly by movement into non-traditional tradable goods and services that compete in export markets as well as against imports.

● The long-term intensification of South Africa’s industrialisation process and movement towards a knowledge economy.

● The promotion of a more labour-absorbing industrialisation path with a particular emphasis on tradable labour-absorbing goods and services and economic linkages that catalyse employment creation.

● The promotion of a broader-based industrialisation path characterised by the increased participation of historically disadvantaged people and marginalised regions in the mainstream of the industrial economy.

● Contributing to industrial development on the African continent, with a strong emphasis on building its productive capacity.32

The policy’s instruments include areas less commonly found in national industrial blueprints, such as trade, regional integration, competition policy and public procurement. In that respect, the NIPF claims not to be a blueprint (with detailed instruments) but a vision paper, which was complemented by more operational documents such as IPAP. The IPAP is structured around 13 strategic goals:

1. Sector strategies: To identify four clusters where South Africa has a competitive edge – natural resources; medium-technology sectors (e.g. chemicals and plastics, jewelry, metals fabrication; machinery and equipment, paper and pulp, and oil and gas); advanced manufacturing; and labour-intensive sectors (agriculture, forestry, fishing, certain parts of mining, clothing and textiles, footwear, food, beverages and furniture) to foster industrial development.

2. Industrial financing: mandates the reform of national financing instruments with a rigorous selection process, targeting investments that have spillover effects, which contribute to the production of non-traditional products, and which are sustainable and generate

employment. New-generation financing should cover industrial upgrading (including industrial infrastructure), innovation and technology, trade facilitation, and SMEs (including cooperatives).

3. Trade policy: calls for greater coherence between industrial goals and trade instruments. For instance, it calls for a review of South Africa’s tariff profile to adjust rates to the needs of each industry. It also proposes the utilization of the World Trade Organisation (WTO) and bilateral trade agreements for the expansion of existing industries. Export promotion and foreign direct investment (FDI) attraction are also envisioned as useful instruments.

4. Skills and education; there is currently insufficient integration between industrial policy objectives and skills and education systems. There is therefore a need from much close alignment between industrial policy and skills and education development, particularly with respect to sector strategies.

5. Competition policy: the reinforcement of competition policy and the competencies of South Africa’s Competition Authority are seen as a prerequisite in the promotion of a competitive industrial fabric.

6. Public expenditure: purchases of government agencies and public enterprises are to be utilised to promote local companies through local content requirements.

7. Industrial upgrading instruments: are aimed at enhancing the competitiveness of existing industries. The first element is a Manufacturing Excellence Programme aimed at providing support for a variety of firm-level upgrading efforts (e.g. product, process and value-chain upgrading) through benchmarking against peers in the industry, both domestically and internationally. The second component is a Technological Infrastructure Fund to assist firms to upgrade technologies and equipment where costs are high. The
third component relates to standards, quality, accreditation and metrology. These can assist firms to export into demanding foreign markets and ensure that low-quality imports do not undercut the manufacturing sector.

8. Innovation and technology: as a middle income developing country South Africa needs to increasingly invest in its innovation and technological capabilities. Greater support for innovation and technology is necessary in order to contribute to the national target of increasing and sustaining research and development expenditure to one percent of GDP.

9. Spatial and industrial infrastructure: with priority projects to mitigate the historical concentration of industries in only three urban areas.

10. Support to small enterprises: a combination of improving supply side factors such as finance and technical support, together with finding ways to strengthen market opportunities for small enterprises, including cooperatives.

11. Empowerment of the marginalised segments of the South African population, particularly to complement the Black Economic Empowerment programme.

12. Regional and African Industrial and Trade Framework: the identification and development of regional and continental value chains.

13. Coordination, Capacity and Organisation: coordination among governmental agencies and departments.

State-owned enterprises contribute to these strategic objectives in a number of ways. One of these is expenditure on upgrading of roads, rails, ports, the electrical infrastructure,
telecommunications and water. Some of this is directed towards the provision of industrial infrastructure to Industrial Development Zones and municipalities under the Critical Infrastructure Programme, and to the development of industrial parks and hi-tech and science parks. State-owned financial development institutions, such as the Industrial Development Corporation (IDC), have also made a significant contribution to investment in labour-intensive sectors and in support of black economic empowerment. The IDC investment in labour-intensive sectors has largely been in BEE expansion projects, instead of BEE investments or BEE acquisitions.33 There are a range of institutional mechanisms administered by the government that perform the function of industrial financing. As discussed above, state-owned enterprises are also leveraged to promote local companies through local content requirements, in particular through South Africa’s procurement policy. The NIPF also envisaged the broadening of access to finance by small enterprises through its finance arm, Khula, working together with the private sector.34

The NIPF recognized a particular role of Sector Education and Training Authorities (SETAs) in the development of industrial sectors. It noted, however, that there was a need for greater coordination between the development and implementation of sector strategies and the corresponding SETAs.35 The NIPF noted that the process of industrialization requires efficient and cost-effective inputs ranging from raw materials to transport and telecommunications services. The contribution of state-owned agencies in this regard includes the role of sector regulators in the transport, energy, telecommunications and water sectors.36

The NIPF recognized investment in innovation and technology that can driven by state-owned enterprises. The aim is to leverage certain pockets of technologies and capabilities that the country has in order to narrow the gap with a range of technologically sophisticated developed and developing countries. It identifies the Department of Science and

34 Ibid., p. 49.
35 Ibid., p. 42.
36 Ibid., p. 45.
Technology’s National Research and Development Strategy as an important tool because of the manner in which it sets the overarching framework for technological interventions, particularly research side of Research and Development. It is here that state-owned agencies such as the Council for Scientific and Industrial Research (CSIR) have a fundamental role to play.

State-owned agencies also have a role to play in upgrading technological infrastructure, particularly those that relate to sanitary, technical and environmental standards. The NIPF notes that a sound standards, quality assurance, accreditation and metrology system can play a strategic role by assisting firms to adopt and meet the standards necessary to export into increasingly demanding foreign markets, and ensuring that low quality imports do not undercut the productive base of the local manufacturing sector.

In addition, new state-owned agencies have been established for the achievement of some of these objectives, such as the consolidation of non-financial and technical support in the Small Enterprise Development Agency (SEDA) and the establishment of the South African Micro-finance Apex Fund to service micro-enterprises.

One aspect of the IPAP which deserves more detailed discussion is the role of state-owned enterprises in developing the export trade sector. The IPAP notes that matters related to Standards, Quality Assurance and Metrology (SQAM) – otherwise known as Technical Infrastructure – are playing an increasing role in global trade. Industrialised countries and advanced developing countries’ application of Technical Barriers to Trade (TBTs) and Non-Tariff Barriers (NTBs) make it difficult to access their markets. These countries have put in place increasingly demanding standards, generally related to safety and health. The IPAP proposes that the Technical Infrastructure policies and institutions need to re-orient themselves to play a strategic industrial policy role. The key institutions involved are:

37 Ibid., pp. 47-8.
38 Ibid., p. 47.
39 Ibid., p. 49.
● South African National Accreditation System (SANAS).
● National Regulator for Compulsory Specifications (NRCS).
● South African Bureau of Standards (SABS).
● National Metrology Institute of South Africa (NMISA).

This re-orientation will have two broad strategic thrusts:

● “Locking-out” unsafe and poor quality imports.
● “Locking-in” access to increasingly demanding export markets.

A sound technical infrastructure plays a significant role in the economy in two ways: firstly, it assists firms to adopt and meet the quality standards necessary to compete in the global markets and secondly, it assists in ensuring that low quality imports do not undercut the productive base of our manufacturing sector.

The IPAP proposed that Technical Infrastructure systems be strengthened to address weaknesses that have been identified in the system of institutions, including the failure of regulatory authorities to enforce mandatory standards. Thus a shift to pre-border enforcement of certain mandatory standards would be introduced. There was also a need to introduce additional mandatory standards. The Technical Infrastructure institutions will also re-prioritise their activities to support the development, accreditation and enforcement of standards which can create, scale up and resuscitate certain industries while simultaneously contributing to broader social benefits. These industries can either serve domestic or export markets. For instance, strengthening standards in relation to energy and water efficiency can contribute fundamentally to the growth of domestic industries in areas such as production and installation of solar water heating, energy-efficient industrial motors and domestic rain-
water tanks. These institutions will also have to more actively support export market access through assisting exporting firms to meet increasingly demanding standards of advanced developed and developing countries.\(^{40}\)

- **Restructuring of state-owned enterprises**

Privatisation arrived in South Africa, when the then National Party government started a process of selling off many state-owned enterprises. In 1987 the National Party government produced a White Paper on Privatisation and Deregulation. The White Paper put forward the following motivations for privatization and deregulation:

- the size of the public sector and government spending needed to be reduced to open up investment opportunities for the private sector;
- business must be allowed to develop and grow without state intervention and with minimum regulation; and
- cutbacks on state spending and money raised by selling off state assets could provide much-needed funds for government.\(^{41}\)

The ANC-led government in the post-apartheid period included privatisation as part of its economic policy instruments and provided continuity to the process started in 1987. Following a Cabinet meeting in 1995, a *Discussion Document by the Government of National Unity on the Consultative and Implementation Framework for the Restructuring of State Assets*\(^{42}\) was released by the Department of Public Enterprises. The most important objectives of restructuring, among others, were seen to be: to facilitate growth, to fund the RDP, to create wider ownership in the economy, to reduce state debt, and to enhance the competitiveness of state-owned enterprises.

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This was followed by the Framework National Agreement in February 1996. Here agreement was reached between the government and the main trade union federations on the restructuring of certain ‘state assets’. The Agreement envisaged that restructuring of state assets would assist in: increasing economic growth and employment; meeting basic needs; redeploying of assets for growth; infrastructural development by mobilizing and redirecting private sector capital; reducing state debt; financing growth and the requirements for competitiveness; and developing human resources. In essence, agreement had been reached with organized labour on the privatization of state assets, in particular state-owned enterprises.

As indicated above, the introduction of the GEAR policy framework in 1996 indicated a commitment on the part of the ANC-led democratic government to the privatization of state assets. Government reiterated its firm commitment to its overall strategic vision for the restructuring of SOEs at the November 1999 Cabinet Lekgotla, and in August 2000, the Department of Public Enterprises published a policy framework on restructuring state-owned enterprises. With the launch of the Policy Framework in August 2000, government sought to define clearly the continued role of the state, in the light of international experience with restructuring of SOEs and the ever-changing economic and developmental needs of South Africa. The document, An Accelerated Agenda Towards the Restructuring of State-owned Assets: Policy Framework, highlighted a number of key restructuring principles, among them:

- Competition should be promoted within a regulatory framework to ensure that restructuring brings lower prices and better goods and services.
- A regulatory framework will ensure that monopolies do not distort the development of competitive markets in unregulated sectors.

● The framework must be consistent, manageable and appropriate, but not bureaucratic.

● Government’s intent and relationship with the restructured state enterprises should be explicit in shareholder agreements, in the enterprises corporate governance framework, and in a clear policy framework and restructuring programme. The performance of enterprises will thus be easier to assess, enabling the state and investors to make appropriate investment decisions.

● Government should explore options to enhance productivity, profitability, investment and innovation, including equity sales for access to additional funding, technology or markets.

● Where this is not required, corporatisation, joint ventures, employee participation schemes and community partnerships may be more beneficial.

● With partial privatisation, other partnership arrangements may also be appropriate.

● Government should maximise the return to the fiscus through equity sales, dividends, and/or tax returns.  

The framework effectively committed government to bringing in private interests wherever possible. Thus, it suggests that options to “enhance productivity, profitability, investment and innovation... will often entail equity sales (full or partial privatisation) in order to access additional funding, technology or markets. Where this is not required, other approaches such as corporatisation, joint ventures, employee participation schemes and community partnerships may be more beneficial”. In general, the framework favoured the sale of assets, arguing that: “While many forms of restructuring can improve the efficiency with which SOEs use resources, a process that involves a transfer of ownership can have important additional macroeconomic benefits.” It lists the potential benefits as reduced government debt, improved credit rating, and increased foreign direct investment.

The Framework suggests that state ownership is justified only in the case of natural monopolies – that is, in industries where the unit cost is lowest only when one enterprise

\[\text{Mostert, ‘Reflections on South Africa’s Restructuring of State-Owned Enterprises’, p. 15.}\]
\[\text{Ibid., p. 34.}\]
produces enough to meet the entire market demand. Natural monopolies often exist where large investments in basic networks are necessary, for instance electricity and local telephony. But the Department of Trade and Industry argues that technological advances mean that natural monopolies no longer exist in these sectors. By extension, they should be privatised and regulated, rather than remaining in state hands.\footnote{Ibid., p. 14.}

According to Prins and Lombard, the commercialization of state-owned enterprises ‘is widely regarded as an efficient way of lifting the burden on the taxpayer for subsidizing such services, either overtly or covertly.’ This has often being done by the creation of a Companies Act public company, with the state holding all or most of the shares in the company.\footnote{Victor Prins and Paul Lombard, ‘Regulation of commercialized state-owned enterprises: case study of South African airports and air-traffic and navigation services’, \textit{Journal of Air Transport Management}, Vol 2, No 314, pp. 163-171, 1995, p. 163.} Examples of commercialization in South Africa include Transnet Ltd (a conglomerate in the transport business, consisting of several divisions including Spoornet – the national railways – Portnet – the owners and operators of the harbours – South African Airways (SAA) and Autonet – a trucking company), Telkom Ltd (the State-owned telecommunications company) and more recently, the commercialization of the State airports and air traffic and navigation services.\footnote{Ibid., p. 163.} Below we discuss some of the most significant restructuring processes leading to the commercialization of various state-owned entities.

Eskom supplies about 96\% of South Africa’s electricity requirements, which equals more than half of the electricity generated on the African continent. Eskom owns and controls the high voltage transmission grid and it supplies about 60\% of electricity directly to customers. About 240 recently amalgamated local authorities undertake the remainder of the electricity distribution. The municipal distributors buy bulk electricity from Eskom, with some also generating small amounts for sale in their areas of jurisdiction. A few industries have private generation facilities for their own use, accounting for 2.8\% of total electricity produced.\footnote{Anton Eberhard, ‘Competition and Regulation in the Electricity Supply Industry in South Africa’, \textit{TIPS Working Paper 2 – 2002}, Trade and Industrial Policy Secretariat, Graduate School of Business, University of Cape Town, p. 4.} Eskom thus plays an important role in helping the South African government deliver in some
key social and economic domains. For example, the RDP goal of electrifying an additional 2.5 million homes has been met and exceeded. Eskom has, in addition, generally delivered low prices that can assist the competitiveness of South Africa’s industrial sector, particularly in the energy-intensive sectors. Eskom, according to Eberhard, is an important instrument in pursuing future social and economic goals, such as:

- achieving universal access to electricity;
- promoting integrated rural development with the aid of appropriate energy provision, especially electricity provision;
- promoting industrial development through competitive electricity prices;
- reducing government debt, and meeting other public purpose objectives, through unlocking value in state assets;
- widening the participation and ownership of black South Africans in the economy through well-designed economic empowerment initiatives around state assets;
- attracting foreign direct investment;
- promoting the African Renaissance and the Millennium African Plan through active involvement of South African infrastructure providers; and
- ensuring security of electricity supply.\(^{52}\)

The Eskom Conversion Bill of 2001 replaced the old Eskom Act of 1987 and subsequent amendments. It converted Eskom into a public company (named Eskom Holdings Limited) with its share capital held by the state. This was the first step in the planned restructuring of Eskom. A memorandum to the Conversion Bill describes its purpose as: bringing about more efficiency and competitiveness in the running of Eskom; exposing Eskom to global trends; and ensuring that Eskom is run in terms of a protocol on cooperative governance.\(^{53}\)

\(^{52}\) Ibid., p. 9.
\(^{53}\) Ibid., pp. 13-14.
In considering the consolidated electricity industry reform proposals in May 2001, the Cabinet approved the proposals for the reform of the industry that would ensure the introduction of managed liberalisation of the energy sector and that:

- in order to meet Government’s developmental and social objectives, Eskom maintain a dominant role in the existing electricity generating market sector;
- a limited private sector participation within existing electricity generating market sector will be introduced;
- the involvement of BEE within the generation sector be about 10% of the existing generation capacity by no later than 2004;
- in order to ensure non-discriminatory and open access to the transmission lines, a separate state-owned transmission company will be established, independent of generation and retail businesses, with ring-fenced transmission system operation and market operation functions;
- over time a multi-market model of electricity generators, traders and power purchasers may take place on a variety of platforms, including bilateral deals, future markets and day-ahead markets;
- a regulatory framework was in place that would ensure the participation of Independent Power Producers and that diversified primary energy sources were developed within the electricity sector without hindrance;
- the planning and development of the transmission systems was undertaken by the transmission company subject to government policy guidelines;
- over time, and taking cognizance of the strategic objectives of the region, the Southern African Power Pool must develop into an independent system operator for the southern African regional grid system, where public and private generating companies could participate in the pool; and
- by adapting the role of the regulatory system, which would include the reform of the legal framework defining the role of the National Electricity Regulator (NER) (see below), the
development of a new framework for licensing, the adaptation of a price-setting routine and the creation of capacity in order to monitor the effectiveness of the reformed industry and to ensure the security of supply.\textsuperscript{54}

In 1991, the South African government separated the activities of the Department of Posts and Telecommunications into the South African Post Office and Telkom. Telkom duly became a legal entity incorporated under the South African Companies Act. In 1994, the granting of two cellular telephone licenses heralded the liberalisation of the South African telecommunications sector. A third cellular company was granted a license in 2001.\textsuperscript{55}

The telecommunications sector is one of the fastest growing sectors in the global economy. The South African fixed-line telecommunications industry has grown from over 3,8 million lines in 1995 to over 5,5 million lines. This rapid growth can be ascribed at least partially to the aggressive roll-out targets set out for Telkom when a strategic equity partner was introduced in 1997. A 30% stake in Telkom was sold to SBC (18%) and Telkom Malaysia (12%). The interests of SBC and Telkom Malaysia are held via an investment holding company, Thintana Communications LLC. Black empowerment groups bought 3% of Telkom. Telkom’s revenue has more than doubled over the last five years, from R11 billion to R22,6 billion. On the technological front, cellular phones, the Internet and ecommerce have significantly contributed to this growth. Telecommunications revenue in South Africa (both fixed-line and cellular) grew from R8,4 billion in 1994 to R30,4 billion at the end of March 1999. This gives a compound annual growth rate (CAGR) of 30% over the five years. Telkom consists of a traditional fixed-line operation as well as owning a 50% share in Vodacom, the largest of the three cellular telecommunications networks currently licensed to operate in South Africa. It also has a strong Internet presence in the form of Intekom, the third largest Internet service provider in the country. Government, which owns 67% of Telkom, approved its listing on the stock exchange in 2001. Seven percent of Telkom has


\textsuperscript{55} Mostert, ‘Reflections on South Africa’s Restructuring of State-Owned Enterprises’, p. 33.
been earmarked for empowerment groups and employees, and the sale of this share is currently under way.\(^{56}\)

Denel is the major player in South Africa’s defence industry-related organisations, having about 50% of defence industry turnover. Denel dominates four of the seven major areas of the domestic defence market, namely aerospace, ammunition, weapons systems and military vehicles. Denel comprises a holding company structured into three main groups: Aerospace, Ordnance, and Commercial and IT Business. In order to compensate for the decline in South African defence spending, Denel embarked on a major drive to increase exports of military products and services, and also initiated a major diversification and commercialisation drive. It had reasonable success with commercialisation in the areas of information technology, properties and electronic manufacturing. The Denel Aerospace Group consists of Denel Aviation, Kentron, DPS (Pty) Ltd and OTB, the test range at Arniston. Denel Aviation, in turn, consists of three business units: Military Aviation, Airmotive and Transport Aircraft Maintenance. It has been recommended that an international equity partner be sought for Denel’s aerospace business.\(^{57}\)

The 1999 White Paper on South African Defence-Related Industries stated that the government’s preferred restructuring option for Denel is to break it up and sell off less than 100% of the shares in each cluster (e.g. aerospace, heavy ordnance, light ordnance) or division as separate entities. Those clusters or divisions that are easy to privatise, or those defence-dependent divisions that are attractive to local and foreign investors, will be restructured first.\(^{58}\)

The commercialization of South Africa’s nine airports and air traffic and navigation services was first mooted in the policy document on domestic air transport policy of South Africa in

\(^{56}\) Ibid., p. 33.
\(^{57}\) Ibid., pp. 36-7.
\(^{58}\) Ibid., p. 37-8.
1990. This document contains a recommendation that the operations of the airports and air traffic control should, from a point of view of a competitive air transport market, rather be left to an organization other than the State. Conversely, the State should concentrate on policy matters and the setting and monitoring of safety and technical standards and should not be involved in the operation of services. This approach is in line with the worldwide trend of moving airports out of the control of the state.

A study was initiated in 1991 to find the most appropriate structure for the commercialization of the nine State airports and air traffic and navigation services. In July 1992, the Department of Transport published a policy document emanating from the study, entitled: ‘Policy on State airports and air traffic and navigation services’. In this document the following core recommendations were made:

- The establishment of the Airports Company Limited (APC) to take over full control of the nine State airports.
- The establishment of (the separate and independent) Air Traffic and Navigation Services Company Limited (ATNSC) to take over full control of, and responsibility for, the air traffic and navigation services in South Africa.
- The establishment of an economic regulator (the Regulating Committee) to regulate the income from monopolistic services provided by the Companies and to monitor service standards.
- The restructuring of the Department of Transport to focus on its tasks of broad policy determination and the regulation of technical and safety standards.

60 Prins and Lombard, ‘Regulation of commercialized state-owned enterprises’, p. 164.
The policy document referred to above formed the basis of the implementation process to commercialize these services, and in May 1993 Parliament passed the Airports Company Act (No. 44 of 1993) and the Air Traffic and Navigational Services Company Act (No. 45 of 1993). These provided for the creation of the two said companies in terms of the Companies Act (No. 61 of 1973), with the State holding all the shares in both companies. The APC and the ATNSC were subsequently established and took over the responsibility for their respective services on 3 August 1993.\footnote{Prins and Lombard, ‘Regulation of commercialized state-owned enterprises’, p. 164.}

In restructuring state-owned enterprises, the government, and the Public Enterprises Department in particular, put in place a coherent policy framework which focused primarily on the key economic sectors of telecommunications, energy, defence and transport. The reasons for reforming the state-owned enterprises included improving access of the historically disadvantaged to services such as telecommunications and electricity, increasing efficiencies and reducing costs, and using the revenues earned to reduce public debt. One major constraint was the restructuring had to be carefully managed as the SOEs had employed tens of thousands of workers. Another consideration was that in restructuring corporations, black economic empowerment would be encouraged.

Of these objectives, according to the discussion document \textit{Towards a Ten Year Review}, the one achieved unambiguously was the reduction of public debt by R24 billion. Other achievements include the creation of a more entrepreneurial class of those interested in restructuring activities, the advancement of regulation, the opening up of some industries to competition and the widening of share ownership. Commercialisation and or partial privatisation has led to the reduction in public debt by raising funds from the private sector, thereby reducing pressure on the fiscus, and creating an environment for competition. The creation of greater competition still has to be achieved in some sectors. Greater competition and further improvements to the regulatory environment were aimed at ensuring that certain
nationally strategic services such as energy, transportation and telecommunications are provided at low cost and high quality.

However, during the course of the process there was a shedding of jobs mainly through “modernisation”, that is, the improvement of business processes and the introduction of new technologies. There has also been a strategic shift in recent years to tighten oversight on financial, economic and socio-developmental activities of SOEs to ensure that they are aligned to the objectives of the developmental state. This forms part of the subject of the following section.

1.3. The Regulatory Framework of State-Owned Enterprises

As indicated in the introduction, regulatory frameworks for state-owned enterprises in South Africa are vast in number, and range from frameworks common to a range of enterprises, such as the Companies Act, Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA), to those enterprises that have specific sector or individual regulatory frameworks and regulatory structures. Regulation also takes a variety of forms, from economic regulation, safety and environmental regulation, to regulation of standards. Regulations for state-owned enterprises are also found in the Protocol on Corporate Governance in the Public Sector, Shareholder Compacts and Policy Frameworks for SOEs released by the relevant Executive Authorities from time to time. The Regulatory framework is to some extent determined by the type of entity.

A national state-owned enterprise is defined as a national government business enterprise; or a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is established in terms of national legislation; fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation; and accountable to Parliament. A provincial state-owned enterprise is defined as a provincial government business enterprise; or a
board, commission, company, corporation, fund or other entity (other than a provincial government business enterprise) which is established in terms of legislation or a provincial constitution; fully or substantially funded either from a Provincial Revenue Fund or by way of a tax, levy or other money imposed in terms of legislation; and accountable to a provincial legislature.63 A municipal state-owned enterprise is defined as a private company established by one or more municipalities in accordance with the Companies Act, 1973 (Act 61 of 1973) or in which one or more municipalities have acquired or hold an interest in accordance with the Companies Act, 1973 (Act 61 of 1973); a service utility; or a multi-jurisdictional service utility established by two or more municipalities.64 These are all entities that are accountable under the provisions of the PFMA or MFMA.

A number of statutory state-owned enterprises have been incorporated, while others have existed as private companies in terms of the Companies Act. In these cases, those that are listed as national and provincial public entities in Schedules 2 and 3 of the PFMA or as municipal public entities in terms of the MFMA, are subject to the provisions of both the FPMA and Companies Act on the one hand, and to the provisions of the MFMA and the Companies Act on the other. Some state-owned enterprises also have a shareholder compact with the relevant Minister of the department under which they fall. The shareholder compact sets and agrees on the enterprise’s strategic intent, key performance areas and targets. The compact includes strategic objectives, policies, financial, technical and other key performance indicators and reporting requirements.

Appendix A below provides a list of government departments at the national level and provinces and the public entities that report to these national departments and provincial and municipal authorities in the provinces. This gives an idea of the Executive Authorities for the various public entities listed. In Appendix B below we list the state-owned enterprises listed in Schedules 2 and 3 of the PFMA, and who are subject to the financial regulations discussion in the next sub-section. Appendix C is a list of statutory public entities, statutory

63 These definitions are drawn from the Public Finance Management Act, Act No. 1 of 1999.
64 This definition is found in the Local Government Municipal Systems Act, Act No. 32 of 2000.
public entities that have been incorporated (and are therefore also governed by the Companies Act, 1973), non-statutory companies that are owned by government structures, regulatory public entities and other public entities.

1.3.1. Financial Regulation

State-owned enterprises may be financially regulated under the provisions of the PFMA, MFMA and, in many cases, the Companies Act. The focus here is on the PFMA, since much of what applies in the MFMA is to be found in the PFMA. In addition, as the principal legislation governing financial matters of SOEs, all other legislation is subordinated to the PFMA.

1.3.2. The PFMA and MFMA

The aim of the PFMA is: ‘To regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith.’ The object of the Act is to secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of the institutions to which the Act applies. The PFMA applies to national and provincial government and SOEs under their control, whilst the Municipal Finance Management Act is applicable to local government and SOEs they control. These acts have similar requirements and introduce the same treasury norms and standards for the whole public sector and SOEs in South Africa.

Although the PFMA has to be considered in its entirety, Sections 46 through 86 are of particular importance for financial governance issues. Every public entity governed by the PFMA must have an accounting authority, which must be accountable for the purposes of the PFMA. This is usually the board. However, if there is no board, the statutory governing body will be considered the ‘authority.’ In special circumstances, the relevant treasury may approve or instruct that another body serve as the accounting authority for that public entity.
Accounting authorities must ensure that accurate books and records are kept and that financial statements and other statutory reports are prepared. These delegations are normally delegated to senior management, and their progress and accuracy monitored by a committee(s) of the board or authority. This delegation must be done in writing.

The fiduciary duties imposed on directors are set out in section 50 of the PFMA. In addition to obligation contained in the PFMA, directors of SOEs are required to carry out their fiduciary duties in accordance with the common law and to meet the same obligations as directors of private sector companies. The Accounting Authority must seek at all times to prevent irregular, wasteful and fruitless expenditure.

The Treasury Regulations arising from the PFMA provide details about what the Act specifies and outline the need for the following:

- Strong internal control which includes risk and fraud management.
- Financial planning.
- In-year (throughout the financial year) management and monitoring.
- Reporting and accountability.

These regulations set out the various reports that are necessary so that accounting officers can be accountable for the resources they receive. The two principal reports are the strategic plan and financial performance report. In the Strategic Plan:

- Accounting Officers must submit a strategic plan for the next financial year before June of each year.
- Accounting Officers must report every quarter on their progress towards meeting their goals.
● Information on performance must be included in the annual report.

A number of requirements are stipulated for the Financial Performance Reports.

● Every month the Accounting Officer must report on financial performance and must include information about the following:
  - Cash management performance
  - Expenditure against budget
  - Revenue against target
  - Projected expenditure and revenue
  - Variances between planned and real targets and actions
  - Uncleared items (items not allocated to the correct cost centre).

● Every quarter (every three months), the Accounting Officer must report on all transfer payments done.

● Annually, the following documents are needed:
  - Annual financial statements of expenditure and revenue (within two months of the closing of the financial year). These must be audited by the Auditor General’s office.
  - Information on efficiency, equity, effectiveness and economy.
  - Transfer payments and compliance to transfer agreements.
  - Report on write-offs and losses.
  - Report on expenditure that is unauthorised, irregular or fruitless and wasteful.
  - Report on disciplinary actions related to misconduct and fraud.
In addition, the annual report should comment on the effectiveness of internal control, as well as the quality of in-year management.\textsuperscript{65}

The PFMA requires the Accounting Officer of a state-owned enterprise to account to the specific Minister or Provincial Member of the Executive Council (MEC) under which the entity falls. For instance, the Department of Communications has to monitor the implementation of critical governance policies of SOEs reporting to its Minister. All Human Resources policies and implementation must be annually reviewed and the outcomes of such must be reported to the Minister. All benefits applicable to the management in particular and staff in general must be reviewed annually and reports submitted to the Minister. The Boards must design for approval by the Minister, schemes for payment of bonuses for Senior Management and Executive or variable payment schemes or schemes that recognize and reward good and excellent performance by Senior Managers and Executives. These must be reviewed by the Minister on an annual basis.

The Department also monitors performance and reinforcement of effectiveness of Boards and Board Committees. All approved policies and terms of reference governing the constitution and the work of the Board and Board committees must be reviewed on an annual basis and reports of such reviews must be submitted to the Minister. Prepared, approved, and annually reviewed delegations of authority from the Board to the Executive must be submitted to the Minister. The Department must also ensure that there is participation by independent people in the committees of the board, i.e. in the Risk, Audit and internal Audit Committees.

The Department also has to enforce PFMA accountability. Each SOE must submit a projection of revenue, expenditure and borrowings for the financial year and a Corporate Plan timeously, as required in terms of section 52 of the PFMA and any changes shall not be

\textsuperscript{65} Beth Engelbrecht, Henk Jooste, Gerrit Muller, Tiny Chababa and Debbie Muirhead, \textit{Financial Management: An overview and field guide for district management teams}, The Press Gang, April 2002.
implemented unless approval of the Minister has been obtained. SOEs are required to submit Annual Reports and Financial Statements as required in terms of section 55 of the PFMA. In order to facilitate effective performance monitoring, evaluation and corrective action, SOEs must submit quarterly reports to the Minister as the Shareholder within a month after the end of each quarter of the financial year. They are also required to report on a quarterly basis in compliance with the PFMA and Treasury Regulations. In an endeavour to strengthen accountability to the Shareholder, the Boards of SOEs must implement the following:

- Ring-fence all the Government allocated and project specific funds and report (financial and non-financial) on a quarterly/monthly basis on progress towards attainment of key project milestones.
- Secure approval of the Minister of threshold levels for all significant transactions in terms of section 52(2) of the PFMA, before the commencement of each year.
- Submit, on a monthly basis, reports of all transactions exceeding an amount of R10 000 000, together with an indication of appropriate approval obtained for the transactions in terms of delegations of authority.
- Secure approval of the Minister of a threshold for all material losses suffered as a result of criminal conduct, irregular, fruitless and wasteful expenditure as required in terms of section 55(2) of the PFMA, before the commencement of each financial year.
- On a monthly basis, report to the Minister on all acts of criminal conduct, irregular and wasteful expenditure together with their monetary values.
- Submit management letters issued by the Auditors, together with management response, timeously to the DoC.
- Submit, on annual basis, all operational plans and business plans of all business units.
- Project plans in respect of all funded projects with budgets and timelines.
In order to do proper monitoring of the work of SOEs, in addition to the key performance indicators that are prescribed in the Corporate and Strategic Plans, performance indicators in respect of the key performance areas outlined above have to be developed. These key performance indicators are to be used as proxies to monitor and evaluate progress made by SOEs towards achievement of their performance targets.

The key performance indicators must be applied to both financial and non-financial performance and must be tracked over time to measure performance trends based on which DOC will prepare reports for the Minister. Any observed negative trend and will be flagged and further investigations will be undertaken and a report based on the investigation will be submitted to the Minister with recommendations for his consideration. Based on the report the Minister would then be able to give feedback to an SOE concerned to effect rectification.66

Performance had to be aligned to government objectives. The Department of Public Enterprises’ Revised mission statement and 2010–2014 strategic plan stipulates that state-owned enterprises are strategic instruments of industrial policy and core players in the new growth path. The department aimed to provide decisive strategic direction to the state-owned enterprises so that their businesses were aligned with the national growth strategies arising out of the new growth path. It intended to do this by ensuring that their planning and performance, and investments and activities, were in line with government’s medium term strategic framework and the minister’s service delivery agreement.

The department shareholder management model measures the state-owned enterprises’ performance against delivery targets. The model aims to achieve consistency in compliance in corporate governance practices as well as the synchronisation of outcomes-based planning and performance reporting. The model is being continuously refined. Progress on the model to date includes: clarity on the strategic intent of each state-owned enterprise and

performance focused shareholder compacts; the development of a logical planning and monitoring and evaluation framework; the development of guidelines on board management and founding documents; and the tracking of trends in financial and operational performance through the department’s performance measuring dashboard, the Isibuko dashboard.

The quality of the current policy and regulatory environment has been identified as a key risk to the state owned enterprises and their ability to play a developmental role in the economy. In particular, the regulation of infrastructure tariffs needs has to be reformed to enable both Eskom and Transnet to recover costs and attract investment to meet the needs of the economy. In addition, the department needs to monitor closely what additional investments will be required of Eskom in the integrated resource plan for energy, as this may require significant additional funding. Another key area relates to the establishment of a single buyer office to enable independent power producers’ access to the grid. In relation to Transnet, the department will be engaging with the establishment of the rail and port regulator to ensure that the policy and regulatory regime provides an appropriate balance between encouraging additional investment and promoting competition. The department will continue to put considerable effort into working with policy departments, such as the departments of energy and transport, to create a more enabling environment for the enterprises to better serve the public interest.

Another area of strategic focus over the short to medium term was the systematic integration of key programmes in state owned enterprises into the new growth path and the industrial policy action plan 2. For example, both the Industrial Policy Action Plan and the New Growth Path prioritised public procurement leveraging to develop manufacturing. The department intended to focus on driving the implementation of fleet procurement programmes in locomotives and renewable generation technologies. The integration of supplier development policies that will embed procurement leverage into the state owned enterprise procurement policy framework will also be closely monitored. The department was also considering new governance mechanisms to enable better coordination across government
departments (particularly with respect to the Department of Trade and Industry) and to provide more effective oversight of the rollout of these programmes.

- **Regulations on Public-Private Partnerships (PPPs)**

Public entities such as state-owned enterprises are also subject to a number of other regulatory frameworks that arise from the Regulations flowing from the PFMA. One such example is founded on the PFMA and Treasury Regulation 16, which set the regulatory framework in terms of which national and provincial government institutions can enter into public-private partnership (PPP) agreements. These regulations apply to public entities listed or required to be listed in schedules 3A, 3B, 3C and 3D of the PFMA, and any subsidiaries of such public entities. The major public entities listed in schedule 2 to the PFMA are not subject to Treasury Regulation 16.

The PFMA approach to financial management focuses on outputs and responsibilities and is a cornerstone of government’s strategy to improve financial management in the public sector. Government is increasingly focusing its efforts on outputs and outcomes, wanting to ensure that, in spending taxpayers’ money, it produces the intended result. The PFMA makes the heads of departments (the accounting officers) of national and provincial departments and the CEOs or boards of schedule 3 public entities (the accounting authorities) responsible for implementation. They are directly accountable to Parliament or the provincial legislature for the effective and efficient management of their budgets to achieve their public mandates. These responsible officials need constantly to evaluate value-for-money choices. It was thus necessary to develop to develop regulations for the establishment of PPPs which involve the delivery of a public service. A PPP entails targeted public spending, principally on outputs to agreed standards, leveraging private sector finance and efficiencies and allocating risks to the party best able to manage them.

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A PPP is defined as a contract between a public sector institution and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project. Two types of PPPs are specifically defined: where the private party performs an institutional function; and where the private party acquires the use of state property for its own commercial purposes. PPPs typically involve the private party raising both debt and equity to capitalise the project. PPPs may involve a degree of capital contribution by the public sector institution to the initial costs of the project. Some PPP projects do not involve debt finance at all, being initially funded either wholly through corporate finance or by a combination of government funds and private equity. In end-user-pay projects there may also be an element of government funding support to either or both the capital and the operating costs of the project. In essence, Treasury Regulation 16 provides that affordability limits, value-for-money considerations and the risk profile of the project will determine a PPP project’s financing structure and sources of funding.

There are certain prescribed steps in the development of a PPP. As soon as the institution identifies a project that may be concluded as a PPP, the accounting officer or accounting authority must in writing: (a) register the PPP with the relevant treasury; (b) inform the relevant treasury of the expertise within that institution to proceed with a PPP; (c) appoint a project officer from within or outside the institution; and (d) appoint a transaction advisor if the relevant treasury so requests. This is then followed by the PPP project cycle, which provides for the application of the three regulatory tests of affordability, value for money, and risk transfer to be applied at every stage of preparing for, procuring and managing a PPP agreement. Regulation 16 sets out six distinct phases to the project cycle. It requires that the institution apply these tests throughout, and that specific treasury approvals are given at phases II and III of the project cycle.

To determine whether the proposed PPP is in the best interests of a government institution, the accounting officer or the accounting authority of that institution must undertake a
feasibility study that: (a) explains the strategic and operational benefits of the proposed PPP for the institution in terms of its strategic objectives and government policy; (b) describes in specific terms, in the case of a PPP involving the performance of an institutional function, the nature of the institutional function concerned and the extent to which this institutional function, both legally and by nature, may be performed by a private party, and, in the case of a PPP involving the use of state property, a description of the state property concerned, the uses, if any, to which such state property has been subject prior to the registration of the proposed PPP and a description of the types of use that a private party may legally subject such state property to; (c) in relation to a PPP pursuant to which an institution will incur any financial commitments, demonstrates the affordability of the PPP for the institution; (d) sets out the proposed allocation of financial, technical and operational risks between the institution and the private party; (e) demonstrates the anticipated value for money to be achieved by the PPP; and (f) explains the capacity of the institution to procure, implement, manage, enforce, monitor and report on the PPP.

An institution may not proceed with the procurement phase of a PPP without prior written approval of the relevant treasury for the feasibility study. Prior to the issuing of any procurement documentation for a PPP to any prospective bidders, the institution must obtain approval from the relevant treasury for the procurement documentation, including the draft PPP agreement. The procurement procedure must be in accordance with a system that is fair, equitable, transparent, competitive and cost-effective; and must include a preference for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination in compliance with relevant legislation. The regulation sets out clear PPP procurement steps that must be followed by institutions, and prescribes distinct treasury approvals that must be obtained in this phase. In providing that active measures must be taken to promote black economic empowerment at all stages of PPPs, the regulations are in line with broader government BEE policy.

After the evaluation of the bids, but prior to appointing the preferred bidder, the institution must submit a report for approval by the relevant treasury, demonstrating how the criteria of
affordability, value for money and substantial technical, operational and financial risk transfer were applied in the evaluation of the bids, demonstrating how these criteria were satisfied in the preferred bid, and including any other information as required by the relevant treasury.

After the procurement procedure has been concluded, but before the accounting officer or accounting authority of an institution concludes a PPP agreement, that accounting officer or accounting authority must obtain approval from the relevant treasury: (a) that the PPP agreement meets the requirements of affordability, value for money and substantial technical, operational and financial risk transfer; (b) for a management plan that explains the capacity of the institution, and its proposed mechanisms and procedures, to effectively implement, manage, enforce, monitor and report on the PPP; and (c) that a satisfactory due diligence including a legal due diligence has been completed in respect of the accounting officer or accounting authority and the proposed private party in relation to matters of their respective competence and capacity to enter into the PPP agreement.

The accounting officer or accounting authority of the institution that is party to a PPP agreement is responsible for ensuring that the PPP agreement is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures for measuring the outputs of the PPP agreement, monitoring the implementation of the PPP agreement and performances under the PPP agreement, liaising with the private party, resolving disputes and differences with the private party, generally overseeing the day-to-day management of the PPP agreement, and reporting on the PPP agreement in the institution’s annual report.

The relevant treasury may, subject to any terms and conditions that it considers appropriate and upon written application from an institution, exempt that institution whether in relation to a specific PPP or in general, from complying with any or all of the provisions of this regulation 16. An institution may be exempted from obtaining the prescribed treasury approvals, and the procurement of a PPP may thus be able to go ahead without the
oversight and statutory approvals of the relevant treasury. The relevant treasury will consider two kinds of exemption application: for the duration of a particular project; and/or for the institution itself, for a specific period.

A private sector working group on the public sector, drawn from PricewaterhouseCoopers and the Institute of Directors in Southern Africa, draws the following conclusions on the financial regulatory measures applicable to state-owned enterprises:

The State-owned companies (SOCs) are subject to a bouquet of regulations – their regulatory universe: the Companies Act, the MFMA/ PFMA and others. King III, for which compliance is not legislated, but applicable to any organisation, completes the governance picture. The release of the King Report on Governance for South Africa –2009 (King III) brought with it significant opportunities for SOCs that embrace good governance. King III brings with it principles and recommendations that correlate with the requirements of the Companies Act and the PFMA. The Companies Act, the MFMA (for local government, including the Municipal Systems Act (MSA), PFMA (for national and provincial government) and King III share many of the principles of good governance applicable to SOCs. Alignment is possible and should in fact be strived for in the spirit of the overarching governance principles of accountability, fairness, transparency and responsibility.68

1.3.3. Protocol on Corporate Governance in the Public Sector

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In 2002, the Department of Public Enterprises released a document titled *Protocol on Governance in the Public Sector*. In this document the Department noted that when the democratic government was elected in 1994 it:

found that some of the instruments for delivering necessary services and carrying out policy were actually SOEs, and their control and governance was not based on any standardized principles or rules. These SOEs were organized in many different ways and subordinate to a wide range of legislation and statutory regulations. Some SOEs, in fact, acted as autonomous entities, having not had substantive direction or control from the previous Government for a long period of time.  

The Department noted that the situation of state-owned enterprises in the first decade of the democratic era, their significance in the national economy, and the potential for privatization made it imperative that proper governance and control of SOEs was instituted. In 1999, the Government affirmed the overall strategic vision of the restructuring of SOEs, which was reaffirmed in the policy document, *An Accelerated Agenda towards the Restructuring of State Owned Enterprise*. The Department of Public Enterprises was given an expanded mandate to lead the programme of restructuring with the active participation of the Cabinet. Corporate governance, as embodied in the new and revised Protocol, was seen as one of the cornerstones of this strategic vision. It was the Government’s intent that the principles of this Protocol should apply to all public entities and their subsidiaries.

The Department stipulated that corporate governance embodies processes and systems by which corporate enterprises are directed, controlled and held to account. Corporate governance in South Africa was institutionalised by the publication of the King Report on Corporate Governance in November 1994, which report has subsequently been superseded by the King Code of 2002. The purpose of the King Report is to promote the highest

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70 Ibid., p. 2.
standards of corporate governance in South Africa. The Code of Corporate Practices and Conduct contained in the King Report applies, *inter alia*, to SOEs and agencies that fall under the PFMA.

The Protocol was first published in 1997 with a view to inculcating the principles of good governance in the SOEs and this Protocol constitutes a substantial revision thereof in light of the King Code and international developments. The principles enunciated therein are specifically intended to apply only to specific entities, i.e. those listed in Schedules 2 and 3 (B) and (D) to the PFMA and any unlisted public entities that are subsidiaries of a public entity, whether listed or not. Accordingly, unlike the King Code, which covers a wide spectrum of entities in both the private and public sectors, the Protocol seeks to provide guidance specifically to the public sector, taking into account the unique mandate of the SOEs, which includes the achievement of socio-politico-economic objectives of the Government. It is recognized further that since the King Code is of general application, there are various specific public sector related issues which may not be fully addressed therein, and which issues require to be addressed in the Protocol. The Department stressed that the principles of the Protocol only sought to amplify and not supersede (or conflict with) those contained in the King Code and that the Protocol should be read in conjunction with the King Code.

In its overview of Governance issues, the protocols note that the Government’s relationship to its SOEs is similar to the relationship between a holding company and its subsidiaries, features of which include: a strong interest in the financial performance of the SOE; reporting and accountability arrangements that facilitate an appropriate oversight by the shareholder; and remedial action by the shareholder where the SOEs strategic direction deviates from that preferred by the shareholder. The relevant Executive Authorities as contemplated in the PFMA, and the Minister of Finance represent the Government's ownership interest in the SOEs.

The guiding principles of the Protocols are that: the Executive Authority should exercise strategic control over the SOEs consistent with their accountability to Parliament and the
public; the Executive Authority should set clear objectives for SOEs; any Social Service Obligations that a SOE is to undertake should generally be specified through a Shareholder compact; and the directors of a SOE should ensure the development of business strategies, policies and procedures and monitor management in the implementation thereof. The Directors of an SOE should ensure that: the SOEs activities are conducted so as to minimise any divergence of interests between the SOE and the shareholder; SOEs are managed in the best interests of the SOEs, shareholder and other stakeholders; and SOEs and their officers maintain the highest standards of integrity, accountability and responsibility.

The guiding principles also included the requirement that, as recommended by the King Code, the board has a charter setting out its responsibilities, which should be disclosed in its annual report. At a minimum, the charter should confirm the board’s responsibility for the adoption of strategic plans, monitoring of operational performance and management, determination of policy and processes to ensure the integrity of the SOEs risk management and internal controls, communication policy, and director selection, orientation and evaluation. Required standards of disclosure should be satisfied and, in particular, timely disclosure is to be made by SOEs of information, which may affect the shareholder value or which may influence Government's decisions in relation to the SOE.

The Protocols then set out the various roles of Boards and Directors, Chairman of the Board, Chief Executive Officer, the Company Secretary, and Executive and Non-Executive Directors. It includes measures for the appointment and removal of directors, assessment of performance of the Board and its directors, determination of the term of office of directors, and determination of the remuneration of directors. The protocols include a list of Board Committees, including an audit committee, remuneration committee, and nomination committee, among others.

In terms of the Protocols, the relationship between the shareholder and SOE boards should be governed by the shareholder compact. The shareholder should monitor closely the extent to which the board as a whole, and individual directors achieve the objectives and any
specific performance targets set, and when necessary, effect any remedial action. It is the joint responsibility of the shareholder and the board to ensure that the shareholder compact is developed. While the shareholder is responsible for the appointment and removal of directors from the board, the board is responsible for the SOE and accountable to the shareholder. The board had to be kept informed through various reports, the most important being the Directors’ Report. Financial regulation of SOEs was vested in the provisions of the PFMA.

1.3.4. Shareholder compacts

Individual state-owned enterprises are often required to sign compacts with the shareholder. For instance, Eskom is subject to direct and indirect oversight by government, as shareholder and policy maker. The Minister of Public Enterprises is the shareholder representative of the South African Government and has oversight responsibility for Eskom. This relationship is governed by a shareholder compact. The shareholder compact sets and agrees on Eskom’s strategic intent, key performance areas and targets. The compact includes strategic objectives, policies, financial, technical and other key performance indicators and reporting requirements. Eskom provides quarterly and annual reports to the Department of Public Enterprises on its performance against the compact. Examples of other compacts are given below.

1.3.5. Sector Regulation

- **Regulation of the electricity sector**

The Department of Energy and Minerals released the White Paper on Energy Policy in December 1998 which set out the following objectives of the electricity sector:

- improving social equity by specifically addressing the energy requirements of the poor;
enhancing the efficiency and competitiveness of the South African economy by providing low-cost and high quality electricity inputs to industrial, mining and other sectors; and

achieving environmental sustainability in both the short and the long-term usage of natural resources.

The absence of sufficient competition in the electricity sector in South Africa necessitates economic regulation of the industry to ensure that the interests of customers, licensees and other stakeholders are balanced, while also ensuring the industry’s sustainability. Eberhard points out that as public utilities have been commercialised and corporatised, and taken further from direct government management and control, it has been necessary to put in place a clear regulatory framework to protect consumers through tariff approval and to provide incentives for utilities to improve efficiencies and drive costs down. As the industry has been restructured to introduce competition, it has become important to distinguish between those elements of the business that are competitive (and which could be overseen by existing competition authorities) and those elements that remain natural monopolies and where sector regulation is essential.  

The generation and supply (retail) elements of the electricity business lend themselves to competition – while the transmission and distribution wires operations are natural monopolies. (There could also be competition for services – such as metering, market operation, settlements, etc. – that can go out periodically on competitive tender or where parallel trading mechanisms develop). As electricity sectors have been reformed, the international tendency has been for sectoral electricity regulators to focus mainly on transmission and distribution. Electricity regulators have also generally been responsible for technical regulation, including quality of supply and safety issues. A National Electricity Regulator (NER) was established in 1995 to regulate pricing, national tariff systems, and national service and technical standards. The Electricity Act of 1987 (amended in 1994) gave NER statutory responsibility to regulate market access to electricity suppliers (through

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72 Ibid., p.19.
licensing) and to approve all electricity prices. It was given a further role in encouraging greater efficiency in operation of the market.

The NER was not involved in the day-to-day governance of all these functions but played an important initial role in helping to design an optimal set of market arrangements and also had a periodic review responsibility. It is important for these markets to evolve flexibly and responsively, and so the overall governance arrangements should preferably involve all relevant stakeholders who can periodically provide their input to improve the systems.

The NER was given a role (in conjunction with the market operator) in monitoring pool prices, the balancing market and bilateral contracts and referring anti-competitive behaviour to the Competitions Commission. As a sectoral regulator it needs to monitor potential market power and abuse on a regular basis. Sustained price manipulation will be observable and could result in severe regulatory sanction, including further forced restructuring of the market.\textsuperscript{73}

In 2002, the Cabinet decided that the NER would be used as the basis to create the National Energy Regulator. In anticipation of the future development of these industries the Gas Act of 2001 and the Petroleum Pipelines Act of 2003 were passed to promote the orderly development of the Piped-Gas and Petroleum Pipelines industries. Both Acts mandated the establishment of a regulator. The National Energy Regulator of South Africa (NERSA) is a regulatory authority established in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004). NERSA’s mandate is to regulate the Electricity, Piped-Gas and Petroleum Pipeline industries in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act, 2001 (Act No. 48 of 2001) and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003). While the Electricity industry has been regulated for the past ten years, the piped-gas and petroleum pipeline industries in South Africa were to be regulated for the first time. The key objectives of the Electricity Regulation Act were:

\textsuperscript{73} Ibid., pp.29-31.
efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure in South Africa;
long-term sustainability of the industry;
investment in the industry;
universal access to electricity;
diverse energy sources and energy efficiency;
competitiveness and customer choice; and
fair balance between the interests of customers and end users, licensees, investors and the public.

The National Energy Regulator of South Africa has the following key powers:

- issues licenses for the operation of generation, distribution and transmission facilities;
- regulates imports, exports and the trading of electricity; and
- determines and approves electricity prices and tariffs and the conditions under which electricity may be sold.

The Electricity Regulation Act, 2006 (Act No. 40 of 2006) (as amended) confers upon NERSA the powers and duty to regulate electricity prices and tariffs. To carry out its mandate of “regulating prices and tariffs”, and in particular those of metropolitan municipalities, NERSA has adopted an internationally accepted regulatory methodology, which is also accepted by stakeholders. Currently, in the absence of an economic methodology to properly determine the revenue requirement for municipalities, NERSA uses benchmarks to evaluate the tariffs so that they can be able to collect the required revenue.74

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The advantages of benchmarking are that: it is internationally accepted as a regulatory methodology; it looks at both the financial/technical and the tariff level side; it strives to ensure some tariff convergence/rationalisation within the industry; it is a very simplified method which allows for the approval of the high number of applications received from municipalities; and it is the only available information because of the quality of data received from municipalities. However, there are a number of disadvantages of using this method of regulating municipal tariffs, including: the difficulty of seeing the link between the revenue requirement of the licensee and the approved tariffs; the inability of benchmarking to encourage efficient management of costs by suppliers; the problem of fully developing benchmarking as a method due to the lack of information from municipal distributors; the inability of using benchmarking to tackle issues such as cross-subsidisation between various municipal departments; and the use in this method of average consumption levels for different customer categories, which might not be the true reflection of the levels in the respective municipalities.

Given the above disadvantages of the benchmarking methodology, the Energy Regulator approved the rate of return (ROR) methodology to be used to evaluate the tariffs of large municipalities. The Energy Regulator further approved that this methodology be piloted at three metros – Ethekwini, City Power and the City of Cape Town – before it is rolled out to other metros and eventually to other big municipalities.

The ROR methodology is based on a cost plus basis of calculating the revenue required by the regulated entity. The regulator then determines efficiently incurred costs which should be allowed as part of regulatory expenses. This provides an incentive to regulated entities to reduce costs and operate more efficiently. The ROR methodology has the potential to achieve this objective by focusing on the level of required revenue by the regulated entity. Any excess revenue is not allowed by the regulator therefore ensuring that price increases by the utility are not excessive. This methodology is based on the concept of adequate rate of return for the regulated entity. This revenue is calculated to be “sufficient to cover efficiently incurred costs and provide reasonable profit” for a tariff year. The ROR
methodology can therefore be used to achieve this objective. Because all cost incurred by the utility for provision of reliable service, quality supply and customer satisfaction, are allowed in the ROR methodology, utilities will not hesitate to prudently incur costs in order to supply such services.

There are a number of advantages that arise from using the ROR methodology. The methodology is very simple and can be understood by both the regulated entity and the Regulator. The ROR methodology sets a basis for the determination of tariffs under a cost-reflective regulatory regime. In the first year of regulation, it is necessary to determine what the efficient cost to supply electricity is and also allow the utility to earn a fair return on its investment. The ROR methodology ensures that the financial viability of the regulated utility is maintained by reviewing the costs of the utility on an annual basis and allowing for justified cost increases. In an uncertain environment where the industry is undergoing restructuring (such as in South Africa), the advantages of the ROR methodology are enormous as it is very simple to adjust for unforeseen events when they occur. By assuring the regulated entities a fair return on their investments, the Regulator takes away investment risk from an investor which results in a lower required return on capital and therefore lower prices of electricity.

However, there are disadvantages to the use of the ROR methodology. Because the methodology is based on the cost plus method of determining revenues required, it does not give any incentives for the regulated entity to reduce costs. Utilities are “assured” revenue equal to costs incurred (efficiently or inefficiently), plus a fair return on their investment (also assured). This “assurance” gives no signals to utility management to efficiently manage costs and investments. There is an incentive for the regulated entity to overstate their costs and their regulatory asset base (RAB – or all productive assets employed by the utility in the production and supply of electricity) because the higher the costs, the higher the revenue required by the entity, giving the entity an incentive to overstate costs to obtain a higher price increase, and because the assets determine the money amount of the return on investment, giving management an incentive to overvalue their assets. It is a worldwide problem when
this methodology is applied that there is usually disagreement on which asset valuation methodology to use when determining the regulatory asset base (i.e. historical cost, modern equivalent asset valuation, optimised depreciated replacement cost, current cost, etc.). Utilities could also be tempted to capitalise operating expenses or vice versa. The methodology may also lead to some gold-plating (i.e. excessive investment in unwanted assets).

An additional disadvantage is that it is a complex task to determine a “fair” rate of return. There is always disagreement on what a fair rate of return should be from the utility’s and other stakeholders/consumers’ perspective. The utility’s management argues for a high rate of return while the consumers/other stakeholders argue for this return to be minimised. It is therefore important for the Regulator to determine the rate of return based on widely accepted cost of capital determination methods, together with a previously accepted set of weighted regulatory objectives.

- **Regulatory framework for Transnet**

In 2008, new regulatory initiatives were introduced for the rail industry, including the introduction of a safety regulator, and plans for the introduction of an economic and security regulator were initiated. It is estimated that 12% of the rail network is privately owned. The remaining 88% is owned by Spoornet, the rail division of Transnet. Spoornet has six operating divisions, as follows:

- **GFB Commercial**: the general freight business of Spoornet.
- **CoalLink**: a specialist bulk export line, connecting the Mpumalanga coalfields with the Richards Bay coal terminal.

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• Orex: the second Spoornet specialist bulk export line, covering 861km of track and connecting iron ore operations at Sishen with the Saldanha harbour.

• Luxrail: a luxury train operator. Luxrail operates the Blue Train and manages contracts on other luxury trains, such as the Spier and Rovos Rail.

• Shosholoza Meyl: an inter-city budget commuter rail service. Discussions are underway to consolidate this division with the SARCC/Metrarail, which will place it under the supervision of the Department of Transport.

• Spoornet International Joint Ventures: the division provides consulting services and operating stock to third parties, and operates in twelve countries in Africa.

At present, Transnet is the owner-operator of South Africa’s principal transport infrastructures, with its Freight Rail division owning and operating the South African freight rail network. Transnet itself is a statutory body, fully owned by government. In terms of s2 (3) of the Legal Succession to the South African Transport Services Act, 1989 (‘the Act’), the Minister of Public Enterprises “shall exercise the rights of the State as member and shareholder” of Transnet, whereas the South African Rail Commuter Corporation Limited (SARCC), which houses commuter rail assets, is administered as an agency of the Department of Transport. The network used by Metrorail is contiguous with the Spoornet network, and is owned by Spoornet. Access agreements govern the relationship between Metrorail and the Spoornet infrastructure.

Spoornet has a de facto monopoly over the domestic rail network. Although private rail networks are not expressly outlawed by legislation, there is no enabling legislation for such private investment. For example, Schedule 1 of the Act details the legal rights and obligations of Transnet in a number of practical areas, such as expropriation, the ability to remove obstructions from neighbouring property, and how and when to use a siren as a warning at level crossings. These rights and obligations are only of application to Transnet and do not extend to private operators. A private operator would thus be entering a
legislative vacuum, which would create a substantial competitive disadvantage in comparison to Spoornet.

In addition, Spoornet has a historical advantage against potential market entrants, in that it already has a rail network connecting major cities and ports. On some of this infrastructure, scarcity of suitable land would make it prohibitively difficult for a new entrant to provide a network of comparable functionality to the pre-existing Spoornet network. The only commercially feasible entry point for new competitors, particularly in GFB, would thus be to allow access to the Spoornet network.

Section S 17 of the Legal Succession to the South African Transport Services Act allows the Minister of Public Enterprises to intervene in the operations of Transnet if the company behaves in a manner which is contrary to the economic interests of the country. The only regulator currently operational in the rail sector is the Railway Safety Inspectorate (RSI), which came into operation in March 2006, in terms of the National Railway Safety Regulator Act, 2002. The RSI’s role is specifically to address safety issues in both freight and passenger rail. Two other regulators, namely a safety and economic regulator, are planned for the sector. However, at this time there is no indication as to when these entities will begin to operate.

Over most of its history, the South Africa transport sector has operated without an explicit, over-archong policy framework. In the words of the 1998 Moving SA policy document, this caused “components of the system... (to) maximise against an unintegrated set of constraints and towards an unintegrated set of objectives". Steps have been taken to remedy the policy deficit over the last decade. The National Freight Logistics Strategy (NFLS) comprises the bulk of current policy on the rail sector. The NFLS uses rail as an illustrative example of the kind of regulatory changes envisaged under the new strategy. A major increase in the number of regulatory agencies operating in the sector is planned, resulting in the following three regulators:
● “the Economic Regulator would regulate the economic efficiency of industries and the management of monopoly power, and ensure equal access to the infrastructure network;

● the Safety and Environment Regulator would regulate institutional and human capacity, standards and vehicular technology and operations, and also deal with issues of noise pollution, vehicle emissions, land development and usage, hazardous waste disposal and the internalisation of environmental cost on the ‘user pays’ principle; and

● the Security Regulator would regulate institutional and human capacity, standards, operations and general compliance with international safety requirements.”

Where the Department of Public Enterprises had initially been willing to privatise entities such as Telkom and South African Airways, for example, by 2004, the Minister of Public Enterprises had adopted a strongly anti-privatisation stance. The privatisation debate focused on improving efficiency via a strengthening of the profit motive. However, policy thinking on SOEs in recent years has concentrated more on their potential use as an instrument of the developmental state.

As a State Owned Enterprise, Transnet has only one shareholder, namely the government of the Republic of South Africa. The Minister of Public Enterprises undertakes the role of government as shareholder in the relationship with Transnet. For the 2006/07 financial year, Transnet and government entered into a shareholder’s compact, which formalises what government expects from Transnet management over the year. The shareholder’s compact mandates Transnet “to assist in lowering the cost of business in South Africa and enabling economic growth through providing appropriate ports, rail and pipeline infrastructure and operations in a cost effective and efficient manner and within acceptable benchmark standards.”

- The regulation of Airports and Air Traffic and Navigation Services
At the same time the Airports Company (APC) and the Air Traffic and Navigational Services Company (ATNSC) were created in 1993 a Regulating Committee was established. The Regulating Committee, on that date, also issued a first ‘permission to levy charges’ to each of the Companies, the conditions of which were agreed to by the relevant ministers and the chairpersons of the two companies, as provided for in the legislation.\textsuperscript{76}

The regulatory framework within which the APC and ATNSC are operating is defined in terms of the founding acts of the respective companies, the Memorandum and Articles of Association of the Companies, a Memorandum of Understanding (MOU) between the Government and the ATNSC, and the Companies Act (No. 61 of 1973). In addition, as far as fair trading legislation is concerned, the companies are subject to the Maintenance and Promotion of Competition Act \textsuperscript{77} (No. 96 of 1979). Also, the framework of safety regulation is contained in the Aviation Act (No. 74 of 1962). Essentially, what is done in the above legislation is to separate and define the fundamental roles of the various parties involved, namely the Companies, the shareholder, government as the technical (safety and security) regulator and the economic regulator (the Regulating Committee). Furthermore, the legislation defines the relationships between, and the functions of, each of these organizations. Intrinsic to the implemented structure is the approach to firstly separate the operational responsibility for airports and ATNS from government regulatory functions; secondly, to move the organizations responsible for operations out of the public sector, thereby freeing them from government budgeting, staffing and other controls; and, lastly, to create an economic regulator (the Regulating Committee) to act as a substitute for market forces with respect to services provided in a market where competition is not possible or difficult to obtain. All of this was aimed at improving efficiency in the delivery of services and eliminating the need for subsidization.\textsuperscript{78}

\textsuperscript{76}Prins and Lombard, ‘Regulation of commercialized state-owned enterprises’, p. 164.
\textsuperscript{77}Ibid., p. 164.
\textsuperscript{78}Ibid., pp. 164-5.
Firstly, the APC and ATNSC are to provide their respective services on a commercial basis. That is, they must operate the nine former State airports and the air traffic and navigation system on a financially self-sustaining basis and on full commercial principles. Secondly, the government, as sole shareholder, has an obligation to ensure that it earns a return on the money that it has invested in the companies. In contrast to this role, the government in its general capacity as protector of the public interest must ensure that the services are safe, that the companies do not abuse their monopolistic powers and that services are maintained at least at a minimum level at all facilities. In this regard, the Department of Transport is responsible for technical and safety regulation in accordance with international principles, while the Regulating Committee must regulate operations in a way that *inter alia* prevents monopoly abuse and ensures minimum service standards.\(^{79}\)

The regulatory framework is embodied in the rules governing a number of key relationships between the major role players. The relationship between the Company and the shareholder, the government, is primarily defined in the founding legislation of the Company as well as in the Companies Act, and in the Memorandum and Articles of Association of the Company, drawn up in terms of this Act. Fundamentally, the companies are to comply with the Companies Act as far as reporting to the shareholder is concerned, just like any other private sector company.\(^{80}\)

In addition to the above, an MOU was agreed upon between the ATNS Company and the shareholder. This defines on a more detailed basis, the day to day relationship between them in terms of financial reporting and corporate intent, with a view to facilitating understanding and minimizing unwarranted intervention. Such a MOU was not concluded between the APC and the government, mainly because of unwillingness on the part of the APC to enter into such a contract.

\(^{79}\)Ibid., p. 165.

\(^{80}\)Ibid., p. 165.
The primary instrument for communication between the Company and its shareholder is a five-year Business Plan, to be submitted annually to the shareholding minister. This Business Plan contains detailed financial targets for the Company and its management, as well as the corporate strategy. Management’s performance is measured according to its achievement of the targets set out in the Business Plan. The contents of the Business Plan are prescribed in the Memorandum and Articles of Incorporation of each of the Companies. It should contain at least the financial forecasts for 5 years, of which 1 year is forecast in detail and the next 4 years in less detail, the proposed charges for the services operated, a capital expenditure plan to provide future capacity, the details of any proposed curtailment or termination of services, proposed service standards and other elements.

It was foreseen that the Company would have to consult extensively with its users when drawing up its Business Plan. The Business Plan has also been used as a means of communicating information to the Regulating Committee.

The second important relationship is that between the Company and the Regulating Committee. The Company is not allowed to levy charges for its services unless the Regulating Committee has issued permission for the Company to do so. Business planning has to take place within the constraints of the permission. The permission therefore comes first and the Business Plan second. Consequently, the Regulating Committee which issues the permissions to the two Companies is in a very strong position.

The third relationship of importance is that between the Regulating Committee and the Minister of Transport. The Committee, although appointed by the Minister, operates independently. The Minister can only remove a member from the Committee in unusual circumstances related to the non-performance of or inability to perform duties. The Committee, once it has issued permission, may only vary the conditions of such permission with the approval of the Minister. The Minister may not initiate an alteration. The Committee is subject to ministerial decision only if a subsidy for services is at stake; such a subsidy will be for a specific service, it will be transparent and will be applied for by the Company with a
3-year notice period. The Committee is to recommend a course of action to the Minister who must decide what will be done.\textsuperscript{81}

The need for economic (as opposed to technical) regulation emanates from the nature of the services being provided by the APC and the ATNSC. The ATNSC provides air traffic control and air navigation services to aircraft in South Africa. The ATNSC is the sole provider of these services, at least as far as services at a specific airport is concerned. The ATNSC therefore holds a natural monopoly and may, unless otherwise restrained, exploit its monopolistic power. The APC operates both monopolistic aeronautical services such as the provision of landing, taxiing and parking facilities for aircraft, as well as the provision of terminal facilities to embark and disembark passengers and freight, and non-aeronautical services such as restaurants, lounges, and offices and so on. Again, if the company is not constrained as far as a pricing policy for monopolistic services is concerned, customers might be exploited. The Regulating Committee was therefore created to carry out broad economic regulation and hence to constrain the APC’s and ATNSC’s ability regarding the setting of charges for services classified as monopoly services.

The Regulating Committee is a statutory body consisting of a chairperson and four members, assisted by a secretariat. These members must be suitably qualified and have to act proactively. The majority of members must be from the private sector. Only a minority of members may thus be public servants. The Regulating Committee is appointed by the Minister of Transport. The Regulating Committee’s aims are stated in the APC and ATNSC. It shall perform its functions in such a manner as it deems is best calculated to:

- restrain the Companies from abusing their monopoly positions in such a manner as not to place undue restrictions on their commercial activities;
- promote the reasonable interests and needs of their clients;

\textsuperscript{81}Ibid., p. 165.
● promote the safe, efficient, economic and profitable use of their facilities and services;
● encourage timely improvement of facilities and infrastructure to satisfy anticipated demand; and
● ensure that the Companies are in a position to finance their obligations and have reasonable prospects of earning commercial returns.

In essence, the Committee aims to place restrictions on the Companies so that they will be encouraged to increase the efficiency of their operations without lowering the standards of their services or compromising the integrity of their business. The Regulating Committee is empowered to give effect to these aims in three ways. Through economic regulation it places limits on the amounts the Companies may levy in terms of specified charges. These limits may bear on the total amount raised through these charges, or refer to limits on individual charges, or be a combination of the two.

Each Company must be in possession of a valid ‘permission to levy charges’ for the monopoly services that they offer, as stipulated in the respective Acts. A ‘permission to levy charges’ is the main instrument used by the Regulating Committee to lay down an operating framework for the Companies. The permission incorporates all three aspects of regulating. Permission sets out the formula according to which the Companies may increase their regulated charges in the following years. Apart from explicit requirements concerning the service standards set out in the permission, these standards are also affected by matters such as capital expenditure, the maintenance of existing facilities and operational efficiency—all of which are incorporated in the tariff formula. Furthermore, in setting conditions for permission, the Committee is influenced by complaints from users. Such complaints are seen as an important feedback mechanism to establish the efficacy of regulation. At the heart of the ‘permission to levy charges’, lies the formula which prevents a company from increasing its tariffs above a specified rate. During the policy process, several alternatives for this formula were considered, ranging from indirect regulation (no formula but a reliance on general competition legislation) to rate-of-return regulation to price-cap regulation. Indirect
regulation was rejected because of the nature of the competition legislation in existence in South Africa and the perceived need for a more rapidly acting mechanism. Rate of return on capital employed was viewed as one of the functions to be considered in the regulating process but not as the controlling one.

The regulating process is encapsulated in the relationship between the APC and ATNSC on the one hand, and the Regulating Committee on the other. With the exception of the first permission (which was a special case as part of the start-up of the APC and ATNSC), the Companies must apply for a permission to levy charges every 3 years. The permission is then granted for a period of 5 years. An overlap of 2 years between permissions is therefore provided for. The contents of the permission for this overlap period may generally not be changed in the subsequent period. This is done to ensure a suitable planning horizon (varying between 2 and 5 years) for the companies. The Regulating Committee, on the basis of the application (which includes the company’s 5-year Business Plan) and any other information requested by it, evaluates all the factors that it considers relevant in the light of its basic mission.

- **Telecommunications regulation**

The primary Act of Parliament regulating the electronic communications industry in South Africa is the Electronic Communications Act 36 of 2005 (“the ECA”), which replaced the Telecommunications Act of 1996 (“the Telecommunications Act”) on the 19th July 2006. The ECA covers a wide range of issues, including: licensing, access, infrastructure rights such as way-leaves, the management and assignment of frequency, markets and competition, and universal service. Other legislation which impacts upon the sector includes:

- the Regulation of Interception of Communications and Provision of Communication-related Information Act, No. 70 of 2002 (RICA);
● the Competition Act, No. 89 of 1998;
● the Film and Publications Act, No. 65 of 1996;
● the Independent Communications Authority of South Africa Act;
● the Broadcasting Act, No. 4 of 1999; and
● the Electronic Communications and Transactions Act, No. 25 of 2002.

The Department of Communications (DoC) is responsible for setting electronic communications policy, overseeing radio frequency spectrum and representing South Africa in international fora such as the International Telecommunications Union (ITU). The Independent Communications Authority of South Africa (ICASA) is the independent communications regulator, set up and governed by the ICASA Act. The establishment of an independent regulator is a consequence of South Africa’s membership of the World Trade Organisation (WTO) and its accession to the Reference Paper to the Fourth Protocol on Basic Telecommunications which sets out requirements for signatories’ regulatory environments.

The Universal Service and Access Agency of South Africa (USAASA) was established under the Electronic Communications and Transactions Act to promote the goals of universal access and universal service in the under serviced areas of South Africa. Licensees are required to contribute to the Universal Service and Access Fund (USAF) which is intended for use in incentivising and subsidising the roll-out of electronic communications networks in under-serviced areas.

The Parliamentary Portfolio Committee on Communications exercises oversight over the above three entities. It has powers to conduct inquiries and subpoena documents.

In South Africa the incumbents are regarded as Telkom (fixed line) and Vodacom and MTN (mobile). A second tier of incumbent operators would include Neotel, Cell C and iBurst. The general interest of the first tier is the preservation of the status quo which favours them due to economies of scale and control of network infrastructure. These players generally seek to delay regulatory processes designed to stimulate competition.
The South African Government has taken policy decisions to intervene in the provision of electronic communications facilities where it is of the view that there is market failure. Broadband Infraco recently received an IECNS license and will be providing national long-distance and international cable services at prices based on a cost plus basis. Sentech is the national signal distributor and has been earmarked for the development of a national wireless backbone using WiMAX technology.

The regulatory landscape in South Africa received a significant jolt in January 2009 when ICASA issued infrastructure licenses – equivalent to those held by the incumbent – to some 543 value added network operators. Many of these are seeking to become telco competitors to the incumbents and therefore have an interest in the speedy and effective implementation of the regulatory framework set out in the ECA.

The registration and granting of electronic communications licenses in South Africa is performed by ICASA under the Electronic Communications Act of 2005. There are two main categories of service license available under the ECA:

- **Electronic Communications Network Service** licenses: these licenses authorise the holder to roll-out and operate a physical network. This network can be made up of any technology you choose: radio equipment (for a wireless network), copper cabling, fibre optic cabling, etc. ECNS licensees can also enter into commercial arrangements with other licensees to allow them to use the electronic communications network owned and operated by the ECNS licensee.

- **Electronic Communications Service** licenses: these licenses allow you to provide services to customers over your own or somebody else’s network. This will typically be the license held by an Internet Service Provider (ISP) which does not operate its own network or network facilities.

Individual Electronic Communications Network Service and Electronic Communications Service licenses are issued for twenty years. Class ECNS and ECS licenses are issued for
ten years. All of these license types can be renewed upon payment of a renewal fee. Annual license fees are set at 1.5% of Gross Profit (total revenue derived from licensed services less total costs directly incurred in the provision of such services). The calculation of the amount due must be based on audited financial statements (or sworn statements where audited statements are not required by law), which must be submitted along with the payment.

The term “access” incorporates:

- interconnection,
- facilities leasing, and
- essential facilities.

Under Chapters 7 and 8 of the ECA, every licensee is obliged to interconnect upon request and every Electronic Communications Network Service licensee must provide facilities, upon request, on terms negotiated, unless the request is unreasonable. ICASA may exempt licensees from their obligations, but only if they do not have significant market power (SMP).

Interconnection and facilities leasing agreements entered into between licensees must be filed with ICASA and require prior approval by the regulator before they can come into force. Under the Electronic Communications and Transactions Act, ICASA is required to finalise regulations which will give effect to Chapter 7 of the Electronic Communications and Transactions Act (Interconnection) and Chapter 8 (Facilities Leasing & Essential Facilities) and which will set out the manner in which disputes relating to the reasonableness of interconnection and facilities leasing requests are dealt with. Essential facilities are electronic communications network facilities which are of such a nature that they cannot reasonably be duplicated. These would include the local loop as well as international submarine cable landing stations and earth stations.

ICASA is mandated to perform a consumer protection role and to advance the interests of consumers of electronic communications in general. ICASA has not, in general, been
effective in this role. The objective of the Code of Conduct Regulations is to set acceptable standards of conduct for licensees in their dealings with consumers and to protect the rights of consumers in the electronic communications market. The Regulations are applicable to all Electronic Communications and Transactions Act and Electronic Communications Network Service licensees to the extent that they deal with consumers (i.e. natural persons including end-users who use and/or receive for their own use the service and/or products of a licensed service).

The purpose of the Service Charter Regulations is to set out the minimum standards to be observed by Electronic Communications Network Service and Electronic Communications Service licensees in providing licensed services. These standards relate to service availability, connectivity failure, the handling of complaints, times for installation and activation and times for fault clearance. Licensees must report to ICASA on their compliance every six months.

In December 2009 ICASA released a Draft Code of Conduct on the sale, lease, rental or subsidisation of subscriber equipment, intended for finalisation before mid-2010. The draft Code focuses on the protection of consumers in circumstances where they wish to enter into a service contract with a bundled or subsidized handset or other subscriber equipment.

The best service which ICASA could provide to consumers is to take steps to address the high cost of communication in South Africa. Under chapter 10 of the Electronic Communications and Transactions Act, ICASA is empowered retail price controls as pro-competitive license conditions in the licenses of licensees found to have Significant Market Power (SMP).

The awarding of frequency licenses is a competence held by ICASA. To date ICASA has followed a first-come-first-served basis but it will shortly finalise regulations setting out the mechanisms to be employed in assigning frequency in bands where demand exceeds supply. ICASA has issued regulations setting out bands which may be used without a frequency license, subject to certain technical restrictions.
ICASA is responsible for the management of the national numbering plan and the issuing of allocations of numbers to licensees. Only the holders of IECS licenses are entitled to allocations of numbers. Such entitlement includes geographic (fixed) and non-geographic (mobile, VoIP) numbers.

Both ISPs and Internet Cafés are required to register with the Film and Publication Board in terms of Section 27A (1) (a) of the Film and Publication Act. This is to assist the FPB in its attempts to provide South Africans with an opportunity to make an informed choice about the kind of movies and other content which they want to see.

1.3.6. Regulation of service standards

According to Prins and Lombard:

The necessity for the regulation of service standards is derived from the fact that, should the company be under pressure to increase its efficiency and to reduce costs, it could meet this by lowering the service standards of the monopolistic services it provides. For this purpose, specific services had to be identified and service standards specified. Two levels of regulation were identified. These are as follows: *Minimum standards* or standards that were attainable and in place before commercialization. These standards were applicable initially. *Desirable standards*, or typical international standards that are either prescribed by the International Air Transport Association (IATA), or that are attained at overseas airports.83

Once the standards have been set the respective Company is responsible for regular monitoring of service standards, e.g. every 3 months, and reporting thereon to the

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83 Prins and Lombard, ‘Regulation of commercialized state-owned enterprises’, p. 169.
Regulating Committee. These requirements are stated in the permission issued by the Regulating Committee to the respective Company. However, the Regulating Committee should also perform its own monitoring of service standards from time to time to ensure that the information submitted is correct, or otherwise to verify complaints received from users.\(^{84}\)

- **Technical regulations\(^{85}\)**

Technical regulations lay down compulsory requirements for product or service characteristics or their related processes and production methods and have specific administrative provisions and conformity assessment requirements with which compliance is mandatory with regard to safety, health, environmental control and consumer protection. The Department of Trade and Industry also developed a strategy towards a national technical regulatory framework for the country.\(^{86}\) The intention was to establish a common South African approach to the country’s technical regulatory responsibilities and to ensure that South Africa’s technical regulations comply with international requirements and were responsive to the changing needs of the economy. Technical regulations were seen to arise firstly because national economies recognise the obligation to protect human and animal health and safety and the environment, and secondly to maintain a balance between divergent interests, for example trade interests vs. protecting of domestic industries. Core principles for a national technical regulatory framework (NTRF) would include:

- transparency;
- the use of the least trade restrictive measures;
- internationally harmonised measures;
- necessity;
- proportionality; and

\(^{84}\) Ibid., p. 170.

\(^{85}\) This section is taken from Department of Trade and Industry, *Government strategy towards an efficient national technical regulatory framework (NTRF) for South Africa*, Government Printer, Pretoria, 2006.

• non-discrimination.

South Africa’s technical regulatory infrastructure includes the following institutions and legislation:

• National Standards Authority;
• National Accreditation System;
• National Metrology Laboratory;
• A wide range of accredited bodies including laboratories, verification, laboratories, certification and inspection bodies;
• Regulators (including government departments that are regulators); and
• Legislators.

Based on international best practice the main features of an efficient NTRF would include:

• Consultation and participation;
• The use of impact and risk assessment tools;
• Exchange of information;
• The codification of technical regulatory process as well as consultation and research processes;
• The use of performance based standards;
• Strong linkages between technical regulations and internationally harmonised standards;
• The regular review, update and modification of technical regulations to meet changing needs; and
Co-ordination amongst various institutions that are part of the technical regulatory infrastructure.

In South Africa various national line function departments are responsible for technical regulations. Due to the absence of a central coordinating system for technical regulations there appears to be some gaps and well as areas of overlap between national departments in respect of coverage. This suggests that the regulatory system is fragmented, that access to information on existing and proposed technical regulations may be problematic and that the system may be unpredictable and unclear. Although National Departments use stakeholder consultation processes when technical regulations are developed, there is no consistent national approach. The challenge for line function departments is to provide for balance and uniformity in terms of representation in consultation and to establish mechanisms and structures where gaps exist. Although a number of mechanisms exist to promote co-ordination amongst government departments, regulators and other technical regulatory organisations like the conclusion of bilateral memorandums of understanding, significant room for improvement exists in this area.

The strategy document stipulated that the Government would prioritise, resource and address the following gaps:

- The codification of technical regulatory processes which would cover checklists, manuals and guidelines on consultation processes. These codes will be developed as a priority to guide policy makers in developing, implementing and monitoring technical regulations.
- The establishment and maintenance of a compendium of technical regulations will be considered.
- Technical regulations have the potential to impact negatively on trade and investment and small businesses. Risk assessment and analysis will be used as tools to ensure effective technical regulations that are reasonable and practical.
A need has been identified for government support in order to provide training for technical regulatory officials that are responsible for the preparation of technical regulations. In this regard appropriate investment in information and human resources will be made.

Government intends to introduce a systematically organised technical regulatory reform process and will establish the necessary institutional arrangements in the course of this process.

The fact that both outcomes-based technical regulations as well as technical regulations containing prescriptive product characteristics are used in South Africa means that some trade restrictive forms of technical regulations may be in place and will be reviewed.

Stakeholder consultation mechanisms that are in line with international best practice will be introduced.

It was noted that best practice patterns in terms of technical regulatory approaches are evident in terms of transparency, the use of least trade restrictive forms of technical regulation and the use of internationally harmonised standards and technical regulations.

Transparency is considered to be one of the most important building blocks of a good technical regulatory system. The key elements of a transparent system are effective access to existing technical regulations and systematic information of technical regulations in the making. A transparent system also facilitates effective and appropriative participation by and consultation with stakeholders. The benefit of a transparent system is that it makes the technical regulatory system predictable and clear, thus providing for certainty.

The codification of the technical regulatory process, supplemented with policies relating to the technical regulatory activities and detailed guidance on processes could guide policy makers when they develop, implement and monitor technical regulations.
Regions that have successfully reviewed technical regulations made use of a stakeholder interaction approach.

In order to prevent unnecessary trade restrictiveness, policy makers increasingly use technical regulatory impact and risk analysis to inform their decision-making processes. Tools used to ensure consistent high quality and effective technical regulations include guidelines and checklists on consultation, impact and risk assessment tools, and research. These tools are often supported by training of the technical regulatory officials who are responsible for the preparation of technical regulatory impact assessments.

Coordination at interdepartmental level prevents duplication, inconsistency and incompatibility of technical regulations. The use of international performance-based standards as a basis for domestic technical regulations is recognised and accepted as best practise.

The document noted that it is difficult to identify clear patterns in terms of conformity assessment, as a variety of approaches to streamline conformity assessment processes are in use. Best practice approaches in the area of equivalence are also not forthcoming. The establishment of internationally recognised national accreditation mechanisms and networks are increasingly useful to enhance confidence in the efficiency of conformity assessment activities. These national accreditation institutions are actively establishing an international network that allows the acceptance of results and eliminate duplicative efforts. The aim of these streamlining efforts is to have a test-once, certify-once or inspect-once approach that is accepted by others. It also aims to introduce competition to the conformity assessment market and potentially reduces the cost borne by manufacturers in certifying and testing their products.

It was recommended that technical regulations should contain appropriate but flexible sanctions or remedies to enforce compliance and penalise non-compliance. Remedies may
include: fines, injunctions, corrective advertising, damages (private actions), withdrawal of products, product recalls, court enforceable undertakings, negotiated settlements and preventative actions by regulators. Some of these remedies may require that those suppliers detected as supplying non-compliant products incur substantial costs that may exceed any fines levied against them. For example, costs of withdrawing or recalling goods typically include: corrective advertising, loss of profits on withdrawn or recalled products, freight charges, repair costs and company downtime. Other costs include legal fees and additional loss of sales due to loss of reputation through bad publicity. These potential detection costs act as an incentive to suppliers to do the right thing and produce products that are safe and comply with technical regulations. Mechanisms will be introduced to ensure a consistent and balanced approach to the imposition of sanctions.

1.4. Conclusion

This survey of the policy and regulatory framework of state-owned enterprises in South Africa has demonstrated that SOEs are subjected to a range of policy and regulatory mechanisms.

In the first place, since the government is the main or only shareholder for most state-owned enterprises, it is also responsible for setting policy for them. Thus, state-owned enterprises are subject not only to the whole range of policies that affect institutions in both the public and private sector (such as affirmative action and BEE), but to many policies that are directed exclusively or primarily at government institutions as a whole. Thus, many policy documents of government departments contain reference to state-owned enterprises, and in particular to the manner in which they can contribute or inhibit the achievement of certain national or sectoral objectives. Although these policy documents often contain a set of similar roles that state-owned enterprises can play, such as promoting affirmative action and BEE, and of achieving certain objective, such as meeting the development needs of people
in the democratic South Africa, the role SOEs can play and the assistance they can provide in meeting certain objectives is not consistent across all policy documents that affect them.

Thus, Government policy can either limit or advance SOE activity. As we have seen, very early in the history of the democratic government serious consideration was given to the sale of state-owned assets. The primary objectives seem to have been to reduce government debt and provide funding for the Reconstruction and Development Programme. The emphasis here was on reducing state involvement in business enterprises, and this had the effect of limiting any expansionist objectives SOEs might have had. Another example of the way in which government policy can limit SOE activity is to be found in the GEAR policy. The emphasis the policy placed on fiscal restraint inhibited the activities of many of the large state-owned enterprises, which is reflected largely in a very low rate of investment in infrastructure at the time.

Perhaps one of the most important features of the policy environment for SOEs in South Africa is the recognition that they have a very important role to play in meeting many of the country’s social and economic needs. There is a clear recognition, beginning with the policies arising from the constitution, that SOEs can contribute to strategies aimed at promoting racial and gender equality, meeting the needs of the historically disadvantaged for jobs, land, housing, water, electricity, telecommunications, transport, a clean and healthy environment, nutrition, health care and social welfare, and promoting economic growth. This has been reinforced since the mid-2000s by the abandonment of policies that called for privatisation or commercialisation of state assets such as SOEs. There has been an increasing recognition that these assets are vital in particular in growing the economy and meeting the substantial backlog in the basic needs of the previously disadvantaged people of the country.

In the second place, the regulatory framework of a state-owned enterprise can also inhibit or advance its activities. The Government has also been responsible for putting in place the
regulatory framework that governs state-owned enterprises. These include those measures that are aimed at financial regulation, safety regulation and regulation of price increases. However, passage of legislation and introduction of mechanisms for regulation do not automatically lead to better regulation. An example given here is the acknowledgement in the Industrial Policy Action Plan which identified weaknesses in Technical Infrastructure systems, including the failure of regulatory authorities to enforce mandatory standards. In this case, the regulatory framework for technical standards needs to be reinforced by a common approach to applying the regulations.

The range of different regulations and regulatory authorities that apply to SOEs have been established for good reasons. For instance, pricing regulations are necessary to limit the actions of enterprises that are monopolies, particularly where their pricing activities have an effect on society and/or the economy as a whole. Similarly, regulation of standards is necessary to ensure that clients of state-owned enterprises are not negatively affected by a decline in standards. It has also been recognised that maintaining strict regulation of standards can increase the level of exports by ensuring that exports meet the high standards required by the country’s trading partners. Good corporate governance is widely recognised as having a number of positive effects for any enterprise. However, there are a number of constraints that regulatory frameworks such as the PFMA impose on SOEs. This is the subject of the next section.

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2. soeS policy FRAMEWORK and GOVERNANCE

2.1. Introduction

Corporate governance embodies processes and systems by which corporate enterprises are directed, controlled and held to account. Corporate governance in South Africa was institutionalised by the publication of the King Report on Corporate Governance in November 1994, which report has subsequently been superseded by the King Code of 2002 and that of 2009. The purpose of the King Report is to promote the highest standards of corporate governance in South Africa. The Code of Corporate Practices and Conduct contained in the King Report applies inter alia, to SOEs and agencies that fall under the PFMA87.

In 1994, the ANC (African National Council) sought to bring together a single framework recommendation of the many social welfare and uplifting proposals that it had championed. The result became to be known as the Reconstruction and Development Programme (RDP). The RDP is a set of goals championed by promises on policies and program proposals. Unfortunately, the RDP proved to be too large to handle as it overwhelmed the state's shallow managerial pool. In response to the abandonment of the RDP, a new program was set forth. Growth, Employment and Redistribution (GEAR)88 is a macro-economic framework to revitalize the economy and provide funding for the RDP. Constant restructuring and reforms are followed today, in order to ensure the success of each corporation and its shareholders.

88 In contrast to this political progress, in socio-economic terms the legacy of apartheid remains entrenched and, with the massive loss of jobs in the past decade, even appears to be worsening. Wealth is still concentrated in a white minority. The nature of capital remains largely the same - concentrated in the mining-finance complex, which continue to dominate the commanding heights of the South African economy. Serious inequalities persist, with signs of worsening particularly among the formerly oppressed. The number of people living in poverty is staggering. Almost half of the population lives in poverty, including many of the employed - the "working poor." Unemployment and underemployment are on the rise as more jobs are shed and people rely on survivalist activities to make ends meet. The complex nature of the transition emerged in deeply contradictory government policies.”

COSATU policy statement, July 2001
Improve access of the services previously unavailable in areas ravaged by the apartheid. These services include telecommunications and electricity. Increase efficiencies and reduced costs, in return, use revenues earned to reduce the public debt (Armstrong, et al, 2005).

However, COSATU says that GEAR has failed to deliver the promised economic and job growth or significant redistribution of income and socio-economic opportunities in favor of the poor. They say GEAR, with its focus on stringent monetary and fiscal targets, conflicts with the goal of the RDP of growth based on job creation, meeting people's needs, poverty reduction and a more equitable distribution of wealth. COSATU notes that the government is committed to increase spending on basic service and spending did increase between 1994 and 1996. A recent COSATU policy document concludes, "The GEAR brought about deep cuts in government spending between 1996 and 1999. As a result, efforts to improve services to the poor suffered, despite the continued reprioritisation of spending from the rich to the poor." The National Labor and Economic Development Institute (NALEDI), a COSATU formed research institute, says that the necessary preconditions for success did not exist in South Africa as a result "even though the national budget deficit was slashed, the positive consequences anticipated by GEAR did not result".

Rondinnelli (2007:21) argues that there is increasing evidence which indicates that most public enterprises either do not contribute strongly to development or perform their public service functions ineffectively and inefficiently. This is confirmed by the Public Enterprise Review Report’s assessment of state entities in South Africa which dictates that they are vulnerable to debt burdens, underinvestment, depreciation of assets, unimaginable corporate governance quagmires and corruption problems to mention but just a few; and thus undermine and frustrate the state intentions to achieve growth and development objectives.

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[89] But much remains to be done. The macroeconomic policy known as GEAR is seen by many as being in direct conflict with the goals of the RDP, the reduction of poverty and a more equal division of wealth. South Africa remains a divided economy with the vast majority of the poor being Black and most of the wealthy white. Economic growth is insufficient to reduce unemployment. Though jobs have been created in the informal sector they have been lost in the formal sector. Millions of people still need adequate housing, basic services and land. To achieve and maintain the goals set out in the RDP South Africa needs growth.

The report further alludes to the fact that the continued public ownership of these entities in their current state of affairs puts South Africa at risk in the global economic space, unless otherwise, the development, transformation, governance and ownership issues are brought to a resolve.

Against this milieu, the State President Jacob Zuma of South Africa, on the 12 of May 2010 publicly announced the appointment of the Presidential State Owned Enterprises Review Committee to review the role of these public entities. These sectors are principal drivers of the formal sector of the economy, and provide for the bulk of economic growth. Yet, they are in dire strait to respond to the developmental agenda of the state. Put in clearer terms, SOEs are the main entities that deliver many social goods and services to ensure quality of life of all South Africans, yet, they fail to respond to absolute maximum, the social and economic development mandate of the public. There are governance issues which pose a challenge to these State Own Entities.

The issue of shareholder board relationship even extending to the management of the SOEs is critical. If the relationship is not properly put under control, conflict of interest creeps in and put the whole SOE at risk. Shleifer and Vishny (1994) in Castro (2007:272) stress that political interference in the firm results in excessive employment, poor choices of product and location, lack of investments and ill-defined incentives for managers. Mugisha, Berg and Muhairwe (2006:9) state that a non-interference approach is fruitful if the agent, board, is highly competent, capable and committed in respect to fulfillment of corporate performance objectives.

2.2. State-owned Enterprises

State-owned enterprises are of extreme importance throughout South Africa. SOEs in South Africa are active in "key infrastructure and service industries including water, energy, financial services and transportation." These services are significant to all citizens' wellbeing as well as to the "competitiveness of upstream and downstream private sector companies and industries."

91 Statement by the Minister Collins Chabane on the T.O.R and Review Framework and Methodology of the Presidential SOEs Presidential Review Committee, Cape Town, 2010
Many South African citizens are employed by the major industrial sectors such as mining and textiles. State-owned enterprises, government departments and institutions have a significant role to play in the economy and transformation of South Africa. They must thus be efficient and well run with governance practices that are above reproach. Some of the challenges these entities face from a governance perspective are:

a) **Role clarity**: What is the role of the board of a state-owned enterprise vis-a-vis the responsible minister? Is the board in control of strategic decisions even in instances where they may have an impact on economic policy and national imperatives? How does government play its role as shareholder whilst enabling the board to run the business effectively? And what about government’s role as policy-maker in the broader legislative environment, which may then impact on the functioning of the state-owned enterprise.

b) **Leadership**: Is a special kind of leadership required for the effective performance of a state-owned enterprise?

c) **The independence of the board**: How can this be achieved in a context in which the responsible minister makes the appointments to the board of the state-owned enterprise? Can the board deal with undue political pressure? Also, what constitute political interference as opposed to political intervention by the Minister?

d) **Setting performance objectives**: How does the board of a state-owned enterprise achieve good financial performance whilst simultaneously delivering on national priorities such as access by communities to electricity or water? The balance between profiteering and transformation and social development is always a problem. In most cases, the SOEs either excel on one or the other and not both.

e) **Duties of directors**: Whose interests do directors of state-owned enterprises serve – government, the directors’ constituencies or the enterprise itself? Can stakeholders like members of the community, the labour movement and customers, influence the direction of a state-owned enterprise without diluting the board’s accountability to act in the best interest of the company?

f) **Transparency**: Is there an obligation on state-owned enterprises to be more transparent than other companies: How does one reconcile the need for public accountability and transparency with the imperative for commercial confidentiality?
g) **Public procurement**: What are the essential elements of the procurement process that is efficient and minimises the risk of corruption?"

These issues lie at the heart of improved governance in state-owned enterprises and fundamentally influence their performance."}^{82}

### 2.3. Protocol on Corporate Governance

The first protocol on corporate governance was published in 1997 and revised in light of the King Code in 2002. It was intended to provide guidelines to state-owned enterprises on the implementation of corporate governance, as well as to provide a consistent standard for all state-owned enterprises to adhere to.

Public Finance Management Act (PFMA). King III like King I and King II, does not carry a legal standing, yet is a corporate protocol. It is always argued that its corporate values are embedded in the PFMA and SOEs should comply with the King code. The PFMA as amended by Act No. 29 of 1999) is aimed at securing accountability and sound management of the revenue, expenditure, assets and liabilities of public sector institutions. It applies to government departments, public entities (which include state-owned enterprises) listed in schedule 2 or 3, constitutional institutions, parliament and the provincial legislatures. The PFMA specifies the fiduciary duties and general responsibilities of governing bodies, heads of departments, accounting officers, managers and employees of boards or the accounting authorities, and provides for personal liability where legislative duties are breached.

It is argued that the PFMA does not provide flexibility as opposed to business environment. It is further argued that PFMA is very good for a government department which is mainly driven by expenditure and not profiteering motives. Commercially driven entities cannot survive the demanding procurement process of the PFMA hence a call for exemption. Of course, this matter is arguable on both sides of the spectrum, as it is a matter of proper PFMA scheduling. It is also prudent not to rush for a rescheduling but first to check whether there is a need for review of classification depending on whether the entity plays in the commercial space or not or whether the entity actually is comfortable with the grant from the

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government or whether the entity can rely heavily on its own balance sheet sustainably. This is food for thought, as both sides of the spectrum have pros and cons.

### 2.4. SoEs under Dept. of Public Enterprises

The Department of Public Enterprises is the shareholder representative for government with oversight responsibility for SOEs such as Alexkor; Broadband Infraco; Denel; Eskom; Pebble-Bed Modular Reactor; South African Airways; South African Express Airways; South African Forestry Company; Transnet to name the few.

The role of the department is to ensure that SOEs provide economic growth and give South Africa a cutting edge in the development of key infrastructure and manufacturing capacity.

It monitors performance with regard to:

- Infrastructure investment and delivery
- Operational and industry efficiency
- Financial and commercial viability
- Governance and regulatory compliance.

Optimal excellence and quality service delivery demand that public entities share the same vision of the department, and are responsive to the developmental agenda.

The Medium Term Strategic Framework (MTSF) for 2009/14 states the need to review the SOEs as part of the economic transformation agenda. The MTSF also states the need for government to integrate SOEs into the planning processes and improve the monitoring and evaluation of their performance.

In 2010, President Jacob Zuma appointed the Presidential Review Committee to conduct a review of SOEs and, among other things, to determine how government can strengthen alignment between its development objectives and the strategic role to be played by SOEs in the economy.\(^93\)

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2.5. The purpose and the principles of the Policy on Corporate Governance of SOEs

The objective of designing a Policy on Corporate Governance of SOEs (hereinafter referred to as the Policy) is to ensure efficient implementation of the principles of economy, efficiency, effectiveness and transparency as well as to determine the accountability and powers of individual state bodies.

The purpose of the Policy is to develop and implement governance of SOEs in compliance with the principles of economy, efficiency, effectiveness and transparency; and the same also applies to the operation of the SOEs. In managing assets, SOEs together with the State should implement the guidelines stated in this Policy in a responsible way and in the public interest, and not in the interests of private objectives of political parties, coalitions, management and supervisory bodies or other private interest groups. The foundation of good corporate governance of SOEs is to maximise the value of assets and to exercise the best economic governance possible on SOEs founded to provide services in the public interest.

2.6. The function of the State

The State mainly performs the following functions: of the owner, the regulator, the portfolio investor, the guardian of competition, the guarantor of public services, the promoter of the development, the guardian of the environment, the grantor of concessions. For the efficient implementation of the ownership policy, a system of state ownership function implementation needs to be duly organized. In compliance with the recommendations made both by the OECD and King Code, the role of the State as the owner of enterprises needs to be separated from the role of the State as the market regulator or the role of the State as the sector guardian for the development of individual industry sectors (implementation of sectoral policy). Sectoral policy is developed by sector ministries, and through this they determine the guidelines for the development of the individual industry sectors; they develop the State's objectives in relation to its investments; they develop industry legislation; and they define measurable objectives for determining the operational performance of SOEs and the development of individual industry sectors. This separation, however, does not prevent
any necessary co-operation between the two above mentioned functions. If the functions are not separated, this may lead to conflicts of interest between the sectoral policy and the State’s ownership function, in particular, if accountability for the sectoral policy and the ownership functions is implemented by the ministries responsible for the same activities or sectors.

The State is an important market player and an arbitrator in assessing whether legislative provisions are respected. Full administrative separation between responsibility for the property and market regulation is therefore the basic pre-condition to create equal opportunities for the operation of SOEs and private companies as well as to prevent distortions of competition when operating under market conditions.

In strategies prepared by sector ministries, reasons for the State’s ownership in SOEs and the State’s objectives (of ownership and in the public interest) should be clearly defined, well-grounded and measurable. Objectives may be merely of an ownership nature (such as for example profitability, economic viability, productivity) or they may be set with a view to achieving public interests (such as for example public services, public utility services, other activities in the public interest, monopolistic and other regulated activities). Therefore, in their sectoral policies, the sector ministries should determine priority tasks whereby they should avoid interventions into the management of SOEs and thus respect the autonomy of SOE’s governance.

2.7. Basic Guidelines on the Corporate Governance of SOEs

The aim of the OECD Principles is to assist the governments of OECD countries as well as the governments of the countries which are not yet members of the OECD in their efforts to evaluate and improve their legal, institutional and regulatory framework on corporate governance in their countries and to provide guidelines and proposals for stock exchanges, investors, enterprises and other parties involved in the development of good corporate governance. The principles are focused on publicly traded companies. In individual cases, the Principles may also be a useful tool to improve corporate governance in enterprises not traded on the stock exchange, both for private and state-owned companies. The Principles provide a common basis which, according to the opinion of the OECD countries, is essential for the development of good corporate governance practices (Mesnard, 2005).
The Principles are not binding and their intention is not to give detailed instructions for national legislation. Principally, they try to define goals and propose various ways of achieving them. The Principles should serve as the source of recommended actions. They may be used by policy-makers in developing and verifying a legal and regulatory framework for corporate governance in which the economic, social and cultural characteristics of an individual country are reflected, and also by various market players in developing their own practices.

The OECD Guidelines on Corporate Governance of State-Owned Enterprises define and demonstrate ways of balancing between the State’s responsibility to actively implement its ownership functions (such as selection and nomination onto supervisory boards) while at the same time resisting inappropriate political interference in the governance of these enterprises. The Guidelines explain that in markets where private companies compete with state-owned companies there are equal opportunities; and also, that by the method in which the States apply their legislative and supervisory powers, they do not distort the competition. The Guidelines suggest that the State should exercise its ownership function through a centralised ownership unit which needs to operate independently and in compliance with its publicly disclosed ownership policy. An important element is a strict separation of ownership and legislative functions of the State. In this way the State’s ownership is exercised in a professional and responsible manner, and the State holds a positive role in improving corporate governance in all sectors of the economy (Klapper and Love, 2002).

The Guidelines also propose that the policy-making in regard to the State’s ownership steering should be publicly disclosed and that the State should prepare annual reports on policy implementation as well as aggregated reports on the SOEs’ performance in order to ensure better transparency of corporate governance of SOEs. An important element of good corporate governance, as emphasised in the guidelines, is the responsible conduct of SOEs’ supervisory and management bodies; the same applies to the relation between the State as the shareholder and these bodies.
The Guidelines are specifically dedicated to issues characteristic of the corporate governance of SOEs, and discuss these questions from the point of view of the State as an owner while also focusing on policies that would provide good corporate governance of SOEs. At the same time, the OECD Guidelines do not oppose various policies or privatisation programmes carried out by the OECD countries (Oman, 2001).

### 2.8. King III

The Institute of Directors in South Africa published the King Code of Governance for South Africa 2009 (King III). It is seen as one of the most important advances in corporate governance in years.

A feature article in the February issue of Internal Auditor discussed some of the elements of the code, particularly the increased expectations of the internal audit function. It heralded that “South Africa’s King III report anoints internal auditors as central to their company’s governance activities and an essential part of business strategy.” PricewaterhouseCoopers also published an excellent report on the code, King’s Counsel: Understanding and Unlocking the Benefits of Sound Corporate Governance.

South Africa is one of the several countries (including the United Kingdom) who use a “comply-or-explain” approach: corporations are expected to comply with the provisions of the nation’s corporate governance code, or explain in their annual reports why they do not. Although compliance is voluntary, it sets the bar for companies in South Africa.

The code includes a general discussion, followed by a schedule of principles and recommended practices. King III says governance “is essentially about effective leadership; such leadership is characterized by the ethical values of responsibility, accountability, fairness, and transparency, and based on moral duties.” The first principle in the code is “The board should provide effective leadership based on an ethical foundation.”

It also focuses on sustainability, which it says is the “primary moral and economic imperative of the 21st century.” King not only advocates a focus on sustainability by corporate boards, but presses for integrated reporting of financial and sustainability information.

The section on internal auditing emphasizes the need for it to be risk-based. It includes this important paragraph:
“A compliance-based approach to internal audit adds little value to the governance of a company as it merely assesses compliance with existing procedures and processes without an evaluation of whether or not the procedure or process is an adequate control. A risk-based approach is more effective as it allows internal audit to determine whether controls are effective in managing the risks which arise from the strategic direction that a company, through its board, has decided to adopt.”

The above paragraph is followed by this key requirement:

“Internal audit should be risk-based and every year the internal auditors should furnish an assessment to the board generally on the system of internal controls and to the audit committee specifically on the effectiveness of internal financial controls. The audit committee must report fully to the board on its conclusions arising from the internal audit assessment. This will give substance to the endorsement by directors of the effectiveness of internal controls.”

This next principle lies at the heart of governance, risk, and compliance (GRC): “The board should appreciate that strategy; risk, performance, and sustainability are inseparable.”

It is at the heart of GRC, as when we talk about risk we are talking about risk to the achievement of strategy. Performance is the measurement of achievement of strategy. Mention of sustainability reflects the King belief that financial performance alone is not sufficient the corporation also has to be a good citizen.

Finally, the King comes down on the side of separating the role of CEO and chairman of the board: The board should elect a chairman of the board who is an independent nonexecutive director. The CEO of the company should not also fulfill the role of chairman of the board.

2.9. **Key functions of SOEs bodies**

The corporate governance policy of individual SOEs should ensure strategic guidance of the enterprises, efficient supervision of management boards through supervisory boards and accountability of management and supervisory bodies in relation to the enterprise and

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94 https://ww2.pwc.co.za/generalpopup_KingIII.php?keepThis=true&pub_name=Executive%20Guide%20to%20King%20III&TB_iframe
shareholders. The SOEs bodies should carry out their functions in a transparent manner; the data of each enterprise should be publicly available.

Corporate governance is a system of legislation, autonomous resources, institutions and concrete processes and practices which determine how SoEs are managed, governed and supervised. Corporate governance also determines relations among interest groups (stakeholders) and objectives according to which the SOEs operate.

The management board should have the appropriate diligence, professionalism and act in the best interests of the company and shareholders and following high ethical standards. When management decisions may influence different groups of shareholders in a different way, management should provide impartial treatment to all shareholders. Management should fulfill certain key functions such as assessing and leading company strategy, risk management policy, annual budgets and business plans, determining the objectives of business performance and monitoring their execution, control of the main investment projects and others.95

The SOEs' supervisory board, inter alia, controls the management of the company's operations, controls and verifies annual reports, requires additional information from the management board, convenes general meetings, and together with the management board defines strategic objectives and monitors their implementation, nominates and discharges members of the management and the CEO and verifies their remuneration.

The members of the supervisory boards are not bound by the instructions of owners by whom they were nominated not even in the case of the State. In performing their tasks, the members of management and supervisory boards must act with the due diligence of careful and well managed best interests of the company and all its owners and protect the company’s business secrets; they are also committed to respect the policy and its implementing measures as well as the SOEs' code. The members of the management and supervisory boards are liable for unlimited damages with their own personal assets for the

harmful consequences of their decisions, since they bear joint and several liability for the damage that may arise as a consequence of breaching their duties (except if they prove that they carried out their tasks fairly and diligently). The central unit shall be liable for the consistent execution of their duties or penalizing them over any liabilities\textsuperscript{96}.

The State should ensure that the management and supervisory boards have complete autonomy and independence in performing their tasks and should not interfere in their business decisions. The State shall exercise its ownership function at the general meetings of the companies.

2.10. The State’s responsibility and its role in SOEs

The reason for State ownership in companies differs from industry to industry; in most cases it is a result of social, economic, public and strategic interests. Reasons therefore include sectoral policy, regional development, public provision of commodity goods and the existence of so-called “natural” monopolies.

Globalisation of markets, technological changes and deregulation of previously monopolistic markets have led to the adaptation and restructuring of sectors owned by the State. The Policy establishes the legal and regulatory framework for SOEs which ensures a level-playing field in markets where SOEs and private sector companies compete in order to avoid market distortions. There is a clear separation between the State’s ownership function, which will be exercised in the central unit, and other State functions (market regulator, formulator of sectoral policy) that may influence the conditions for SOEs, particularly with regard to market regulation. Regarding access to finance, SOEs will not be put in a privileged position but will have to face competitive conditions, since their relations with state-owned banks should be based on purely commercial grounds.

The State will act as an informed and active owner and in compliance with a clear and consistent ownership policy ensure that the governance of SOEs is carried out in a transparent and accountable manner, with the necessary degree of professionalism and effectiveness. The State will not be involved in day-to-day management of SOEs and will allow them full operational autonomy. The State will thus let SOEs management and

\textsuperscript{96} OECD Proceedings, “Corporate Governance and State-Owned Enterprise”, Paris, 2010
supervisory boards exercise their duties and responsibilities and respect their independence. The State as an active owner will exercise its ownership rights according to the legal structure of each company, facilitated solely through the central unit.

It is in the interests of the State that all shareholders in SOEs are treated equally, and to ensure equitable treatment for minority shareholders. Whenever a part of the SOEs’ capital base is held by private shareholders, whether they are institutional or individual, the State will have to recognise their rights. It is in the interests of the central unit and SOEs themselves that minority shareholders are protected from abusive action by controlling shareholders.

2.11. Governance versus socio-economic balances: Case studies

Transnet Case study- Transnet dominates the South African transport industry. Incorporated in 1990, it comprises 13 companies involved in multi-modal transportation and related services, and has over 100 000 employees. Government is the main shareholder. Transnet contributes 3, 2% to GDP. Its total operating assets were valued at R43 billion in 1998, its turnover at R22 billion, its profit after financing costs (but excluding pension fund interest charges) R2, 2 billion, and its capital expenditure R2, 9 billion.

A White Paper on National Transport Policy was released by the Department of Transport (DoT) in August 1996, followed in September 1998 by the release of Moving South Africa, which is a 20-year strategy for transport in South Africa to achieve the goals of the White Paper.

One of the major goals is "to improve South Africa's competitiveness and that of its transport infrastructure and operations through greater effectiveness and efficiency to better meet the needs of different customer groups, both locally and globally". To achieve this, it would be necessary to ensure that the region's competitive advantages could be accessed and marketed. The White Paper notes that inter-modal co-ordination, co-operation and sharing of information is encouraged in both infrastructure provision and operations to optimise customer service, reduce duplication, reduce destructive competition, minimise total costs, and maximise social and economic return on investment.
The White Paper noted that in the past, Government's dominant role has been that of a regulator of bureaucratic detail, a provider of infrastructure, and a transport operator, but that it has been weak in policy formulation and strategic planning. Government's intention is to reverse this legacy and to focus on policy and strategy formulation and substantive regulation with a reduced direct involvement in operations and the provision of infrastructure and services\(^7\). 

“As a State Owned Enterprise, Transnet has only one shareholder, namely the government of the Republic of South Africa. The Minister of Public Enterprises undertakes the role of government as shareholder in the relationship with Transnet. For the 2006/07 financial year, Transnet and government entered into a shareholder’s compact, which formalises what government expects from Transnet management over the year. The relationship between the owner of a firm and the management of a firm is often characterised by conflicting interest, as suggested by principal-agent theory. The owner of a firm tries to incentivise managers to behave in ways that are beneficial to the owner, both via positive incentives such as performance linked bonuses, for example, and via negative incentives, such as the threat of being fired. In the private sector, the goals of management are usually fairly simple – all that is required is profit maximisation. However, Transnet is being asked by the shareholder according to the compact to maximise a number of potentially conflicting goals simultaneously – for example, profitable revenue growth, while helping to keep prices in the sector at reasonable levels. Transnet’s managers are also exposed to changes in political strategies, which mean that the goals they are asked to meet can change from year to year. These factors can make managers at SOEs resistant to shareholder influence. In particular, if policy goals have changed enormously over time and have sometimes been internally inconsistent or contradictory, the best strategy for management may be passive resistance, in order to prevent too much damage to the underlying business from destructive political objectives. There is no clear evidence that the shareholder relationship between government and Transnet has deteriorated but this poses a high potential risk” (Truen, 2008).

According to Nellis (2006) in Balkaran (2008:4) the failure of SOEs is rooted in the multiple and conflicting objectives mandated to them. Nellis explains that governments often decree that their SOEs operate in a commercial, efficient and profitable manner, but at the same time they insist that SOEs provide goods and services at prices less than cost-covering, serve as generators of employment, receive their inputs from state-sanctioned suppliers, and choose plant locations on political rather than commercial criteria. First, politicians and officials do not act as profit-motivated shareholders. Instead of pressuring the company to increase sales and reduce costs, they pressure it to pursue noncommercial goals. Second, the government faces a conflict of interest that undermines the quality of the policy. For example, the government, in the absence of independent regulation, can get away with regulating the sector in an arbitrary manner. It is for this reason that ultimately, the very nature of the sector makes it particularly susceptible to political pressures which amounts to profit loss and vulnerabilities.

Another typical example of interference is that of Italy. The persistent political interference in state-owned companies—including railways, postal service, and public transport, among others—has significantly hampered their productivity, efficiency, and profitability. One government-owned US rail operator relies on government support in excess of $1 billion a year to cover its costs, in part because of government-mandated obligations to serve unprofitable routes. Similarly, the World Bank has concluded that, in emerging markets, a banking sector dominated by state-owned firms poses a threat to economic development and stability—as preferential lending and patronage creates market distortions and chases away private competitors Despite this relatively favourable starting point, governments will have to resist the temptation to interfere politically, particularly as elections approach and regarding bailed-out companies that must be held for longer periods of time. But on that score, governments can learn from a number of countries, such as Sweden and the United Kingdom, on what safeguards should be put in place to enhance their ability to oversee these enterprises at arm’s length. Wong, 2009:1-2).
Thus strict adherence and enforcement of corporate governance principles is required. While it is acknowledged that in a developing country there may be socio-economic initiatives that government wants to undertake and implement through SOE, there should be clear transparency, accountability and empowered decision making by the SOE on these issues. The ability of successful SOE in countries such as China, India, Malaysia and Indonesia to balance successfully between government socio-economic directives and maintaining a competitive and financially successful SOE requires further study. In particular, Petronas’ ability to navigate government requirements to fund what appear to be unviable projects and yet manage to turn those into profit also requires further scrutiny. In South Africa, for example, a lack of co-ordinated and integrated plans from the South African government and an inability to balance its different roles as policy maker, regulatory and shareholder is evident (Fikelepi, 2010:115-116)

**Eskom case study**- The dominant electricity utility in South Africa ranks among the world’s top five in terms of capacity. Its regulated business is structured into three main groups, namely generation, transmission and distribution, each of which is a ring-fenced business. The 1998 White Paper on Energy Policy (DME, 1998) sets out the policy objectives of the energy sector as follows: Increasing access to affordable energy services; improving energy governance; stimulating economic development; managing energy-related environmental impacts; and securing supply through diversity. The White Paper supported taking gradual steps towards a competitive electricity market in the short term while investigation into the desired form of competition was completed. It stated that, from an energy point of view, natural gas is an attractive option and that government was committed to the development of this industry. It is legislated for the transmission, storage, and distribution and trading of piped gas. A National Electricity Regulator (NER) was established in 1995 to regulate pricing, national tariff systems, and national service and technical standards.

**Denel:** There has been an increase in joint development programmes between countries and companies to share costs with regard to defense strategies and acquisition. Mergers

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and acquisitions have increased the average size of companies while decreasing their numbers. Many defense companies have either downsized or closed altogether. Denel is the major player in South Africa's defense industry-related organizations, having about 50% of defense industry turnover. Denel dominates four of the seven major areas of the domestic defense market, namely aerospace, ammunition, weapons systems and military vehicles. Denel comprises a holding company structured into three main groups: Aerospace, Ordnance, and Commercial and IT Business. In order to compensate for the decline in South African defense spending, Denel embarked on a major drive to increase exports of military products and services, and also initiated a major diversification and commercialisation drive. It had reasonable success with commercialisation in the areas of information technology, properties and electronic manufacturing.

The Denel Aerospace Group consists of Denel Aviation, Kentron, DPS (Pty) Ltd and OTB, the test range at Arniston. Denel Aviation, in turn, consists of three business units: Military Aviation, Airmotive and Transport Aircraft Maintenance. It has been recommended that an international equity partner be sought for Denel's aerospace business. The 1999 White Paper on South African Defense-Related Industries (Department of Defense, 1999) uses the term "defense-related industries", since there is a growing tendency for companies producing defense equipment to make use of civilian technologies or to manufacture dual-use products that can be sold to both defense and non-defense markets. There is also increasing overlap between defense and civilian production within companies.

Government recognises that defense-related industries are an integral part of South Africa's defense capability. Government also recognises the strategic value of having a local defense industrial capability. However, due to budgetary constraints, and within the framework of broader national industrial strategy, Government will be very selective of which technologies and capabilities are to be retained on the basis that they are strategic or that they constitute a national asset. The White Paper also states that various broad government goals should be considered when restructuring defense industries. Government needs to articulate a clear vision for the future of defense-related industries, in particular the extent to which it is prepared and willing to support these industries. The White Paper further notes that a
Restructuring of the public sector defense-related industries, including complete or partial privatization, will have a profound effect on the nature, composition, ownership, structure and profitability of the domestic defense market. Government will therefore have to consider how such restructuring will impact on private sector defense-related industries. Government should not, however, dictate the nature, pace or process of the restructuring of the latter industries, which may occur as a result of the restructuring of the public sector industry.  

**Road Traffic Management Corporation:** Road Traffic Management Corporation wasted millions in mismanagement. Transport Minister Sibusiso Ndebele says the RTMC wasted millions in irregular procurement, over-time abuse and bad HR policies. The Road Traffic Management Corporation (RTMC) wasted millions of rands in mismanagement, irregular procurement and over-expenditure, among others, Transport Minister Sibusiso Ndebele said on Thursday. Ndebele told journalists in Pretoria one of the key findings of an investigation into allegations of mismanagement at the RTMC was an irregular lease agreement of R658 million over 10 years, which resulted in an actual loss of R11 million. The task team was appointed on February 8 to investigate allegations of mismanagement, as well as issues relating to leadership, governance, business and finance at the RTMC under former CEO Ranthoko Rakgoale.

“Mr Rakgoale was subsequently suspended and Mr Collins Letsoalo, deputy director general: financial services at the department of transport, was appointed acting CEO,” said Ndebele. Riah Phiyega, former group executive for Absa bank and Transnet who chaired the task team, outlined the report, saying allegations included that eNaTIS transaction fees were used to fund over-expenditure, irregular purchases of IT “infrastructure” (R11 million) and an accident reporting system (R85 million over a two-year period). The project was stopped which resulted in a confirmed loss of R65 million.

It was also alleged there had been irregular contracting of suppliers for an IT help desk and internet management system at R9 million. The team confirmed R300 million of the eNaTIS fees were used to fund over-expenditure. “This money was not stolen. The findings relate to not following directives to transfer money to the department of transport (DOT), and knowingly using dedicated resources inappropriately,” says Phiyega in the report. The report

also confirmed irregular spending of R9 million on the hosting of an international conference in Cape Town, substantially in excess of the budget, which was considered fruitless and wasteful expenditure. Other findings included the unauthorised expenditure of R1.4 million as well as VAT abuses, and R13.3 million spent on unnecessary financial management services.

It also partially confirmed the irregular contracting of suppliers, to the value of R3 million, for the evaluation of Electronic Vehicle Identification technology of which the deliverables were questionable, and the awarding of a bid of R34 million for an Enterprise Resource Planning system which was inappropriate for an organisation the size of the RTMC. The report, which was handed to Ndebele on Tuesday, made several corrective recommendations, which included a review of the RTMC Act and steps to be taken to rectify a funding shortfall in the organisation.100

2.12. Governance and Remuneration

The review noted the importance for companies to take steps to ensure that remuneration is established through an explicit governance process where the roles and responsibilities of those involved are clearly defined and separated, and with remuneration outcomes decided through a transparent and robust process. The most common approach among OECD countries is for the legislation to provide some degree of prescription as to how the process of remuneration setting is governed, normally in terms of assigning responsibilities amongst company organs and, less frequently, by mandating certain criteria for independence. In relation to the former, Principle II.C.3 recommends that “shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval”. Thus, the principle has two separate components: (i) some form of shareholder engagement on remuneration policy for both boards and

100 http://www.businessday.co.za/articles/Content.aspx?id=116478
executives and (ii) explicit approval of any share based schemes (OECD Peer Review, 20101:8, 13).

![Companies Disclosing Share Based Remuneration](image)

Seen from the above bar chart, recognition of the need for effective disclosure of remuneration and incentive arrangements for directors and executives was a key outcome of the Committee's work on corporate governance and the financial crisis. While Principle V.A.4 provides that “disclosure should include material information on remuneration policy for members of the board and key executives” one of the Key Findings was that “transparency needs to be improved beyond disclosure. Corporations should be able to explain the main characteristics of their performance related remuneration programs in concise and non-technical terms. This should include the total cost of the program; performance criteria and; how the remuneration is adjusted for related risks.” The annotations to the principles also make clear that of particular interest is the link between remuneration and company performance. Companies should be expected to disclose information on the remuneration of board members and key executives so that investors can assess the costs and benefits of remuneration plans and the contribution of incentive schemes, such as stock option schemes, to company performance (OECD Peer Review, 20101:18).
2.13. Universal governance challenges of SOEs

There is no way to talk about governance without reflecting on leadership. In actual fact, leadership is inherent in the governance. Fikelepi (2010: 117) argues that South African SOEs lack good leadership, technical competence or commercial focus. The leadership appears unable to understand, anticipate and exploit the SOE’s external environment for superior performance. While some SOEs may have some or one of the above elements, SOE leadership appears unable to conduct strategic management by combining the SOE’s resources with its inimitable core capabilities and take decisions and exercise judgment and discretion to gain competitive advantage and sustainable superior performance.

Forfas (2010: 23-24) states that it is important to recognise that many of the problems/complexities faced by large SOEs and large private sector firms are often very similar (e.g., banks). Internationally, the challenges in terms of management of SOEs concern the following:

- The **principal - agent problem**: SOEs are not run by their owners. Unable to monitor them perfectly, the owners cannot tell how much of performance is due to managerial failure or external factors. This means managers may not have strong incentives to maximise efficiency and the value of the business and may put in sub-optimal efforts.
- The **free-rider problem**: SOEs have numerous owners (all citizens). No individual owner (citizen) has the incentive to monitor the SOE managers as the benefits from
- 30 OECD, Working Group on Privatisation and Corporate Governance of State Owned Assets, 2009,
- Privatisation in the 21st Century: Recent Experiences of OECD Countries Report on Good Practice. See
- The **soft budget constraint**: Being part of the State, SOEs may ultimately be able to secure additional financial assistance if their operational performance is poor, investments do not deliver an adequate return and/or they are unable to meet their
liabilities – including significant pension’s liabilities for some companies. This safety net may have a detrimental impact on management practices or alter risk appetite. Because State-owned companies are unlikely to be subject to insolvency proceedings or the threat of takeover by a rival firm they are removed from the kinds of competitive forces that face private companies.

Accountability and performance may also be hindered by ambiguity surrounding the interaction between SOEs and the political system. Problems arise due to poorly defined non-commercial objectives which are imposed on SOE management, and an absence of transparency in setting goals and evaluating outcomes. Cross-subsidisation between units of SOEs which are monopolies and business units which operate in competitive markets can also damage overall economic efficiency by distorting competition.

2.14. **Recommended clearer governance framework**

According to Forfas (2010:27), State-owned enterprises are often required to implement multiple and sometimes conflicting objectives, i.e., to achieve loss-making public policy goals (e.g. universal service obligations, uniform tariffs irrespective of the costs of provision) while operating commercially. While there is nothing inherently wrong with an SOE serving multiple goals, this can affect performance negatively if the goals and the relative priority among them are left unclear. Internationally, the evidence suggests there is potential to implement clearer governance structures by:

- establishing a single, competently resourced centralised agency (or unit) which is a model increasingly being adopted across the OECD. This unit, drawn largely from pooling existing resources and expertise, would be dedicated to SOE supervision which could improve the State’s ability to exercise ownership efficiently and monitor companies under its ownership; and,
• separating clearly the policy, regulatory and shareholder functions to ensure greater transparency and more conscious decision making where conflicts between goals exist.

Forfas (2010:5) further alludes that many of the governance challenges faced by large SOEs and large private sector companies are often very similar. Ownership does necessarily equate with control. International experience suggests that there is potential to implement stronger corporate governance frameworks, including:

• developing clearer mandates and improving monitoring by shareholders. This requires the development of specific and transparent mandates to ensure that SOEs have clear objectives and targets which can be monitored and reported on over time. From an enterprise development perspective, additional non-financial indicators that measure the quality and costs of services provided to enterprise relative to trading partners and competitors are important; and

• putting in place transparent mechanisms to ensure that Boards comprise relevant expertise - for example, competency databases as are used in Nordic countries.

Internationally, the OECD recommends that ‘Government(s) should develop and issue an ownership policy that defines the overall objectives of state ownership, the state’s role in the corporate governance of SOEs, and how it will implement its ownership policy (Forfas, 2010: 20)

2.15. Reference


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3. REVIEW OF SOES: THE ROLE OF SOEs in SKILLS DEVELOPMENT AND JOB CREATION

3.1. Introduction

Skills development and job creation have been identified as key requirements for economic growth in South Africa, and for the economic empowerment of the previously disadvantaged sector of the population.

SOEs play a critical role in advancing economic growth, since they are responsible for the development of key infrastructure and manufacturing capacity for South Africa. Apart from creating jobs, SOEs have also made significant contributions to uplifting skills in South Africa. They have played a vital role in training South Africans in a range of technical, technological and artisanal skills. However, in some sectors, e.g. Eskom, limited infrastructure has been built up over the last three decades, with the result that there has been a decrease in the numbers of people trained in these institutions. At present Eskom and Transnet, for example, have embarked on a significant infrastructure expansion programme which will require large numbers of skilled people to participate in the build-programmes of these SOEs.

The Skills Development Act (RSA 1998) and the National Skills Development Strategy III (NSDS)\(^\text{101}\) are important instruments for skills development in South Africa. The Skills Development Act (1998)\(^\text{102}\) provides a framework for the development of skills in the workplace. Amongst other things, the Act makes provision for skills development by means of the establishment of the National Skills Authority, the National Skills Fund, a skills development levy-grant scheme, and the establishment of 27 sector-specific Sector


Education and Training Authorities or SETAs to administer the scheme’s funds, and manage the skills development process.

The NSDS III is the overarching strategic guide for skills development and provides direction to sector skills planning and implementation in the SETAs. It provides a framework for the skills development levy resource utilisation of these institutions as well the NSF, and sets out the linkages with, and responsibilities of, other education and training stakeholders.103

President Jacob Zuma announced several initiatives to boost job creation, including the setting up of a R9-billion jobs fund, as he declared 2011 South Africa’s “year of job creation” in his State of the Nation address in Parliament in February 2011.104 The R9-billion jobs fund would finance new job-creation initiatives over a three-year period and would be complemented by an amount of R10-billion to be set aside by the Industrial Development Corporation (IDC) over the next five years for investment in projects with high job-creation potential. In 2010 the South African government released the New Growth Path which aims to create five million jobs by 2020 and bring South Africa’s unemployment rate down to 15%.105

President Zuma also noted that government would ensure that South Africa’s state-owned enterprises were roped in the job creation drive in the form of internship training programmes and learnerships: “Public enterprises are going to be looked at rigorously ... as they need to ensure that they come on board”.106

3.2. **Methodology**

A selection of Schedule 2 SOEs were analyzed, including a range of large, medium and small enterprises, namely ATNS, ACSA, ALEXKOR, BROADBAND INFRACO, DENEL (PTY) LTD, ESKOM, IDC, SAFCOL, TELKOM SA LIMITED, and TRANSNET LIMITED.

Various documents were consulted in compiling this section, including annual reports of the selected schedule 2 SOEs, SETAs and PALAMA, the Skills Development Act (1998), the National Skills Development Strategy III, the New Growth Path, press releases and journal articles.

The report is structured as follows. Firstly the National Skills Development Strategy III is discussed, followed by a section on the New Economic Growth Path. This is followed by sections on the role of SOEs with regard to skills development and job creation respectively. Finally the role of both SETAs and PALAMA in skills development is discussed.

3.3. **National Skills Development Strategy III**

In January 2011 the Minister of Higher Education and Training, Minister Blade Nzimande, announced the new National Skills Development Strategy III.\(^{107}\) Although important work was done during the periods of NSDS I and II, the economy remains constrained by a severe lack of skills, meaning that the skills development system has not yet achieved what was expected. The new strategy therefore draws on lessons learned from NSDS I and II, and is aimed at ensuring improved access to quality learning programs, increased relevance of skills development interventions and building strong partnerships between stakeholders and social partners.\(^{108}\)

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This strategy intends to achieve significant increases in qualifications and skills to support priorities and initiatives such as the New Growth Path, the Industrial Policy Action Plan, the Human Resource Development Strategy and, in particular, sector development plans.

The key driving force of this strategy is improving the effectiveness and efficiency of the skills development system. This strategy represents an explicit commitment to encouraging the linking of skills development to career paths, career development and promoting sustainable employment and in-work progression. The emphasis is particularly on those who do not have relevant technical skills or adequate reading, writing and numeracy skills to enable them to access employment. The strategy promotes partnerships between employers, public education institutions (FET colleges, universities of technologies and universities), private training providers and SETAs, to ensure that cross-sectoral and inter-sectoral needs are addressed.

The NSDS will be guided by, and measured against, several key developmental and transformation imperatives such as race, class, gender, geographic considerations, and age differences, as well as disability and the HIV and AIDS pandemic. NSDS III addresses the scope and mandate of the SETAs. SETAs are expected to facilitate the delivery of sector-specific skills interventions that help achieve the goals of the NSDS III, address employer demand and deliver results. The core responsibility of SETAs is to develop sector skills plans. SETAs should be the authority on labour market intelligence and ensure that skills needs and strategies to address these needs are set out clearly in sector skills plans. SETAs must be able to coordinate the skills needs of the employers – levy-paying and non-levy paying – in their respective sectors, undertake sector-based initiatives and collaborate on cross-sector skills areas to enable collective impact. NSDS III provides a stronger base for


the SETAs and Department of Higher Education and Training (DHET), through service level agreements, to set targets that align with sector skills needs – that is, “there is no one-size-fits-all” – and ensures an improved focus on the core mandate of SETAs.\textsuperscript{111}

Another key institution in ensuring the success of NSDS III is the National Skills Fund, which is a catalytic fund, enabling the state to drive key skills strategies as well as meet the training needs of the unemployed, non-levy-paying cooperatives, NGOs and community structures and vulnerable groups. The National Science Foundation (NSF) is a national resource which will be used to both initiate and respond to national skills priorities.\textsuperscript{112}

The strategy places great emphasis on relevance, quality and sustainability of skills training programmes to ensure that they impact positively on poverty reduction and the eradication of inequalities. It focuses on eight goals, each with accompanying outcomes and outputs.\textsuperscript{113}

**Goal 1: Establishing a credible institutional mechanism for skills planning**

There is currently no institutional mechanism that provides credible information and analysis with regard to the supply and demand for skills. The NSDSIII will ensure that the national need in relation to skills development is researched, documented and communicated to enable effective planning across all economic sectors.

**Goal 2: Increasing access to occupationally-directed programmes, both intermediate level as well as higher level professional qualifications**


South Africa's pool of intermediate skills, especially artisanal skills, is too low to support national and sector development and growth. The workforce is not keeping up with the skills needed to remain competitive in an increasingly knowledge-based economy. The intention is to ensure that 10,000 artisans per year qualify with relevant skills and find employment.

In relation to higher level professional qualifications, universities are still not producing enough appropriately skilled and qualified people in disciplines central to social and economic development. Many of the professional areas of study combine course work at Higher Education Institutions with structured learning at work. To give greater effect to such programmes and ensure greater employer participation, a Professional, Vocational, Technical and Academic Learning (PIVOTAL) grant has been incorporated into NSDS III. The intention is that 10% of the mandatory grant will be dedicated to this initiative.

Goal 3: Promoting the growth of a public FET college system that is responsive to sector, local, regional and national skills needs and priorities

The public Further Education and Training (FET) college system is central to government’s programmes of skilling and re-skilling the youth and adults of South Africa. The strategy will purposefully support these institutions and assist in building their capacity to ensure they take centre stage in skills development. This includes promoting partnerships between DHET, SETAs, employers, private providers and public FET colleges to increase capacity to meet industry and developmental needs of the country.

Goal 4: Addressing the low level of youth and adult language and numeracy skills to enable additional training

Language, literacy and numeracy skills are fundamental to improved economic and social participation, productivity and social inclusion. In South Africa, there are approximately 3 million youths between the ages of 18 and 24 years who are not in employment, education
or training, have a poor educational foundation and are poorly prepared to undertake further learning.

This strategy will develop a national strategy to provide all young people leaving school with an opportunity to engage in training or work experience, and improve their employability.

**Goal 5: Encouraging better use of workplace-based skills development**

South Africa is challenged by low productivity in the workplace, as well as slow transformation of the labour market and a lack of mobility of the workforce, largely as a result of inadequate training for those already in the labour market.

The New Growth Path calls for increased workplace training of workers already in employment in order to improve productivity and the overall growth and development of the economy. To address this challenge, the NSDS III, through both the mandatory and discretionary grants of the SETAs, must support training of employed workers, and encourage employers to expand such training, in order to improve the overall productivity of the economy and address skills imbalances in the South African workforce in particular and the labour market in general. Accordingly, emphasis will be placed on the use of the levy-grant system with investment into the overall skills agenda.

**Goal 6: Encouraging and supporting cooperatives, small enterprises, worker-initiated, NGO and community training initiatives**

Skills development is not just about training people for employment; it must also empower people to create opportunities to make a living for themselves. NSDS III will support
cooperative, NGO, small enterprise, community and worker-initiated skills development and training programmes. Similarly, the NSF will support credible and quality worker skills development, education and training programmes.

**Goal 7: Increasing public sector capacity for improved service delivery and supporting the building of a developmental state**

This goal addresses the challenge of public sector capacity. This is taking on renewed importance due to the affirmation by government of the need for a developmental state, capable of intervening in the economy to build an inclusive growth path.

**Goal 8: Building career and vocational guidance.**

This goal addresses the lack of guidance to direct young people in particular to programmes for which they have an aptitude, and which will provide training in areas needed in the economy.114

### 3.4. New Economic Growth Path (NGP)

Minister Ebrahim Patel released the framework of the New Economic Growth Path in October 2010 which aims at enhancing growth, employment creation and equity. The NGP aims to increase economic growth to sustainable rates of between 6% and 7% a year in order to create five million jobs by 2020. This would reduce the unemployment rate to 15%.115


According to Minister Patel:¹¹⁶

“This document reflects Government’s commitment to prioritising employment creation in all economic policies. It lays out strategies to enable South Africa to grow in a more equitable and inclusive manner in the future, fulfilling the promise of our democracy.” Furthermore, “the centre piece of the new growth path is a massive investment in infrastructure and people through skills development, together with smart government and better coordination with the private sector and organised labour so that we can achieve our national goals.

The New Growth Path has fixed six priority areas to job creation: infrastructure development, agriculture, mining, manufacturing, the “green” economy and tourism. With regard to infrastructural development government has identified energy, transport, communication, water and housing as the economic sectors that have the greatest potential for fulfilling its objectives. The sustaining of high levels of public investment in these areas would create jobs in construction, operation and maintenance of infrastructure.

The NGP calls for increased mineral extraction through reviewing the existing legal framework and improving infrastructure and skills development. Furthermore, the NGP calls for re-industrialisation in the South African economy based on improving manufacturing performance through innovation, strong skills development and reduced input costs in the economy. With regard to agriculture the NGP notes that more livelihoods can be created through support for smallholdiers, including access to seeds, silos, tractors, finance, marketing, water, extension services and other key inputs.¹¹⁷.

The NGP identifies measures to strengthen the capacity of the state and enhance the performance of the private sector to achieve the employment and growth goals. The NGP proposes major improvements in government, with a call for slashing unnecessary red-tape, improving competition in the economy and stepping up skills development. The NGP sets targets for scarce and key skills and identifies the role of government departments and


agencies to meet these goals. This emphasis on skills applies across the economy and will be a centre piece of partnership with business and labour. Key targets include the aim to produce:

- 30 000 more engineers by 2014, with an improved focus on high school mathematics and science and changes to university funding formulae to achieve this, and
- 50 000 more artisans by 2015, with annual targets for Eskom and Transnet and for individual SETAs to achieve this.

The document calls for stepping up the focus on workplace training, targeting on-the-job training and refresher programmes for 10% of the workforce every year. It also calls for measures to make it easier to import scarce skills by streamlining the work permit and visa system. This will be accompanied by a skills transfer program to ensure that local skills development is enhanced.\textsuperscript{118}

### 3.5. The Role of Selected SOEs IN Skills Development

#### 3.5.1. Industrial Development Corporation of South Africa (IDC)

**3.5.1.1. Background**

The Industrial Development Corporation is a national development finance institution whose primary objective is to contribute to the creation of balanced and sustainable economic growth in Africa and to the empowerment of the South African population, thereby promoting the economic prosperity of all citizens. The IDC achieves this by promoting entrepreneurship through the building of competitive industries and enterprises based on sound business principles.

**3.5.1.2. Skills development**

The IDC plays and important role in skills development in South Africa by not only developing the skills of its own employees, but also that of the South African society through its External Learning and Development Unit.

*External learning and development*

The External Learning and Development Unit provided support to strategic business units, departments, IDC-funded clients as well as prospective clients. In addition, capacity building initiatives for Small Medium-sized Enterprises (SMEs) and Development Finance Institutions (DFIs) were undertaken. The unit also sponsored ten previously disadvantaged students to acquire skills in diamond cutting and polishing at the Harry Oppenheimer Diamond Training Institute, helped 15 students in the food, beverage and agro-industries sector to gain industry exposure by enabling them to attend international conferences, sponsored the Road Freight Academy to train truck drivers to prevent unwarranted freight loss and accidents, trained owner-driver entrepreneurs to ensure the sustainability of their emerging businesses, sponsored ten previously disadvantaged students to study animation production movie making, assisted local municipalities with basic entrepreneurial skills training for both councillors and service providers, provided guidance in the development of a co-operative manual on worker trusts for IDC-funded clients; and helped the National Foundry Technology Network to provide training to small businesses. To support and build capacity within other DFIs, the IDC provided secondment and resources for example, for capacity building in the Ithala Development Bank.119

The Nguni Cattle Project is an example of the IDCs external skills development initiatives. Established in 2004 to reintroduce Nguni cattle in rural communities of South Africa, the long-term goal of the project is to turn emerging farmers into commercial Nguni beef farmers and establish Nguni stud breeders amongst the rural poor. The project entails the loaning of cattle to committed beneficiaries on the understanding that they will return the same number of cattle within five years to be loaned to other beneficiaries. Prior to receiving cattle and during the five year period, the beneficiaries receive training and support to ensure proper handling and care of the cattle. The project is implemented in collaboration with universities.

and the provincial departments of agriculture. The project has been successfully implemented in the Eastern Cape, Limpopo, North West, Northern Cape and Free State and was launched in Mpumalanga in 2009.\textsuperscript{120}

\textit{Internal development and training}

The Internal Learning and Development and Operational Training Units ensure that employees are able to access training and development opportunities. The IDC focuses its learning and development efforts on the provision of cost-effective, outcomes-based training in the areas of leadership and management development; skills training with clients and industry; operations; social support; legislative, governance and compliance; industry specific functional and customised training; learnerships and internships; and technology training. Of the 1 436 interventions undertaken, 78\% were accessed by black employees.\textsuperscript{121}

3.5.2. Air Traffic and Navigation Services Company LTD (ATNS)

3.5.2.1. Background

ATNS is the sole provider of air traffic and navigation services in South Africa. The ATNS air traffic control footprint covers approximately 10\% of the world’s total airspace. ATNS’s services include air traffic control, the provision of the vitally important aeronautical information used for all flight planning purposes as well as search and rescue coordination activities and the maintenance of a reliable navigation infrastructure.

3.5.2.2. Skills development

ATNS provides all of the training for career opportunities in air traffic control and related services at their Aviation Training Academy (ATA) in Johannesburg. ATNS offers an Aeronautical Information Management Officer (AIMO) bursary programs and are training candidates to become Air Traffic Control Officers (ATCOs).

\textsuperscript{120} IDC. 2011. Annual Report. Driving Industrial Capacity Development. \url{www.idc.co.za}

\textsuperscript{121} IDC. 2011. Annual Report. Driving Industrial Capacity Development. \url{www.idc.co.za}
Various training programs are offered to prepare graduates for careers in Air Traffic Management Services, Engineering Support and Aviation Management. For example, the Bursary Programme aims at attracting future ATCs at the earliest stage possible. Comprehensive programmes of theoretical instruction, training and onsite practical experience are provided. If the Bursar passes, they are offered a fixed term contract for 12 months. During this time they may attain the level of Aerodrome Controller, after which they will return to the Academy for their Air Traffic Services rating. After successful validation as an Air Traffic Controller, the Bursar will be appointed permanently. Each new ATC is then introduced to a career path matrix which they can use as a guide towards their own professional development, in Area Control, Approach Control, or both. Acceleration programmes and mentoring are in place to assist them to proceed through the three ATC levels. Recruitment is focused primarily on students from disadvantaged backgrounds.\(^\text{122}\)

As a levy paying company with TETA, ATNS runs learnerships, in line with the Skills Development Act. As part of addressing the ageing workforce and natural attrition and the development of their own employee pipeline, learnerships are offered to University of Technology undergraduates specifically electrical engineering (light current) students. These learners can then apply for positions within ATNS or take their skills into the broader industry.\(^\text{123}\)

### 3.5.3. Airports Company of South Africa Limited (ACSA)

#### 3.5.3.1. Background

ACSA was formed in 1993 as a public company under the Companies Act of 1973, as amended, and the Airports Company Act of 1993, as amended. Although ACSA is majority owned by the South African Government, through the Department of Transport, the Company is legally and financially autonomous and operates under commercial law.

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According to ACSA’s Annual Report (2011)\textsuperscript{124} the company has with regard to the 2010 FIFA World Cup completed “its most ambitious infrastructure capacity development and improvement programme ever.”

### 3.5.3.2. Skills training and development

ACSA provides skills training and development to its own personnel as well as external organisations, both from within South Africa and abroad. The delivery of technical and functional training included areas such as aviation safety and security, aerodrome rescue and firefighting and engineering aspects such as airfield ground lighting. Behavioural training efforts ranged from performance management to personal financial management.

International courses presented included aerodrome auditing, aerodrome certification standards, international aviation cargo and mail, safety management system implementation, and managing airport service quality. Delegates from Mauritius, Zimbabwe, Uganda, Rwanda, Sierra Leone, Tanzania, Swaziland, Namibia and Botswana attended courses at the ACSA Training Academy.

ACSA is also investing in several future capability development projects such as apprenticeships, internships, learnerships and graduate bursary schemes. A total of seventy-seven employed Security Officers have successfully completed the General Security Practices learnership program during the period 2010-2011.\textsuperscript{125}

### 3.5.4. Alexkor LTD

#### 3.5.4.1. Background

The core business of Alexkor is the mining of diamonds on land, along rivers, on beaches and in the sea along the north-west coast of South Africa. These activities are complemented by geology, exploration, ore reserve planning, rehabilitation and environmental management. Alexkor Limited is wholly owned by the government and has


two divisions, namely Alexander Bay Mining (ABM) and non-core operations. The ABM division is the core business of the Company, exploiting a large land-based diamond resource and extensive diamondiferous marine deposits.

3.5.4.2. Skills development and training
The company implemented various training interventions during 2010-11 as part of its commitment to invest in developing the skills of its employees. During the year 136 employees received training on various training programmes including safety, mining, and other technical skills. Two local residents received training as apprentices in mining related trades. In addition the company embarked on a bursary programme in which a female candidate was given a bursary to study full-time at a tertiary institution in a mining discipline.\footnote{Alexkor Limited. 2011. \textit{Annual Report 2011}. www.alexkor.co.za}

3.5.5. Broadband Infrastructure Company (PTY) LTC (BROADBAND INFRACO)

3.5.5.1. Background

Broadband Infraco was established as an intervention to rapidly normalise telecommunications market efficiency (and address the cost of broadband to the industry players and end users) by making infrastructure on the national backbone – and international connectivity – available at reduced prices. Broadband Infraco will provide and own the long-distance Full Service Network (FSN) originally developed by Eskom and Transnet. Infraco is a stand-alone entity reporting to the Department of Public Enterprises.

3.5.5.2. Skills development

Broadband Infraco is creating a culture of learning by continuously defining and updating its capabilities, creating a cycle of improvement by up-skilling its employees and managing talent with more emphasis on scarce or critical skills. During the 2009/10 financial year,
Broadband Infraco spent 4% of its payroll on skills development. Eight graduates from previously disadvantaged backgrounds were granted an opportunity to gain meaningful workplace experience and unlock their potential. As part of a two-year internship programme, graduates were granted exposure in the fields of network engineering, project management and network operations and maintenance.\(^\text{127}\)

### 3.5.6. Denel (PTY) LTD

#### 3.5.6.1. Background

Denel (Pty) Ltd is the largest manufacturer of defence equipment in South Africa and operates in the military aerospace and landward defence environment. Incorporated as a private company in 1992 in terms of the South African Companies Act (No 62 of 1973), Denel’s sole shareholder is the South African Government.

Denel is an important defence contractor in the domestic market and a key supplier to the South African National Defence Force (SANDF), both as original equipment manufacturer (OEM) and for the overhaul, maintenance, repair, refurbishment and upgrade of equipment in the SANDF’s arsenal.

Over the years Denel has built a reputation as a reliable supplier to its many international clients. It supplies systems and consumables to end users as well as sub-systems and components to its industrial client base. Denel also has a number of equity partnerships, joint ventures and cooperation agreements with renowned international players in the defence industry.

In terms of Denel’s restructuring, the company has established several independent new companies in which it will hold equity on behalf of the South African government: Denel Aviation, Denel Saab Aero structures, Denel Dynamics, Denel Land Systems, Denel PMP, Denel

Medchem, Denel Overberg Test Range, Denel Technical Academy, Denel Properties, and DISS.

3.5.6.2. Skills development

The 2011 Annual report of the Denel Group\textsuperscript{128} stated that: “Denel understands the intrinsic link between skills development and long term business sustainability. This industry requires, to a large extent, unique technical skills that are largely not available in the market. Denel has developed a comprehensive skills attraction, development and retention strategy to support the growth strategy of the group.” With regard to the development of employees, the Annual report (Denel Pty Ltd 2011) noted: “Denel’s objective is to develop every employee to their full potential and to encourage all employees to take learning and development, as a personal responsibility. In this way, Denel will positively impact on the development of skills for the country and contribute to the uplifting of the underprivileged.” The Denel Group has spent R35m in the 2010 financial year on employee skills development and learning programmes.

Denel’s skills development programmes entail training and development interventions, starting with programmes aimed at schools and progressing to tertiary institutions, internships mentorship programmes and talent management. Denel’s business entities host holistic programmes to develop engineers to deliver productive design engineers, who are able to compete with the best in their fields of expertise.\textsuperscript{129}

Denel makes substantial investments in the training of scarce skills, enhancement of high-tech manufacturing capacity and targeted development of defence technologies thus addressing national developmental objectives.


3.5.6.3. Human capital development programs

Leadership and management development program

Denel has a leadership and management development programme founded on specific behavioural and functional competencies developed to fit the group’s needs. Team and personal mastery workshops were held throughout 2010. The Unisa SBL, Denel leadership and management development programme was recently launched and involves junior, senior and executive management.

Employee study assistance

Denel grants study loans and bursaries to employees who wish to further their studies in fields related to their careers and which complement their jobs.

Engineering academy of learning

Denel runs an Engineering Academy as a means of ensuring that newly qualified engineers are afforded an opportunity to be mentored in a co-ordinated manner. There are currently 15 junior engineers registered in this programme. Denel participants are funded by Denel and the relevant SETA.

Artisan training

Denel’s flagship programme is its artisan training academy, within Denel Technical Academy (DTA) which enrols learners for different aviation and general apprenticeships. The academy impacts positively on the South African economy by providing highly sought-after artisans to the industry. The DTA enrolls approximately 300 apprentices per annum. Training is offered amongst others for aircraft related disciplines and electricians, fitter and turners, tool and jig maker, turner and machinist and welding. In addition, the DTA offers SACAA-certified courses and several other advanced courses.

Pretoria Metal Pressings training centre (PMP)

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130 The Denel Technical Academy is a well established training institute, accredited by several training authorities and the South African Civil Aviation Authority.
A plant-based training centre at PMP to the west of Pretoria offers MERSETA accredited courses for apprentices to complete artisanship within 3 years. There were 15 apprentices in training at the 2010-2011 financial year-end, and various other TETA, SASSETA and ABET training courses were undertaken during the year. In total 913 participants attended various training initiatives during the year at PMP.

**Denel Youth Foundation Training Program**

The Denel Youth Foundation Training Program (DYFTP) is responding to the challenge of lack of skills supply especially in engineering, science and the technical fields. This programme targets the development of mathematics, science and technical skills of learners from previously disadvantaged backgrounds and enrols about 50 learners per year.

**Schools outreach program**

Denel is involved in other youth development programmes such as the schools outreach programme, where learners from grade 10 to 12 are offered tuition, in some cases by Denel engineers on weekends. The programme which supported 80 learners during the year are administered in Gauteng and North-West and are fully funded by Denel at a cost of R1.2m per year.

**Bursary programme**

Denel’s bursary programme is a primary tool to bring young cadets into the group to counter the ageing workforce profile. Each year, about 30 new bursars are accepted into the programme and are individually mentored and supported. To date, over 90% of the bursars that complete their university studies have been employed in the group. Currently 55 Denel bursars are studying engineering at various universities.

**Women in Engineering**

Denel funds the South African Women in Engineering programme which encourages female learners to enter the field of engineering, science and technology.¹³²

### 3.5.7. Eskom

3.5.7.1. Background

Eskom was established in South Africa in 1923 as the Electricity Supply Commission. In July 2002, it was converted into a public, limited liability company, wholly owned by government. Eskom is one of the top 20 utilities in the world by generation capacity (net maximum self-generated capacity: 41 194MW). Eskom generates approximately 95% of the electricity used in South Africa and approximately 45% of the electricity used in Africa. Eskom directly provides electricity to about 45% of all end-users in South Africa. The other 55% is resold by redistributors (including municipalities).

Eskom generates, transmits and distributes electricity to customers in the industrial, mining, commercial, agricultural and residential sectors, and to redistributors. Eskom sells electricity directly to about 3 000 industrial customers, 1 000 mining customers, 49 000 commercial customers, 84 000 agricultural customers and more than four million residential customers (of whom the majority are pre-paid customers). Most of the sales are in South Africa, with other southern African countries accounting for a small percentage. Eskom contributes to the government’s new growth path by its contribution to job creation, skills development and training through its build programme and the Academy of Learning.

3.5.7.2. Skills development

Skills development is important for the future sustainability of Eskom. A talent management business process and procedure has thus been developed to ensure robust talent contingency planning and the creation of career development opportunities in the company. The identification and categorization of skills as core, critical or scarce was aligned with the new legislative requirements in the organising framework for occupations.133

The 2011 annual report\textsuperscript{134} noted that additional core, critical and scarce skills should be developed or recruit annually over the next five years to replace losses and cater for Eskom’s new build program. Accordingly the learner pipeline has been increased to accommodate the new skills requirements and normal attrition. Internal talent pipelines are strengthened by recruiting for potential at entry level to enable and encourage career progression at least to supervisory level. Eskom has committed to the development of 10 000 learners by 2015. These skills development initiatives will serve to provide the much needed skills for Eskom.

3.5.7.3. Eskom Academy of Learning

The Eskom Academy of Learning in partnership with tertiary institutes is the key enabler for skills development in Eskom. It will cater for learning design and development, learning delivery, learning administration, as well as learning operations, supported by a quality management process. The Academy faculties are engineering, artisan, services, project management, leadership and finance. There are 5 283 (2010: 5 255) learners in the pipeline, of which 4 240 (2010: 3 780) are studying in the engineering and technical fields. Once they have completed their training, they will be absorbed into the business as engineers or graduates-in-training. Over and above the business learner pipeline requirements, Eskom provides 550 bursaries (2010: 236) for employee dependents, to contribute to the socioeconomic development of South Africa. Eskom responded to the new growth path of the government by committing to partner with their suppliers to train an additional 5 000 learners, and set the target of creating 10 000 apprenticeships, and 100 000 direct and indirect jobs by 2015 through all of Eskom’s activities.\textsuperscript{135}


3.5.7.4. Engineering Institute

Eskom has resolved to establish a Power Plant Engineering Institute to produce a stream of highly skilled engineers within identified specialisation areas and to serve as a catalyst in the creation and subsequent development of a local knowledge base around these specialisation areas. The institute will also help to build capacity in developing universities, creating and sustaining a pipeline of qualified engineers in areas relevant to the power industry. The planned institute will open its doors in 2012.

3.5.7.5. Welding skills development program

Eskom has consistently experienced high levels of below-standard weld reject rates, with attendant cost overruns and production losses. The productivity (weld quantity and quality) of temporary contracted foreign welders has been consistently higher than that of local welders. Since Eskom needs a sustainable welding skills base, the Eskom professional welder development program was launched in January 2011. For South Africa, the program means hundreds of new young welding trainees who will attain internationally recognized certification in professional welding and will guarantee employment. This will boost South Africa’s performance in technical skills development and reduce Eskom’s reliance on international contractors for skilled welders.

3.5.7.6. Customer Network Business

Skills development, as part of the shareholder compact contributes to the country’s socio economic drive. The total number of learners within Customer Network Business for 2010 - 2011 was approximately 2 057. This complement constituted learners at FET colleges, university and university of technology bursars. The skills areas ranged from technical to business-related skills. CNB continued with its training programs in all areas of its business; but the ability to meet the ever growing skills shortages in specifically field operations remains a challenge.
3.5.7.7. Eskom Development Foundation

The Eskom Development Foundation is a section 21 company executing Eskom's corporate social investment. It receives funding from Eskom to make grants and donations. The Foundation operates in the nine provinces of South Africa. Support to social projects will include support to philanthropic/welfare organisations, support to early childhood development (ECD) centres, capacity building for primary schools and further education and training colleges (FETs).

Support is provided in terms of education, from the early childhood development phase onwards. It is a long-term strategy to ultimately contribute to an improved pipeline of grade 12 learners with good results in mathematics, physical science and language to study in engineering and technical disciplines to meet the human resources needs of Eskom and South Africa. Support provided to further education and training colleges contributes not only to improving the employability of the youth, but also to creating a future pipeline from which to draw technical skills, for Eskom and other industries.\textsuperscript{136}

3.5.8. Transnet Limited

3.5.8.1. Background

Transnet is a public company wholly-owned by government. Transnet delivers thousands of tons of goods daily around South Africa, through its pipelines and both to and from its ports. The goal of the company is to be a focused freight transport organisation, delivering integrated, efficient, safe, reliable and cost-effective services to promote economic growth in South Africa.

Transnet combines forces with other businesses to expand transport operations across Africa and into the rest of the world. In this way, Transnet helps to create valuable business

opportunities that extend beyond the country's shorelines and borders. Transnet has five operating divisions: Transnet Freight Rail; Transnet Rail Engineering; Transnet National Ports Authority; Transnet Port Terminals; and Transnet Pipelines.

3.5.8.2. Skills development

Transnet’s Annual report (2011)\textsuperscript{137} noted that “the availability of appropriate skills across Transnet remains a significant challenge. In line with the commitments to the NGP, the Company is planning to expand its capacity and therefore access to skilled workers is critical. Skills development is thus a focus area for significant investment for Transnet.”

Transnet’s approach to skills development entails the creation of an integrated value chain from secondary educational institutions, through to tertiary educational institutions and Transnet Schools of Excellence Training Centres and into the workplace. This allows Transnet to maintain skills and a talent pipeline that continuously supports the needs of the Company, while also providing skills training for the larger South African market. This supports the national skills agenda by aligning with relevant platforms in training processes such as the Transport Education Training Authority, the Department of Public Enterprises and the Department of Trade and Industry. Transnet strives to spend approximately 3% of total personnel costs on training initiatives annually.

### 3.5.8.3. Transnet skills development 2011

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of apprentices enrolled</td>
<td>1 029</td>
</tr>
<tr>
<td>Number of qualified new artisans produced</td>
<td>500</td>
</tr>
<tr>
<td>Number of qualified artisans employed by Transnet</td>
<td>200</td>
</tr>
<tr>
<td>Number of qualified artisans available for the market</td>
<td>300</td>
</tr>
<tr>
<td>Number of new technicians employed</td>
<td>356</td>
</tr>
<tr>
<td>Number of new engineers employed</td>
<td>64</td>
</tr>
</tbody>
</table>

\textsuperscript{137} Transnet Limited 2011. Integrated Annual Report 2011, P94. \url{www.transnet.co.za}
Percentage of total workforce undergoing training | 36%
Bursary support for engineers technicians, artisans | 1 739
Transnet accept interns on a minimum of a six-month contract for fields of study that are aligned to Transnet’s requirements.


3.5.8.4. Talent management and leadership

In a nationwide climate of intense competition for skills, Transnet\textsuperscript{138} noted that its “ability to attract, manage and retain talent is crucial.” During the 2010–2011 financial year the talent management initiative, which manages this key area, has:

- Implemented talent management training for managers at various organizational levels, to ensure that employee talent is properly nurtured, and
- Intensified efforts to track individual talent through Talent Forums. These resultant talent pools then feed into the Company’s succession needs.

Transnet’s Leadership Development Program is focused on building the supervisory, management and leadership competence in Transnet. The programs include:

- The Navigator Leadership Program that focuses on building the leadership capacities of managers. The program celebrated the graduation of 2 400 managers, and
- The Executive Leadership Program (as part of an International Leadership Program) enrolled six “stars” at Extended Executive Committee level for 2011.\textsuperscript{139}

\textsuperscript{138} Transnet Limited 2011. \textit{Integrated Annual Report 2011}. \url{www.transnet.co.za}

\textsuperscript{139} Transnet Limited 2011. \textit{Integrated Annual Report 2011}. \url{www.transnet.co.za}
3.5.9. South African Forestry Company Limited (SAFCOL)

3.5.9.1. Background

SAFCOL’s main focus is on the management of state-owned commercial plantations and it performs through the following operational subsidiaries: Komatiland Forests (Pty) Ltd (KLF), Industrias Florestais de Manica, SA (IFLOMA), Mountains to Oceans Forestry (Pty) Ltd, Kamhlabane Timber (Pty) Ltd, and Temba Timber (Pty) Ltd.

3.5.9.2. Skills development

SAFCOL focuses on the development of the skills of its employees to achieve business excellence and on building skills for future staffing needs. It is also involved in skills development initiatives of communities adjacent to its forests.

The learning and development unit of the Group facilitates a range of development programs aimed at equipping employees with the skills necessary to compete in a demanding and challenging environment. The programs are in the form of learner ships, bursary and study assistance, coaching and mentorship, technical assistance, artisan training and Adult Basic Education Training (ABET). Study assistance was provided to 69 employees while 52 non-employees received bursaries. SAFCOL continues to foster a relationship with professional education, training and development service providers to ensure that learning and development interventions provided are of a high quality and accredited by applicable regulatory bodies and Sector Education Training Authorities (SETAs). The continued partnership with the Forest Industries Education and Training Authority (FIETA) resulted in the registration of 15 new candidates in General Education and Training in 2010-2011.

3.5.9.3. Internship program

FIETA was instrumental in assisting SAFCOL to introduce an internship program. In 2010-2011, eleven unemployed graduates were placed on twelve-month contract programs with a...
view to providing the interns with on-the-job learning opportunities and creating an environment where they could acquire the requisite skills and competences.

3.5.9.4. ABET program

SAFCOL has expanded the ABET program for employees to accommodate candidates from communities living adjacent to its plantations. A total of 500 learners are being funded through the FIETA program over a period of 18 months. The program also involved a total of 496 community members from KwaZulu-Natal, Mpumalanga and Limpopo.

3.5.9.5. Artisan training

The Group is participating in the broad SOE initiatives of artisan development and training. Eight learners have been enrolled on the program for diesel mechanics, millwrights, fitters, electricians and boilermakers.

3.5.9.6. Enterprise development contractors

One of the objectives is to develop forestry contractors from previously disadvantaged communities. Four new contractors were identified as business owners while seven contractors that were established in previous years were developed further.

3.5.10. Telkom SA Limited 2011

3.5.10.1. Background

Telkom is Africa’s largest integrated communications company, providing integrated communications solutions to an entire range of customers. Telkom is one of South Africa’s most demographically representative companies and biggest investors in ICT skills development.
3.5.10.2. Telkom Centre for Learning

Training and development are provided to Telkom employees at the Group’s Centre for Learning which has six regional campuses. In addition computer-based training is also offered. For the year 2010-2011, 93 845 man days were used for training to enhance internal capabilities and competence.

These initiatives, in which Telkom invested R237.5 million, are aligned with and form part of the government’s Jobs Initiative on Priority Skills Acquisition (JIPSA). To date, 1,928 students completed a 12 month program and 1,044 students obtained employment in the sector. An additional 131 students are busy with development programs. Through JIPSA, the Centre for Learning hosted an annual ICT career expo which was sponsored by the Department of Communications.¹⁴¹

3.5.10.3. Talent management

Talent management in the Telkom Group consists of two segments, i.e. the leadership pipeline and critical skills pipeline. Overall, the aim of the talent management process is to:

- develop leadership capacity through the identification and development of successors who are prepared to assume current and future leadership roles;
- safeguard business-critical capabilities by prioritising succession management around the capabilities most critical to business success and the most scarce in the labour market; and
- develop future/emerging talent by identifying and developing the capabilities needed to fulfill Telkom’s future strategic priorities.

3.5.10.4. Telkom Foundation

Telkom contributes through various social initiatives to the positive transformation of disadvantaged communities in South Africa by, amongst others, human capital development and economic development. All the initiatives in this area are done through the Telkom Foundation, a non-profit organisation which is funded by the Telkom Group. In the 2010-2011 financial year R43 million was spend on this initiatives.

The Telkom Foundation delivers its programs through Non-Governmental Organisations (NGOs) with the primary aim of promoting mathematical, science and technological skills in rural and semi-rural communities. Some 125 mobile libraries and science laboratories were delivered to schools in Limpopo, Gauteng, North West, Eastern Cape and Mpumalanga. The mobile libraries provided books for Grades R to 7 and the mobile laboratories enabled teachers to educate learners in mathematics, physical science, technology and entrepreneurship. ICT equipment was donated to 44 schools in the noted provinces.

The Beacon of Hope is a joint initiative between the Telkom Foundation and the Telkom Centre for Learning which places talented, underprivileged primary school learners into highly rated private boarding schools. On completion of their studies, the intention is that these learners will form part of a Telkom Centre for Learning bursary scheme pool for tertiary education support.

The Sediba Project is a joint venture initiative between the Foundation and the University of Potchefstroom to train teachers in science and technology across the country. Launched in 2002, the project has, to date, empowered 2 072 teachers.

Apart from human capital development the Telkom Foundation seeks to develop the skills of the poor through training and to promote the entry of disadvantaged groups into the mainstream economy. It does this by focusing on, amongst others, initiatives and projects in the fields of vocational skills training and development.\(^\text{142}\)

3.6. **Discussion**

The NSDS III of the South African government aims to link skills development to career paths, career development, and promoting sustainable employment and in-work progression. The strategy promotes partnerships between employers, public education institutions (FET colleges, universities of technologies and universities), private training providers and SETAs, to ensure that cross-sectoral and inter-sectoral needs are addressed.

The NSDS III identifies eight goals to achieve its objectives, amongst others, increased access to occupationally-directed programs, both intermediate level as well as higher level professional qualifications (university level); better use of workplace-based skills development; encouraging and supporting cooperatives, small enterprises, worker-initiated, NGO and community training initiatives; and increasing public sector capacity for improved service delivery and supporting the building of a developmental state. In addition the NGP aims to produce 30 000 more engineers by 2014, with an improved focus on high school mathematics and science, and 50 000 more artisans by 2015.

A HSRC study (2011)\(^{143}\) of 102 SOEs found that the human capital objectives of SOEs are almost exclusively related to training and development to increase the skills, capacity, knowledge and expertise of the workforce of the SOE or the South African labour force in general. According to the study most (78%) of the SOEs indicated that they are meeting their human capital objectives, primarily by means of skills training and development. Where objectives are not being achieved, the primary reason is lack of funding. Most entities (82%) indicate that they assess the training needs of their employees. Between 1% and 5% of annual budgets are allocated to training. The main areas of training are specific technical skills required in the SOE; leadership and management; time and stress management; and IT skills. Between 25% and 70% of staff receive training each year.

The selected Schedule 2 SOEs analyzed in this study are responsible for the development of key infrastructure and manufacturing capacity for South Africa and have made important contributions to uplifting skills in South Africa. They have played a vital role in human capital

development of South Africans by provided training in a range of technical, technological and artisanal skills, including scarce and critical skills, needed in the country thus responding to the aims of the NSDS III and the NGP.

Many of the SOEs in this study value the importance of skills development for long term business sustainability and have developed a comprehensive skills attraction, development and retention strategy to support their growth strategies. Furthermore, many SOEs acknowledged that to be sustainable they require unique technical skills that are largely not available in the market. The Denel Group has, for example, developed a comprehensive skills attraction, development and retention strategy to support the growth strategy of the group. The Denel Group has spent R35m in the 2010 financial year on employee skills development and learning programs.\textsuperscript{144}

Denel’s skills development programs entail training and development interventions, starting with programs aimed at schools and progressing to tertiary institutions, internships mentorship programs and talent management. Denel’s business entities host holistic programs to develop engineers to deliver highly competent productive design engineers. Furthermore, Denel has an artisan training academy which enrolls learners for different aviation and general apprenticeships. Denel’s bursary program is a primary tool to bring young cadets into the group to counter the ageing workforce profile Denel makes substantial investments in the training of scarce skills and partners with the relevant SETA’s.\textsuperscript{145}

Eskom is another SOE that has developed a comprehensive skills attraction, development and retention strategy to support their growth strategy. Eskom has adopted a strategy to develop or recruit additional core, critical and scarce skills annually over the next five years to replace losses and cater for Eskom new build program. Accordingly the learner pipeline has been increased to accommodate the new skills requirements and normal attrition. Internal talent pipelines are strengthened by recruiting for potential at entry level, enable and


encouraging career progression at least to supervisory level. Eskom has committed to the development of 10 000 learners by 2015. Eskom has the following initiatives to ensure skills development in their industry: The Eskom Academy of Learning in partnership with tertiary institutes is the key enabler for skills development in Eskom. The key focus is on engineers, technologists, technicians and artisans for the future. Eskom responded to the new growth path of the government by committing to partner with their suppliers to train an additional 5 000 learners, and set the target of creating 10 000 apprenticeships, and 100 000 direct and indirect jobs by 2015 through all of Eskom’s activities. In responding to the shortage of highly skilled engineers, Eskom has established a Power Plant Engineering Institute. Through the Eskom Development Foundation the SOE provides education support to contribute to an improved pipeline of grade 12 learners with good mathematics, physical science and language skills to study in engineering and technical disciplines to meet the skills needs of Eskom and South Africa.146

Transnet has developed a comprehensive skills attraction, development and retention strategy to support their growth strategy. Transnet’s approach to skills development entails the creation of an integrated value chain from secondary educational institutions, through to tertiary educational institutions and Transnet Schools of Excellence Training Centres, and into the workplace. This allows Transnet to maintain skills and a talent pipeline that continuously supports the needs of the Company, while also providing skills training for the larger South African market.147

The IDC plays an important role in human capital development of the South African labour market in general. For example, capacity building initiatives for Small Medium-sized Enterprises (SMEs) and Development Finance Institutions (DFIs) were undertaken. In addition various skills development initiatives were undertaken ranging from sponsoring previously disadvantaged students acquire skills in diamond cutting and polishing,

sponsoring the Road Freight Academy to train truck drivers to prevent unwarranted freight loss and accidents, training of owner-driver entrepreneurs to ensure the sustainability of their emerging businesses, to assisting municipalities around the country with basic entrepreneurial skills training for both councilors and service providers.\textsuperscript{148}

Human capital development is important for the Telkom Group and they have invested R237.5 million in skills development initiatives in the 2010-2011 financial year. Training and development are provided to Telkom employees at the Group’s Centre for Learning.

Telkom contributes through the Telkom Foundation to various social initiatives in disadvantaged communities in South Africa by amongst others human capital development. The primary aim of this program is promoting mathematical, science and technological skills in rural and semi-rural communities. In the 2010-2011 financial year R43 million was spend on this initiatives.\textsuperscript{149}

Human capital development is also an important priority for medium and smaller SOEs. The learning and development unit of SAFCOL facilitates a range of development programs aimed at equipping employees with the necessary skills. The programs are in the form of learner ships, bursary and study assistance, coaching and mentorship, technical assistance, artisan training and Adult Basic Education Training (ABET).\textsuperscript{150}

ATNS is an important role player for skills development in the aviation industry since it provides all of the training for career opportunities in air traffic control and related services. Various training programs are offered to prepare graduates for careers in Air Traffic Management Services, Engineering Support and Aviation Management.\textsuperscript{151}

Acsa provides skills training and development to its own personnel as well as external organisations, both from within South Africa and abroad. ACSA invests in several future


\textsuperscript{150} SAFCOL, 2011. \textit{Annual Report 2011}. www.safcol.co.za

capability development projects such as apprenticeships, internships, learner ships and graduate bursary schemes.152

Some SOEs also train members of local communities although on a much smaller scale than larger SOEs. For example, ALEXKOR, has trained two local residents as apprentices in mining related trades. Broadband Infraco emphasizes scarce or critical skills in skills development and talent management programs.

3.7. The Role of Selected SOEs in Job Creation

3.7.1. Industrial Development Corporation Of South Africa Limited (IDC)

The IDC has an important impact on South African job creation especially in the light of the high unemployment rate. Funding approvals in support of South African investment activity reached a historical record of R8, 4 billion for the 2010-2011 financial year – a 40% increase relative to the previous financial year. The beneficiaries included both new and existing business enterprises, some having experienced financial difficulties due to a challenging operating environment. This financial intervention is expected to create 19 650 full-time employment opportunities associated with new forms of economic activity locally, and has saved an additional 11 650 jobs in existing operations supported by IDC distress funding.

According to the IDC Annual Report (2011)153, “the combined direct employment impact of 31 300 jobs leveraged by one single development finance institution is a significant achievement, considering that overall employment in the South African economy expanded by only 42 000 in the 12 months to March 2011.” It also represents a 25% increase in the job creation facilitated in the previous financial year. Over and above the indirect employment effects, the broad-based benefit is augmented by an additional 8 100 jobs expected to be created through linkages in the second economy.

During the 2010-2011 financial year, the IDC approved 221 transactions on a net basis (213 in the previous financial year); 137 pertaining to small- and medium-sized enterprises (SMEs) and 104 transactions involving black-empowered entities. Often based in rural areas, agro-industries provide onsite job opportunities to turn raw products into consumable goods.

Investing in these industries is critical to the economic direction of the country’s development plans; encouraging ongoing economic growth, job creation and poverty reduction.

Through its funding and intervention the IDC created and saved jobs in many sectors, for example, food, beverage and agro-industries; mining; chemical and allied industries; textiles and clothing; metal, transport and machinery; wood and paper; construction; services sectors, media and motion pictures, healthcare, and franchising.154.

3.7.2. Alexkor Limited

As part of its new mandate Alexkor will be able to explore opportunities outside the Alexander Bay area, and will therefore be able to explore opportunities in the rest of South Africa and beyond the borders of the country. The aim of the new strategic intent is to establish sustainable new mining activities under Alexkor that will enable Alexkor to extinguish its historical liabilities and more importantly to enable Alexkor to contribute significantly to South Africa’s economic growth and job creation objectives.

Recruitment of individuals from the local community is exceedingly important as the company recognises the value of employment to the community in which it operates. In the 2010-2011 financial year, Alexkor provided jobs to 975 people, including employees and contractors.155

3.7.3. Airport Company of South Africa

ACSA is contributing to job creation in South Africa through infrastructure investment and partnerships that are being developing with the private sector. As recognised by global consulting firm Mott-MacDonald, the investment by ACSA in infrastructure development has been appropriate, leading to significant socio-economic benefits. It is estimated that the three

major international airports sustain about 300 000 jobs (direct and indirect) and that planned future developments, as a result of passenger and cargo growth, will result in the creation of some 150 000 new jobs over the next 10 years, provided the envisaged infrastructure development plans are realized. The number of jobs created directly and indirectly through ACSAs activities (extended public works programme) is best determined by reference to the capital expenditure, which amounted to R505 million, and it is estimated that the number of job opportunities created indirectly through this is some 4 590.  

3.7.4. Broadband Infrastructure Company

At the end of the 2009/10 financial year, Broadband Infraco had a staff compliment of 76. Appointments were made in the functional areas of marketing, sales and business development, network engineering, project management and site implementation, finance, human resources, commercial procurement, legal counsel, enterprise risk management, business process development, and other business support functions such as health, safety and the environment.

3.7.5. Denel PTY LTD

Denel contributes to, and strengthens South Africa’s technological capabilities by developing skills and creating jobs, thus addressing national developmental objectives. Denel’s contribution to employment has been estimated at 30 000 highly-skilled technical jobs over the last 6 years. The Group has a workforce of 4 716 employees (2010: 5 090), excluding employees of associated companies. In addition jobs are created through the various suppliers with regard to administration support, transport, etc. By ensuring that many of

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Denel’s projects have a high local content local sub-contractors in both the defence industry and manufacturing sector benefit to a great extend from the Group’s projects.\(^{158}\)

### 3.7.6. Eskom

Eskom acts a leading indicator of investment and job creation for sectors such as mining and energy-intensive manufacturing, as they depend on the reliable supply of energy. In response to the government’s NGP, Eskom has revised its baseline plans to raise its contribution to job creation associated with its capacity expansion program over the next five years. Eskom’s youth program will support 5 000 young people to find employment. Overall, Eskom expect that by 2015 approximately 100 000 people will be directly or indirectly employed in Eskom, in the supply chain, or through secondary effects. Eskom also aims to create 10 000 apprenticeships by 2015 through all of its activities.\(^{159}\)

Eskom’s investment in infrastructure will not only help to provide the platform on which South Africa’s economy can grow and thrive in the longer term; it also significantly boosts the economy in the shorter term, stimulating business activity and investment in a range of economic sectors. In Eskom’s new construction projects, the local content commitment in the latest financial year was more than R9 billion, which was 79% of the total value of contracts awarded. These projects have significantly boosted local economies; and it is estimated that they are creating a net 40 000 jobs, directly and indirectly, during construction.\(^{160}\)

### 3.7.7. Telkom SA Limited

At the end of the 2010-2011 financial year, Telkom had 22,884 permanent employees with the majority (67%) in operational and support roles. Because technological changes happen

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quickly in the industry, coupled with the switch from fixed to mobile phones, fewer people are needed to operate and maintain the network.\textsuperscript{161}

3.7.8. Transnet Limited

Transnet has developed a five-year capital investment plan to the amount of R110, 6 billion with major capacity creation projects. This capital investment programme will stimulate both direct and indirect job creation in terms of the NGP commitments.

Transnet’s total workforce of 49 078 comprises of 47 763 permanent employees and 1 315 fixed term employees. The Company’s permanent workforce consists of 4 521 employees who form part of the management category (9, 5%) and 43 242 employees who form part of the bargaining unit category (90, 5%).\textsuperscript{162}

3.7.9. South African Forestry Company Limited

At the end of the 2010-2011 financial year SAFCOL’s South African operations employee complement for the combined group was as 1 985 employees (1 933 permanent and 52 fixed-term employees). The Mozambican subsidiary employed a number of 702 employees.\textsuperscript{163}

3.8. Discussion

\textsuperscript{161} Telkom Group Ltd. 2011. Integrated Annual Report 2011. \url{www.telkom.co.za}
\textsuperscript{162} Transnet Limited 2011. Integrated Annual Report 2011. \url{www.transnet.co.za}
\textsuperscript{163} SAFCOL, 2011. Annual Report 2011. \url{www.safcol.co.za}
Through its New Growth Path approach, the South African Government has identified, amongst others, infrastructure development, agriculture, mining and manufacturing as major catalysts for sustainable job creation. When assessing the actual and potential numbers of jobs created by the selected SOEs in this study, it seems that many of the SOEs, especially the larger enterprises, are assisting government in reaching their job creation targets by 2020.

The IDC has a significant impact on South African job creation as noted in the IDC Annual Report (2011): “The combined direct employment impact of 31 300 jobs leveraged by one single development finance institution is a significant achievement, considering that overall employment in the South African economy expanded by only 42 000 in the 12 months to March 2011.” Over and above the indirect employment effects, the broad-based benefit is augmented by an additional 8 100 jobs expected to be created through linkages in the second economy.

ACSA is contributing to job creation in South Africa through infrastructure investment and partnerships with the private sector. It is estimated that the three major international airports sustain about 300 000 jobs (direct and indirect) and that planned future developments, as a result of passenger and cargo growth, will result in the creation of some 150 000 new jobs over the next 10 years. The number of jobs created directly and indirectly through ACSAs activities (extended public works program) is best determined by reference to the capital expenditure, which amounted to R505 million.

In response to the government’s NGP, Eskom has revised its baseline plans to raise its contribution to job creation associated with its capacity expansion programme over the next five years. Overall, Eskom expect that by 2015 approximately 100 000 people will be directly or indirectly employed in Eskom, in the supply chain, or through secondary effects. Eskom also aims to create 10 000 apprenticeships by 2015 through all of its activities.

In Eskom’s new construction projects, the local content commitment in the 2010-2011 financial year was more than R9 billion. These projects have significantly boosted local

economies; and it is estimated that they are creating a net 40 000 jobs, directly and indirectly, during construction.\textsuperscript{166}

Transnet has developed a five-year capital investment plan to the amount of R110, 6 billion with major capacity creation projects. This capital investment program will stimulate both direct and indirect job creation in terms of the NGP commitments. Transnet’s total workforce of 49 078 comprises of 47 763 permanent employees and 1 315 fixed term employees.\textsuperscript{167}

The New Growth Path calls for re-industrialisation in the South African economy based on improving manufacturing performance through innovation, strong skills development and reduced input costs in the economy. Denel’s contribution to employment has been estimated at 30 000 highly-skilled technical jobs over the last 6 years. By ensuring that many of Denel’s projects have a high local content local sub-contractors in both the defence industry and manufacturing sector benefit to a great extend from the Group’s projects.\textsuperscript{168}

With regard to infrastructural development as a catalyst for job creation, government has identified, amongst others, the communication sector as a major sector for job creation. At the end of the 2010-2011 financial year, Telkom had 22,884 permanent employees. However, since technological changes happen quickly in the industry, coupled with the switch from fixed to mobile phones, fewer people are needed to operate and maintain the network.\textsuperscript{169} At the end of the 2009/10 financial year, Broadband Infraco had a staff compliment of 76.\textsuperscript{170}

The NGP calls for increased mineral extraction through reviewing the existing legal framework and improving infrastructure and skills development. In the 2010-2011 financial year, Alexkor has provided jobs to 975 people including employees and contractors. As part of its new mandate Alexkor will be able to explore mining opportunities outside the Alexander Bay area, and will therefore be able to establish sustainable new mining activities that will


\textsuperscript{168} Denel (Pty) Ltd. 2011. \textit{Annual Report 2011}. www.denel.co.za


\textsuperscript{170} Broadband Infraco. 2010. \textit{Annual Report 2010}. www.infraco.co.za
enable Alexkor to contribute significantly to South Africa’s economic growth and job creation objectives.\(^{171}\)

### 3.8.1. SECTOR EDUCATION AND TRAINING AUTHORITIES (SETAs)

#### 3.8.1.1. INTRODUCTION

The Skills Development Act (1998)\(^{172}\) provides a framework for the development of skills in the workplace. Amongst other things, the Act makes provision for the establishment of sector-specific Sector Education and Training Authorities to administer the scheme's funds, and manage the skills development process. Accordingly 23 SETAs were constituted in March 2003. In April 2010 changes were announced to SETAs including that the Department of Higher Education and Training would assume responsibility for skills development that had previously been controlled by the Department of Labour and the number of SETAs has been reduced from 23 to 21.

Early in 2011 the NSDS III was announced and addresses the new scope and mandate of the SETAs. SETAs are expected to facilitate the delivery of sector-specific skills interventions that help achieve the goals of the NSDS III, address employer demand and deliver results. The core responsibility of SETAs is to develop sector skills plans (SSPs). SETAs should be the authority on labour market intelligence and ensure that skills needs and strategies to address these needs are set out clearly in sector skills plans. SETAs must be able to coordinate the skills needs of the employers - levy-paying and non-levy paying - in their respective sectors, undertake sector-based initiatives and collaborate on cross-sector skills areas to enable collective impact. NSDS III provides a stronger base for the SETAs and Department of Higher Education and Training (DHET), through service level


agreements, to set targets that align with sector skills needs and ensures an improved focus on the core mandate of SETAs\textsuperscript{173}.

### 3.8.1.2. THE SERVICES SECTOR EDUCATION AND TRAINING AUTHORITY (SERVICES SETA)

The Services SETA was established in 2000 to ensure that the skills needs of the services sector would be identified and correctly addressed. The Services SETA committed to achieve this task by forming partnerships with various stakeholders and role-players and by implementing a focused business plan.

The Service SETA has to assure that all the skill requirements of the sector are identified, that adequate and appropriate skills are more readily available to a larger number of learners, and that the skills of the current workforce is acknowledged and enhanced by the SETA’s input and activities. Furthermore, the Services SETA is also responsible for ensuring that learners have access to a relevant workplace experience and that there are internships and apprenticeships that will enable learners to improve their potential.\textsuperscript{174}

Although the Services SETA is mandated by the Department of Higher Education through an annual service level agreement, the Services SETA has discretion on the exact nature and type of projects approved and executed. The Services SETA approved a total discretionary project budget of approximately R305M and implemented 130 discretionary funded projects during the 2010/11 financial year. The following categories of projects were funded during the financial year of 2010/11:

#### 3.8.1.3. Credit bearing qualifications

\textsuperscript{174} Services SETA. Annual report 2011: www.serviceseta.org.za
This training included interventions which could result in the learners being awarded credits towards a qualification or part thereof on the National Qualifications framework; or through qualifications offered by institutions accredited by the Council for Higher Education. Credit bearing training includes learnerships, internships, skills programmes, artisans and apprenticeships, and undergraduate and post graduate bursaries. The training was directed at both employed and unemployed learners. The learners ranged from those at levels of basic adult education and training, through to those doing post-graduate management studies. Training that further enhanced the capacity for the delivery of education and training such as assessor, moderator and skills development facilitator was also undertaken.

3.8.1.4. Research

The Services SETA’s DHET service level agreement mandate includes research into skills development within the services sector. The research areas relates to skills development in individual sector industries, small and medium business development, international best practice in skills development, labour’s role in skills development, and tools and techniques in cognitive development.

3.8.1.5. Non-accredited short courses

The Services SETA was mandated by the DHET service level agreement to support small business, Non-Governmental Organisations and Non-Profit Organisations through improving the skills of their owners or managers. The Services SETA ran workshops on subjects common to small business, including corporate governance, basic accounting and finance, marketing, labour and payroll management and project management.

3.8.1.6. Special projects

The Services SETA also embarked on special projects that moved the boundaries of traditional education and training modalities. Amongst these were interventions which
improved mathematical skills in schools, cognitive teaching and thinking techniques, quality management audits of member companies, international benchmarking and training activities, mandatory grant support initiatives, industry professionalization initiatives and continuous professionalization activities, qualification generations and review initiatives, accreditation support activities and constituency support interventions.\footnote{Services SETA. Annual report 2011. www.serviceseta.org.za}

For the year ended 31 March 2011 the Services SETA has enrolled 28 480 employed learners in various learning programs including learnerships, apprenticeships and skills programs; 73% have successfully completed the programs. Furthermore, 46 653 unemployed learners were enrolled and 67% of these learners have successfully completed the programs. The Services SETA has trained 9 275 learners in critical skills programs that were covered by sector agreements form Higher Education and Further Education and Training institutions. These learners were supported in order to gain work experience locally or abroad and 50% of these learners found employment or were self-employed. 2659 skills development facilitators and sector specialists were trained and accredited. The Services SETA also disbursed funds to 2 465 large companies and 2 781 medium companies to conduct training and support employment equity targets. In addition 39 690 small companies were supported to improve the skills levels of their employees. The Services Seta also supported 1 006 small BEE firms and BEE co-operatives with skills development and training.\footnote{Services SETA. Annual report 2011. www.serviceseta.org.za}

3.8.2. THE LOCAL GOVERNMENT SECTOR EDUCATION & TRAINING AUTHORITY (LGSETA)

The Local Government Sector Education & Training Authority has been mandated to facilitate the implementation of skills development initiatives and interventions that covers the training and development of local municipal workers, the unemployed, traditional leaders,
and ward councilors to uplift communities through basic service delivery. LGSETAs stakeholders include SALGA, SAMWU, IMATU and COGTA.\textsuperscript{177}

Flagship Programs aiming at supporting the local sector critical skills areas are identified in the Annual Report (2011) as follows:

- Municipal finance to assist municipal finance practitioners to achieve the MFMA competence requirements.
- Accounting Technician Learnership to establish and promote the accounting skills in local government.
- Artisan skills in the water sector for water and water process controllers in projects jointly initiated by the Department of Water Affairs.
- Training of municipal officials to manage Extended Public Works Programs.
- The Local Government Turn Around Strategy requires the LGSETA to respond to the key skills requirement to promote better service delivery in municipalities.
- With regard to the 2011 local government elections the Ward Committee Training program was reviewed to respond to the requirements of the newly elected members. The Councillor Induction programme to train the elected councilors was also reviewed.

In the year under review the LGSETA disbursed 98\% of mandatory grants to employers in the sector. Discretionary grants in excess of R110 million were disbursed to support key sectoral strategic priority projects, as a response to mitigate the skill challenges in municipalities.\textsuperscript{178}

### 3.8.2.1. Sector Skills Planning

The LGSETA discretionary grant focus areas

\textsuperscript{177} Local government sector education and training authority (LGSETA). 2011. Annual report of the Local government sector education & training authority, 1 April 2010 to 31 March 2011. www.lgseta.co.za

\textsuperscript{178} Local government sector education and training authority (LGSETA). 2011. Annual report of the Local government sector education & training authority, 1 April 2010 to 31 March 2011. www.lgseta.co.za
The LGSETA discretionary grant focus areas are aligned to the priority areas of the Local Government Turn Around Strategy and the municipal key performance areas. The LGSETA discretionary grant is designed to assist with developing the skills profile within the sector in areas which are directly linked to the DCoG identified priority areas for local government. There is a particular focus on infrastructure and service delivery, municipal finance and municipal leadership and governance. Projects include:

- The LGSETA in partnership with the Department of Water Affairs is implementing training for approximately 1 800 water and waste water operators and process controllers employed in municipalities nationally. The training will assist municipalities to achieve “Blue Drop” and “Green Drop” status.
- The LGSETA in partnership with the Department of Public Works is training 1200 municipal officials in labour intensive construction. The training is aimed at municipal officials who have the responsibility for the design and supervision of labour intensive projects being implemented through the Expanded Public Works Programme and the Municipal infrastructure grants.
- Labour Relations within the local government sector is a key strategic theme of the Local Government Turn Around Strategy. The LGSETA has entered into a partnership with the South African Local Government Bargaining Council to train shop stewards and local labour forum members in municipalities in an attempt to foster sound and harmonious workplace relationships, and to improve the functioning of the local labour forums.\(^\text{179}\)

**Discretionary Grant Funded Scarce Skills Initiatives**

Initiatives include:

- The 2006/7 SSP review demonstrated a lack of capacity within the sector to implement the Municipal Property Rates Act. Consequently, the LGSETA approved a discretionary grant funded project to be implemented in conjunction with the South African Council for the Property Valuers Profession and DPLG to contribute to increasing municipal capacity in this area. Bursaries and internships are available for students.

The 2005/06 SSP Review revealed a severe shortage within the sector of suitably qualified engineers and engineering technicians, which affects the sector's capacity to deliver services. Funding was thus set aside for both bursaries and internships and the South African Institution for Civil Engineers was contracted to administer the project. The project has been running for 3 years and 60 engineering bursaries have been awarded to municipal employees and 91 interns were placed in different municipalities.

The LGSETA has identified human resources development as one of the scarce and critical skills in the Local Government Sector, which led to the approval of the Bursary Scheme in 2010. Currently, the focus is only on the municipal employees who are working in the field of human research development.

The 2010/11 SSP Review revealed a severe shortage of professional town planners within the sector. Funding was thus set aside for both bursaries and internships and the South African Council for Planners was contracted to administer the project. A number of 22 students from four universities has benefited from the Bursary Scheme.

Due to inadequately qualified ichthyologists in municipalities the Rhodes University was contracted to administer the Ichthyology Bursary Scheme.

The Local Government Network/Local Government Resource Centre project is funded by LGSETA and initiated by the Development Bank of Southern Africa. About 144 Municipalities will acquire basic information technology knowledge and skills through this project.

The insufficient number of the information technology professionals in the municipalities has been affecting the acceleration of service delivery in the local government sector. The Student-to-Government Program is designed to address this skills deficit and to enable local municipalities to improve their systems and their use of IT and to employ and retain qualified IT specialists.  

3.8.2.2. Learning programs

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LGSETA implement and support learning programs to improve skills in Local Government. LGSETA has identified six key priority strategic areas:

- Financial viability. Projects include the Municipal Finance Management Development Program and the Local Government Accounting Certificate.
- Infrastructure development and service delivery. Projects include the Artisan Development Project and the Infrastructure Asset Management Program.
- Management and leadership development. Various projects were undertaken aiming at improving management and leadership capability in local government.
- Community based planning and development
- ABET. Projects for people with disabilities are conducted.
- Training of Training Committee

3.8.3. PUBLIC ADMINISTRATION LEADERSHIP AND MANAGEMENT ACADEMY (PALAMA)

The Public Administration Leadership and Management Academy (PALAMA) is constituted as a Schedule 1 Department by the Public Service Act No. 103 of 1994, as amended by the Public Service Act No. 5 of 1999. It is headed by a Director-General and reports to the Minister for Public Service and Administration.

PALAMA, the government training department, has to contribute to building a capable public service, through providing and coordinating extensive opportunities and access to leadership and management competency development oriented programs specifically aligned to the learning and knowledge needs of public service managers and executives to contribute to service delivery improvement.

PALAMA manages and offers training and development opportunities to public servants at national, provincial and local spheres of government. PALAMA also provides training in governance, leadership and management to the legislatures and parliament.

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Programs and courses offered by PALAMA address leadership challenges and the practical management competencies required for improved service delivery. They also focus on inculcating the values and contextual knowledge required for a developmental state. Some of the courses offered by PALAMA are accredited by the Public Sector Education and Training Authority (PSETA) or by other Sector Education and Training Authorities and Higher Education Institutions. Some of the training programs are:

- Integrated Management Development Programs (at Executive, Advanced, and Foundation levels) respond to the DPSA competency frameworks for senior and middle management competencies
- Supply-chain and financial management courses for municipalities in conjunction with Treasury, and project management training programs
- Governance-related training program, such as Anti-Corruption, Gender Mainstreaming and Disability Management
- The Massified Induction Program which is compulsory for all newly appointed public servants before completion of probation
- The government-wide monitoring and evaluation capacity building program to support the work of the Presidency, DPSA, DPLG and National Treasury.  

The annual report of PALAMA (2011) noted the following performance highlights for 2010/11:

- During this financial year, 1 063 training sessions were held including the training of 7 011 officials in the executive development programs.
- Strategic partnerships: Key strategic partners were secured for development and roll-out of customised programs, some of which are: the Eastern Cape Office of the Premier; Mpumalanga and Limpopo Provincial Governments in partnership with the Local Government Sector Education and Training Authority and SALGA; the Western Cape Department of Local Government; the Government Communication and Information System (GCIS); the Department of Science and Technology; and the

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National Treasury. PALAMA programs have also been included in the priority training plans for the Free State, KwaZulu-Natal and Western Cape academies.

- Research: Key strategic relations for research have been established with the Department of Environmental Affairs, the Centre for Public Service Innovation and the National Research Foundation.

- Induction training: During this financial year, 18 660 new public service officials were inducted. As part of preparing unemployed graduates for public sector employee recruitment, PALAMA developed a preparatory program in which 1 192 unemployed youth graduates participated.

- Monitoring and evaluation: As part of the monitoring and evaluation (M&E) of training standards, M&E instruments were developed and customised. During this financial year, a total of 20 992 Reaction Evaluation Questionnaires (REQs) were captured and analysed, which include 757 facilitator feedback forms.

- New strategic courses: New learning programs focusing on generic competencies in government administration were completed.

- Multi-modal training: The use of the eLearning platform has been expanded and is becoming a key component in the training delivery strategy for PALAMA. During this financial year, 126 eLearners from eight departments were enrolled in a formal credit-bearing course. Furthermore, eLearning materials for 14 blended-learning courses (dual-training methods) were also designed and developed.

- PALAMA has offered an Ethics and Anti-corruption training program and a total number of 954 officials participated in this program. In addition PALAMA also developed an anti-corruption online discussion forum in close collaboration with the Department of Public Service and Administration. Fifty officials have been registered and oriented on participation in this virtual forum.

- Gender mainstreaming: Twenty gender mainstreaming program training sessions were conducted with 375 officials being trained. Furthermore, 20 new PALAMA courses were assessed for gender sensitivity and inclusivity. PALAMA also implemented gender mainstreaming training through its work in the post-conflict countries resulting in more women participating in training activities.
• International and special projects: PALAMA continued playing its role as the implementing agency for the capacity building project in Rwanda, Burundi and Southern Sudan. Furthermore, PALAMA is also leading the implementation of the Continental Capacity Development Program which falls under the auspices of the African Union.

• The Capacity Building Program for members of parliament and provincial legislatures providing professional training and development initiatives commenced in 2010.

3.9. **Concluding Remarks**

SOEs play an important role in advancing economic growth, since they are responsible for the development of key infrastructure and manufacturing capacity for South Africa. SOEs have also made significant contributions to job creation and skills development in South Africa. They have played an essential role in training South Africans in a range of technical, technological and artisanal skills including scarce and critical skills.

When assessing the role of SOEs in skills development it seems that many of the SOEs in this study value the importance of skills development for long term business sustainability and have developed a comprehensive skills attraction, development and retention strategy to support their growth strategies. Furthermore, many acknowledged that to be sustainable they require unique technical skills that are largely not available in the market and are thus dedicated to develop scarce skills. With regard to their employees, the SOEs link skills development to career paths and career development. Many of the SOEs in this study partner with public education institutions (FET colleges, universities of technologies and universities), private training providers and SETAs to promote skills development.

Many of the larger SOEs have development programmes that entail training and development interventions, starting with programs aimed at schools and progressing to tertiary institutions, internships mentorship programs and talent management. Bursary
programs are also in place. Programs to develop both engineers and high-skilled artisans are in place to assist with the development of scarce skills. Many of the selected SOEs have dedicated academies of learning, institutes, and training centres to assist with skills development. Some of the larger SOEs maintain skills and talent pipelines that continuously support the needs of the companies, but also provide skills training for the larger South African market.

In order for government to evaluate the role of SOEs on skills development it could be useful to standardise reporting on skills development. This will enable government to compare small, medium and large SOEs with regard to their skills development initiatives and best practices can be identified.

In order to enhance the development of scarce and critical skills in South Africa. SOEs could be compelled to fund scarce and critical skills in their specific sectors.

Some of the larger SOEs have established foundations to support various social initiatives, amongst others, human capital development in disadvantaged communities in South Africa. In many instances the primary aim is to promote mathematical, science and technological skills in rural and semi-rural communities to assist with the lack of skills supply in the respective fields. Some of the selected SOEs encourage and support cooperatives, small enterprises, worker-initiated, NGO and community training initiatives.

This study of selected Schedule 2 SOEs indicates that many of the SOEs, especially the larger enterprises, are assisting government in reaching their job creation targets by 2020. Some of the SOEs, e.g. Transnet, Eskom and ACSA have embarked on large infrastructure projects which will significantly boost the economy and, directly and indirectly, create thousands of jobs. Furthermore, the IDC has set aside an amount of R10-billion over the next five years for investment in projects with high job-creation potential. Some SOEs, e.g.
Denel, has created thousands of jobs over the last couple of years by improving its manufacturing performance and ensure that many of the projects have a high local content.

SETAs in South Africa are important facilitators of skills development in the country as they have to identify the skills requirements of specific sectors and accordingly develop sector skills plans. SETAs also have to ensure that adequate and appropriate skills are more readily available to a larger number of learners, and that the skills of the current work force is acknowledged and enhanced. In addition SETAs are also responsible for ensuring that learners have access to relevant workplace experience in the form of internships and apprenticeships.

The selected SETAs in this study offer, amongst others, credit bearing training that could result in the learners being awarded credits towards a qualification on the National Qualifications framework; or through qualifications offered by institutions accredited by the Council for Higher Education. Such training includes learnerships, internships, skills programmes, artisans and apprenticeships, and undergraduate and post graduate bursaries. The training is directed at both employed and unemployed learners and ranges from basic adult education and training to post-graduate studies. Many learners, especially from previously disadvantaged communities, has benefitted from SETA programs in the past. The selected SETAs also play an important role with regard to the development of scarce and critical skill in the country by identifying those skills and make funds available for bursaries and internships. Furthermore, the SETAs disburse funds to large, medium and small companies to conduct training and support employment equity targets.

PALAMA, the training academy of the South African government, plays and important role in building a capable public service in South Africa to ensure effective service delivery. PALAMA manages and offers training and development opportunities to public servants at national, provincial and local spheres of government. Furthermore, PALAMA also provides training in governance, leadership and management to the legislatures and parliament.
3.10. References


4. THE CONTRIBUTION OF SOES TO ENTERPRISE AND SOCIO-ECONOMIC DEVELOPMENT

4.1. Introduction

Before 1994, the state suppressed and marginalised black entrepreneurs. This entrenched market and financial institutions, infrastructure and regulatory frameworks that were inappropriate for smaller producers, who also often lack production, financial and management skills. They also faced the difficulty of competing with well-established firms in concentrated markets, had problems accessing affordable finance and often suffered disproportionately from crime against businesses.

Since 1994 the South African government has recognised the importance of fostering an enabling environment for the creation and growth of small enterprises. In March 1995 the government articulated a number of measures to support an enabling environment in the White Paper on national strategy on the development and promotion of small business in South Africa. These included:

• Creating an enabling legal framework
• Streamlining regulatory conditions
• Facilitating access to information and advice
• Facilitating access to marketing and procurement
• Facilitating access to finance
• Facilitating access to affordable physical infrastructure
• Providing training in entrepreneurship, skills and management
• Improving industrial relations and the labour environment
• Facilitating access to appropriate technology
• Encouraging joint ventures
• Capacity building and institutional strengthening
• Introducing differential taxation and other financial incentives
Since the publishing of the White Paper, a number of small enterprise support institutions and measures have been put in place. While these have assisted in the pursuit of the objectives outlined above, some critical challenges remained. The Government recognised that it had to continue addressing these challenges and find ways to improve the operating conditions for small enterprises. This included efforts to address market failures, particularly where they impact on the Government’s special development goals. Therefore, the Government continued to develop and implement measures focused on targeted beneficiaries, including micro-enterprises; informal enterprises; enterprises owned by black people, women and youth; growth-orientated enterprises; as well as enterprises in priority sectors like tourism, construction, agriculture, cultural industries and information and communications technology (ICT).

Enterprise development has also been singled out by the New Growth Path framework, State of the Nation Address and 2011 Budget speech of Minister Pravin Gordhan as of particular importance for supporting economic growth. Government’s aims for enterprise development are summed up well by the new growth path framework. These are to promote small business and entrepreneurship and eliminate unnecessary red-tape which South Africa has imposed on a relatively weak small and micro enterprise sector.

Core components relevant to small enterprise development in the New Growth Path included:

- A one-stop shop and single funding agency for small and micro business established through consolidation of Khula, SAMAF and IDC funding, amongst others, to both improve access and reduce the overhead costs of government in order to make more resources available to end-users.

- To fully implement government’s long-standing commitment to pay small business suppliers within 30 days, with clear consequences for non-compliance by public entities. In addition to existing measures, government will consider a policy of

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“name and shame” and fiscal penalties for departments that do not pay small suppliers on time.

- To integrate small and micro enterprise support systematically into all sector strategies. This is critical to ensure a space for smaller enterprise in the value chains of major industries and to support the development of clusters and sectoral regulations and market institutions that meet the needs of smaller producers.

- To initiate a red-tape elimination campaign to simplify regulated procedures and forms and remove any bias against smaller producers, for instance in zoning requirements, with results reported to Cabinet on a quarterly basis.

- To strengthen access to micro-finance for small enterprises in order to bring more citizens into economic activities and thus widen the enterprise pool in the country as one key step to promote the growth of new enterprises.

- To address smaller businesses’ concerns about access to and the cost of space in shopping malls.

Several objectives of the national B-BBEE strategy imperative bear relevance to small business development and are therefore relevant to the strategy of dealing with SMME’s as a whole.

B-BBEE objectives in the New Growth Path are:

- Achieving a substantial increase in the number of black people who have ownership and control of existing and new enterprises.

- Achieving a substantial increase in the number of black people who have ownership and control of existing and new enterprises in the priority sectors of the economy, which government has identified in its macro-economic reform strategy.

- Achieving a significant increase in the number of new black enterprises.

- Increasing the proportion of ownership and management of economic activities vested in community enterprises and co-operatives. Besides increasing enterprise ownership
by blacks, the B-BBEE strategy also outlines measures to increase procurement from black-owned enterprises, and to strengthen the supply capacity of black-owned firms.

4.2. **Analysis of the current roles of Schedule 2 SOE’s in small enterprise development**

Schedule 2 state owned enterprises are the subject of analysis in this investigation. These SOE’s comprises the largest and most influential of institutions in South Africa today and have therefore the most significant impact on SMME development. The schedule 2 list includes 21 institutions which will be discussed in terms of their current contribution to SMME development. Unfortunately, SOE’s are not required to report on procurement or other activities related to SMME development as is the case with B-BBEE. Where data could be obtained, SOE procurement from B-BBEE enterprises is used as a proxy for SMME spent where no SMME information was found. The information gathered on SOE’s was derived from the latest available annual reports and other internet based information.

4.3. **Air Traffic and Navigation Services Company Limited**

The Air Traffic and Navigation Services Company Limited (ATNS) was incorporated in terms of the ATNS Act, Act 45 of 1993. Section 4 of the Act which mandated the ATNS to provide air traffic management services on behalf of the State in accordance with ICAO standards and recommended practices, and the South African Civil Aviation Regulations and Technical Standards. The business focuses on air traffic management and aviation safety, more specifically safe, secure, efficient and cost-effective air transport for South Africa and materials travelling to, from and within South Africa\(^\text{186}\).

In terms of its mandate, the ATNS believes to stay abreast of innovations in product and service offerings, technological developments and customer expectations in order to effectively respond to the needs of selected markets with relevant air traffic solutions. Due to

the advance nature of technology and equipment used and required by air traffic and navigation, the ATNS’s role in dealing with SMME’s are very limited. This by its very nature forces the institution to source the majority of its equipment from large international suppliers which thereby implicitly exclude SMME’s.

4.4. *Airports Company of South Africa Limited*

Airports Company South Africa Limited (ACSA) was formed in 1993 as a public company under the Companies Act of 1973, as amended, and the Airports Company Act of 1993, as amended. Although ACSA is majority owned by the South African Government, through the Department of Transport, the Company is legally and financially autonomous and operates under commercial law\(^\text{187}\).

ACSA’s revenue is generated from aeronautical and non-aeronautical sources. The former is derived from government-regulated charges, or tariffs, paid by airlines and includes fees for aircraft landing, aircraft parking and a passenger service charge. Non-aeronautical income is derived from multiple sources that include retail sales, concession fees, property leases, parking fees, hotel operations, advertising and revenues from our involvement in international activities\(^\text{188}\).

ACSA supports the principle that the stimulation of South Africa’s economy is dependent on the successful initiation and growth of enterprises, especially those in the small- and medium-sized categories. This support is reflected by the institutions sponsorship of the top women entrepreneur award which is a natural extension of the company’s commitment to empowering women, combined with that of enterprise development.

ACSA's programs for social investment is based on empowering local communities, particularly those surrounding ACSA's airports, and marginalized groups in South Africa. It is

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committed to building South Africa as a nation, and views corporate social investment (CSI) and Enterprise Development (ED) as a vital response to the socio-economic imperatives of the country. The maxim 'moving people, changing lives' represents their business focus and role as a good corporate citizen in South Africa.

The focus areas of ACSA projects are: health and welfare, job creation, community development, education, with particular focus on projects that boost infrastructure and education based on promoting and generating tourism in South Africa.

Flagship projects of ACSA funded at a national level include amongst others:

- Wheelchair Tennis South Africa
- Wheel Power (including wheelchairs and bicycles for schools programmes)
- Crèche programmes
- Community Upliftment Programmes
- Environmental Program- Bird SA and Barn Swallow project

ACSA does not provide any detail on procurement from SMMEs but do give an indication of their B-BBEE spending for the year 2009 which comprised 55% of the total spent by the organisation.

4.5. **Alexkor Limited**

Alexkor Limited is a juristic entity established in terms of the Alexkor Limited Act No. 116 of 1992, as amended. The Company is wholly owned by the Government of the Republic of South Africa through the Minister of Public Enterprises\(^{189}\).

Alexkor has two divisions, namely Alexander Bay Mining (ABM) and non-core operations (comprising town maintenance, a guesthouse and a fuel station). The ABM division is the core business of the Company exploiting a large land-based diamond resource and extensive diamondiferous marine deposits along the West Coast of South Africa.

Alexkor is the sole source of income for the employees of 27 local Small, Medium and Micro Enterprises (SMMEs) contracted to provide mining services. The Company is thus a major contributor to household incomes in Namaqualand. All of the 27 SMMEs contracted to provide mining services at Alexkor have at least a 50% HDSA component in their shareholding, with many having a 100% component. The payment to SMMEs for mining services was R97.5 million in 2010 (compared with R75.3 million in 2009), an amount that illustrated Alexkor’s commitment to the development of such enterprises

4.6. Armaments Corporation of South Africa Limited (Armscor)

The Armaments Corporation of South Africa Limited (Armscor) is a South African state-owned entity mandated by the Armaments Development and Production Act, 1986 (Act 57 of 1968), and continues its existence through the Armaments Corporation of South Africa Limited Act, 2003 (Act 51 of 2003).

Armscor has been faced with persistent challenges of reaching B-BEEE and targets due to the predominance of foreign suppliers in the defence procurement environment. An integrated industry support strategy was under development in the 2009/10 financial year which encompasses industry capability management for sustainable B-BEEE, DIP support and export support. The defence industry is faced with the challenges of globalisation and international shrinking of defence budgets. These challenges resulted in fierce competition for declining market shares. The cyclic nature of the defence industry caused some of the

industry players to rely mainly on foreign markets for survival which threatens the sustainability of the local industry and limit opportunities to SMMEs\(^{191}\).

### 4.7. Broadband Infrastructure Company (Pty) Ltd

Broadband Infraco (Proprietary) Limited ("Broadband Infraco") is a State Owned Entity (SOE) in the telecommunications sector, intended to improve market efficiency in the long distance communications connectivity segment by increasing available long distance network infrastructure and capacity to stimulate private sector development and innovation in telecommunications services and content offerings, as well as to provide long distance national and international connectivity to previously underserviced areas\(^{192}\).

The Broadband Infraco is planning to invest in the West African Cable System (WACS) project. It is anticipated that this will increase competition which will push prices down which will in turn benefit SMME businesses and other service providers. The Broadband Infraco also requires service providers to report on their SMME and B-BBEE status in line with requirements. Notwithstanding the challenges that were faced, as well as the lack of an effective system to capture Broad Based Black Economic Empowerment (B-BBEE) spend as outlined in the Department of Trade and Industry’s (DTI) Codes of Good Practice, the Broadband Infraco continued to persevere by tracking Black Economic Empowerment (BEE) procurement spend manually. The Broadband Infraco was expected to spend 50% on B-BBEE enterprises within five years from the date of inception of the Code and 70% within the following five years. The Broadband Infraco is still within the five year period and has exceeded the target by 38% on B-BEE spend. Off a total procurement spend of R320 million, the department achieved an overall B-BBEE procurement spend of R280 million, which accounts for 88% of total procurement spend.

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Furthermore, 61% of B-BBEE spend related to companies with a BEE level of three or higher.

4.8. Central Energy Fund (CEF) (Pty) Ltd

The Central Energy Fund (CEF) is a private company, incorporated in terms of the Companies Act, and is governed by the CEF Act (CEF, 2010). In terms of the CEF Act, the purpose of CEF is to give effect to the objectives of the Central Energy Fund, which are to:

- Finance and promote the acquisition of coal, the exploitation of coal deposits, the manufacture of liquid fuel, oil and other products from coal, the marketing of the said products and any matter connected with the said acquisition, exploitation, manufacture and marketing;

- The acquisition, generation, manufacture, marketing or distribution of any other forms of energy and research connected therewith;

- Any other object for which the fund may be applied, and which has been designated or approved by the said Minister with the concurrence of the Minister of Finance.

The CEF group operates in the energy sector and controls entities with commercial, strategic, regulatory and developmental roles. The CEF group consists of seven operating subsidiaries namely:

- PetroSA;

- iGas;

- Petroleum Agency SA;

- OPCS;

- South African National Energy Research Institute (Saneri);
- The National Energy Efficiency Agency (NEEA); and
- The Strategic Fuel Fund Association (SFF).

The CEF also includes the Energy Development Corporation (EDC), a newly created division (CEF, 2010). This division pursues commercially viable investments in renewable energy (with the exception of natural oil and other already commercialised and developed energy technologies in Southern Africa). This division focuses on a number of niche areas, commercial projects, developmental projects which catalyze the renewable energy sector and social projects which benefit previously disadvantaged communities.

An example of projects by the EDC which have benefited small businesses include SOLCO, a solar-cooking project that has provided South Africans with an alternative way to cook food. The project has resulted in 3 000 solar cookers being sold and has led to the creation of small manufacturing industries in Johannesburg, Cape Town and Durban. An industry association has been set up.

The South African National Energy Research Institute (SANRI) subsidiary focuses on research and development within the energy sector. Its primary role includes the development of an energy research and development agenda that is supportive of government plans of action. This includes the funding of strategic projects aligned to national targets. Research on SMMEs conducted by SANRI includes a project on the fuel mix being used by SMMEs, the underlying reasons behind this choice of fuel mix and the challenges SMMEs face in optimising their fuel usage and what support can be offered to assist them in achieving this. Other SMME related research includes the quantifying of electricity demand from small businesses in Khayelitsha with an aim of analysing the impact of power outages on small and micro businesses in this study area.

4.9. **Denel (Pty) Ltd**

Denel (Pty) Ltd (the company) was established on 1 April 1992 as a private company, incorporated in terms of the Companies Act, No. 61 of 1973 (amended), with the
Government of South Africa as the sole shareholder. It is listed as a Schedule 2 Public Entity in terms of the Public Finance Management Act No. 1 of 1999 (PFMA)\textsuperscript{193}.

Denel have increased its contribution to South Africa’s advanced manufacturing sector through job creation, promoting innovation, technical skills development and SMME development with more than R730m in procurement orders placed with Level 1 to 5 suppliers in 2010. Denel provided work packages to a number of specialised locally based SMME engineering companies. It is claimed that for every one Denel employee, contracts to external suppliers in the form of SMMEs and other business creates at least a further four jobs. Denel has a preferential procurement policy which seeks to increase procurement form organisations that meet the targets set by the group to promote B-BBEE compliance. It also aims to increase business, where practical with black-owned and managed suppliers and SMMEs\textsuperscript{194}.

Generally Denel focus on enterprise development through monetary and non-monetary contributions to identified SMME and qualifying small enterprise suppliers which demonstrates potential for growth and job creation and which are aligned to Denel’s required supplier database.

\section{4.10. Development Bank of Southern Africa}

The Development Bank of Southern Africa (DBSA) was established in 1983 to perform a broad economic development function within the homeland constitutional dispensation that prevailed at the time. In 1994, the new constitutional and economic dispensation in South Africa led to the transformation of the Bank’s role and function. In 1997, the DBSA was reconstituted as a development finance institution in terms of the Development Bank of Southern Africa Act, No. 13 of 1997. The constitution and conduct of the DBSA Board of

\textsuperscript{193} Denel: Annual report 2011. (2011)

Directors are primarily governed by the DBSA Act and further regulated by the Public Finance Management Act, No. 1 of 1999, and sections 284 to 303 of the Companies Act, No. 61 of 1973\(^{195}\).

Up to 4% of the DBSA load book as at 31 March 2011 focused on financing entrepreneurial related infrastructure and activities (DBSA, 2011). The DBSA Development Fund conceptualised the Operations and Maintenance programme in municipal infrastructure in 2007/08. The objective of the programme was to support municipalities in planning and executing infrastructure maintenance, using resources procured in the local environment, including small contractors and community-based works cooperatives. The use of small contractors is promoted in order to contribute to the development of the local maintenance industry while fast-tracking the achievement of national service delivery goals. It ensures that infrastructure maintenance is done in a labour-intensive way, leading to high levels of job creation and enterprise development. The main goals of the programme were to:

- Improve the condition of municipal infrastructure and enhance service delivery
- Create employment
- Develop local enterprises
- Reduce poverty

The SMME development element of the programme was supported by a number of stakeholders, including Khula Enterprise, the Small Enterprise Development Agency and the National Empowerment Fund (NEF). The programme integrates the apprentice development programme and the upgrading of wastewater treatment works and was expected to:

- Enhance service delivery in communities
- Reduce the occurrence of disasters and waterborne diseases caused by infrastructure failures
- Transfer operations and maintenance skills to municipal personnel and communities
- Promote small contractors and SMMEs

Create employment and reduce poverty through short- and long-term job opportunities.

The programme was piloted in Eden District Municipality, and later extended to Dipaleseng, Hessequa and Kannaland Local Municipalities. The NEF and Eden District Municipality signed a Memorandum of Understanding to implement the programme in October 2010. The Municipality maintains provincial roads in the district on an agency basis for the provincial Department of Roads and Public Works. The NEF deployed a programme manager to provide technical and management support to the Municipality’s Road Maintenance Programme, which has an annual budget of R100 million. In Eden District Municipality, 17 SMMEs have been trained in labour-intensive construction technology and project management.

4.11. **Eskom**

Eskom was established in South Africa in 1923 as the Electricity Supply Commission. In July 2002, it was converted into a public, limited liability company, wholly owned by government.

Eskom is one of the top 20 utilities in the world by generation capacity (net maximum self-generated capacity: 41 194MW). Eskom generates approximately 95% of the electricity used in South Africa and approximately 45% of the electricity used in Africa. Eskom directly provides electricity to about 45% of all end-users in South Africa. The other 55% is resold by redistributors (including municipalities).

Eskom hosts an annual business opportunities and franchise expo which offers SMME owners the opportunity to display their products and services and interact with investors from major companies who are seeking business partnerships with potential suppliers from the black-owned business sector. The Expo runs for four days in Johannesburg and has become the most comprehensive exhibition and networking show of its type in South Africa. Subsidised, black owned SMMEs from across the country, particular those in the agricultural, manufacturing, service and marketing sectors as well as those on Eskom’s procurement database are invited to the Expo. A record of 9200 people visited the Expo in 2010 over a 4-day period.

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Eskom committed 7.52% of the local content for the construction of the new Medupi PowerStation to SMME companies. This constituted an amount of R2.47 billion. The Ingula pumped-storage scheme also provided opportunities to SMME companies to the value of R224 million or 6.34% of the local content commitment. The new Kusile PowerStation will provide opportunities to the value of R2.59 billion (8.85% of the local content commitment) to SMME companies.\textsuperscript{197}

Eskom also contribute to the development of SMMEs though its Eskom Foundation initiative which is registered as a Section 21 Company. The Foundation has co-ordinated grants to the value of R62.3 million during 2010. Future priorities for the Foundation include among others, the Eskom business investment competition, Business Opportunities Expo and the Enterprise development programme. The Foundation provides support to small business through skills development and marketing support to assist them in growing and providing further employment opportunities. This creates a larger pool of SMME and BWO suppliers from whom Eskom and other large corporate players can procure goods and services.

4.12. Independent Development Trust

The IDT is a South African development agency that offers programme management and development advisory services for the eradication of poverty to government departments and other development partners. Emphasis is on the eradication of chronic intergenerational poverty, especially among the rural poor.\textsuperscript{198}

The essential activities and strength of IDT fall within five core business areas:

- Development programme management for government;
- Leveraging and harnessing resources for poor communities;
- Institutional Delivery and Capacity Building for programme delivery and sustainable development;


• Knowledge Management to create a vibrant culture of learning and growth;

• Social Facilitation to encourage community participation in the development intervention in order to ensure ownership and sustainability.

Due to the IDT’s focus on community development, there are no listed opportunities or direct benefits that accrued to SMME’s.

4.13. **Industrial Development Corporation of South Africa Limited (IDC)**

Established in 1940, the IDC is a national development finance institution set up to promote economic growth and industrial development. The institution is owned by the South African government under the supervision of the Economic Development department.

The Industrial Development Corporation is a self-financing national development finance institution whose primary objectives are to contribute to the generation of balanced and sustainable economic growth in Africa and to economically empower the South African population. The IDC achieves this by promoting entrepreneurship through the building of competitive industries and enterprises based on sound business principles\(^{199}\).

The IDC strive to achieve the following list of outcomes:

• Achieve sustainable employment

• Growing sectoral diversity

• Support Regional equity

• Grow the small and medium enterprise sector

• Support Industrialisation in the rest of Africa

• Assisting Broad-based black economic empowerment (B-BBEE)

• Support environmentally sustainable growth

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• Grow new entrepreneurs

Through its various business units, the Industrial Development Corporation (IDC) provides sector-focused financing products ranging from R1 million upwards, with designated finance products focused on small business development and black economic empowerment.

The IDC is therefore one of the SOE’s in South Africa with the most significant SMME impact due to their focus on growing small businesses. Altogether 142 of the net approvals for finance during 2010 (67% of the total number of approvals) were for SMMEs. R2 103 million (more than 23% of the total value of approvals) was for SMMEs (companies with fewer than 200 employees, turnover less than R51 million and/or less than R55 million total assets)\textsuperscript{200}.

Special Business Units (SBU) of the IDC also focus on and continue to provide support for start-up and expansionary projects, particularly SMMEs and B-BBEE enterprises in poorer provinces and areas of depressed industrial activity across earmarked priority sectors.

The Venture Capital SBU of the IDC acts as a catalyst in developing globally unique technologies of South African origin by providing early stage finance to entrepreneurs and SMMEs. The unit helps to stimulate technology companies to commercialise their products, while facilitating the development of a self-sustaining, early stage, technology-focused venture capital industry in South Africa.

To increase support for entrepreneurial development, Project 21, an innovative programme, was created by the IDC. This programme enables SMMEs (mainly in the IT and electrical services sector) with approved government or blue-chip tenders to be funded within 21 days of the submission of their application. The IDC also provides funding to other Development Finance Institutions to increase access to funding for SMEs, in line with the objective of developing the rest of Africa.

The Land Bank is a specialist agricultural bank guided by a government mandate to provide financial services to the commercial farming sector and to agri-business and to make available new, appropriately designed financial products that would facilitate access to finance by new entrants to agriculture from historically disadvantaged backgrounds\footnote{201}. The mission of Land Bank is:

- To develop and provide appropriate products for commercial and development clients.
- To leverage private sector investment into the agricultural sector. To develop partnerships with intermediaries for on lending.
- To develop techniques for financing high-risk agriculture and new business areas.
- To support programmes of the Ministry of Land Affairs and Agriculture by aligning the Bank's products with these programmes.
- To contribute to rural development by linking up with government structures and activities.

The Land Bank mandate is also supported by the Land Redistribution for Agricultural Development (LRAD), Agricultural Sector Plan and the government's Integrated Sustainable Rural Development Strategy (ISRDS). As a development finance Institution, the Bank is also constantly looking at ways of supporting the farmer and contributing to development, without focusing on profit as the only motive.

4.15. **South African Airways (Pty) Limited**

South African Airways was founded on 1 February 1934 following the acquisition of Union Airways by the South African government. SAA’s core business is the provision of passengers’ airline and cargo transport services together with related services, which are

provided through SAA and its four wholly owned subsidiaries which include SAA Technical (SAAT), Mango, Airchefs and the South African Travel Centre (SATC)²⁰².

The SAA’s contribution to SMME development is not clearly defined by procurement policies or substantiated by public documentation. However, the potential contribution of the SAA is mostly indirect and catalytic of nature.

Beyond the direct economic contribution of civil aviation industries, there are multiplier, or ripple, effects with a wider or narrower spread throughout an economy depending on the circumstances (for example, countries with significant aerospace manufacturing will show a wide spread, while those with limited air transport services may have a relatively narrow spread). Multiplier effects of non-directly generated output and employment are assessed by combining what is referred to as catalytic and induced demand effects.

Catalytic demand effects include off-airport expenditures directly related to the use of air travel and shipment of freight and mail, notably travel and tourism businesses (such as hotels and restaurants, travel agencies, tour operators and retailers) as well as the whole spectrum of freight business activity.

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4.16. **South African Broadcasting Corporation Limited**

The functions and duties of the SABC are specified in the Broadcasting Act. In terms of the Act, the SABC in pursuing its goals and exercising its powers enjoys freedom of expressing and journalistic, creative and programming independence that is guarantees by the Constitution of South Africa. The SABC has a mandate to offer, in all of the official languages, a range of informative, educational and entertaining programmes that showcases South African attitudes, opinions, ideas, values, talent and artistic creativity. The SABC

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expresses its commitment of improving the participation of black owned enterprises and SMMEs in the broadcasting value chain and have instituted measures that will effectively direct, monitor and report on all aspects of procurement across the SABC’s supply chain\(^{203}\).

The media increasingly plays an important role in fostering a culture of entrepreneurship and enterprise in South Africa. A number of independent and large company-owned entrepreneurship and small business magazines and newspapers or newspaper inserts have emerged over the years. The South African Broadcasting Corporation (SABC) has also commissioned various enterprise programmes, such as Enterprise Zone and Vuk’Uzenzele in the past.

**4.17. South African Express (Pty) Limited**

Established in 1994, SA Express remains one of the fastest growing regional airlines in Africa (SA Express, 2011). The SA Express’s contribution to SMME development is not documented by procurement policies nor substantiated by public documentation in general. However, the potential contribution of the SA Express is mostly indirect and catalytic of nature. SMME’s benefit indirectly as a result of SA Express connecting smaller rural areas with larger cities and metropolitan areas.

**4.18. South African Forestry Company Limited**

The South African Government decided in 1990 to devolve its commercial timber activities and which resulted with the establishment of the South African Forestry Company Limited

This parastatal took over approximately 500 000 ha of State forest land which included 263 000 ha timber plantations \(^{204}\).

SAFCOL believes that sound Socio-Economic Development cannot be achieved unless strong pillars of Enterprise and Skills Development exist. They have invested time in formalising social compacts through a process of Community Engagements Forum which offered positive and sustainable results.

They believe that their contribution to strengthening the economy of the country is through intervention by ensuring that communities are encouraged to grow the small and medium enterprise concept to address the reduction of poverty and increase job creation. SAFCOL expressed their desire to play a leading role in transforming the forestry and sawmilling industry in the future. From the procurement of goods and services, their objective is to secure supply while balancing the competing objectives of lowering total cost of ownership and ensuring the quality, timing, and safety of their purchases, while at the same time meeting operational targets and objectives which includes B-BBEE targets. They have made substantial contributions with regard to support given to black-owned and black women-owned businesses. This is reflected by the forestry sector scorecard of 12.62% against a target of 15%.

They continue to focus on empowering black women-owned and youth-owned businesses to accelerate their participation in the mainstream economy. A strategic sourcing initiative was launched in support of objectives of maintaining quality and continuity of supply, and building sustainable supply chain security.

A farm situated in the Mtubatuba district was purchased by SAFCOL primarily for the establishment of a seed orchard. The 127 ha farm will also be used for community enterprise development \(^{205}\). SAFCOL has also acquired the expertise of a senior manager that deals


with issues such as enterprise development, socio-economic programmes, community liaison, and transformation, amongst others.

### 4.19. **South African Nuclear Energy Corporation Limited (Necsa)**

Necsa is a public company responsible for undertaking and promoting research and development in the field of nuclear energy and radiation sciences. It is also responsible for processing source material, including uranium enrichment, and cooperating with other institutions, locally and abroad, on nuclear and related matters. The company promotes the public understanding of nuclear science and technology and facilitates through regular communication with the public and its stakeholders. Apart from its main activities at Pelindaba, which include the SAFARI-1 research reactor, Necsa also manages and operates the Vaalputs National Radioactive Waste Disposal Facility in the Northern Cape.\(^{206}\)

Necsa engages in commercial business mainly through its wholly owned commercial subsidiaries NTP Radioisotopes (Pty) Ltd (NTP), which is responsible for a range of radiation-based products and services for healthcare, life sciences and industry, and Pelchem (Pty) Ltd (Pelchem), which supplies fluorine and fluorine-based products. Both subsidiaries supply local and foreign markets, earning valuable foreign exchange for South Africa.\(^{207}\)

Necsa does not report on SMME spent but do in terms of B-BBEE. Although not ideal to use as a measure of assessing Necsa’s contribution to SMME’s development, it provides a useful view of the institutions commitment to source products and services from mostly smaller suppliers.


Necsa endeavours to foster business relationships with companies that include black participation within their organisational structures. Necsa’s policy for preferential procurement from B-BBEE companies is based on the National Department of Trade and Industry’s Codes of Good Practice and within the levels specified.

As at 31 March 2010, Necsa group had a total of 1,846 suppliers, representing an increase of 35.2% in number of suppliers since the previous reporting period. Of these, 769 or 42% are B-BBEE rated suppliers, with accreditation levels ranging from 1 to 8. Purchases from B-BBEE suppliers amounted to 36.5% (R475.6 million) of the Necsa group procurement spend (excluding foreign orders).

4.20. **South African Post Office Limited**

The South African Post Office delivers mail and parcels to an area of more than 1.2 million square kilometres, with more than 2,400 outlets and 5,500 service points. It is regarded as the largest business undertaking in South Africa. The Post Office comprise of a number of groups that include, XPS, Speed Services couriers, Docex, Postbank, Direct mail centre and Sales centre.

The Post Office has put in place a supplier development programme through which they identify potential B-BBEE suppliers and provide them with coaching and assistance. They do believe, however, that more can be done in this area, especially in terms of assisting the youth.

The South African Post Office supports the continued development of smaller local suppliers and this is done through the Supplier Development Programme. Some of the activities in this programme include:

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• the identification of potential B-BBEE suppliers;
• providing coaching and assistance to these suppliers;
• developing the current B-BBEE supplier base;
• procuring specific services and products solely from these suppliers;
• development of black owned companies to be players in the core areas of the South African Post Office business; and.
• identifying non-BEE compliant traditional suppliers so as to introduce transformation of this supplier base.

During the year 2010, the South African Post Office spent 56% of its procurement budget on Enterprise Development, with just under 50% of the amount allocated to the development of smaller alternative suppliers\(^{210}\). In their 2010 annual report, the South African Post Office has also expressed their committed to engage in significant enterprise development activities.

### 4.21. *Telkom SA Limited*

Telkom is regarded as one of Africa’s largest communications companies which provide integrated communications solutions to both enterprise and consumer customers.

Telkom has instituted an own score card system which is used to guide performance on a number of indicators which include amongst others, SME development. They have achieved a maximum score of 15 for enterprise development in 2010 which is up from 5.3 in 2009\(^{211}\).


They have devolved business sales into a large business services (LBS) service and a medium business services (SMBS) service to enable them to put more focus on the small medium enterprise (SME) market.

In terms of preferential procurement, Telkom did well in terms of their score card system. They achieved 19.67 points on a 20 point scale. Challenges listed in achieving a 20 point score were listed as contained by the Qualifying Small Enterprises (QSE) and the Exempted Micro Enterprises (EME) categories. With enterprise development, Telkom achieved a maximum score of 15 in 2010, up from 5.3 points in 2009. Their total spend in terms of enterprise development for the 2009/2010 financial year was R83.3 million and most of the points were claimed from instituting shorter payment periods to their suppliers, for example, payment within 10 to 15 days of invoicing212.

Telkom has offered free technical and management training to qualifying small enterprises, exempt micro enterprises and have also paid the vehicle insurance for suppliers’ vehicles and provided financial and monetary support for the Delta Florist project.

Many of their suppliers are classified as large enterprises and, because of their stringent black ownership and black women ownership requirements they have over achieved their targets in the codes of good practice which are used as minimum targets.

They remain committed to identifying enterprise development initiatives that are aligned with the Codes of Good Practice (Code 600) and their business strategy. They are also committed to maintaining the enterprise development and socio-economic development scores; and as mentioned earlier, they scored highly in preferential procurement and greatly improved in enterprise development. These initiatives provide assistance to their black suppliers to improve their own business performances.

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4.22. **Trans-Caledon Tunnel Authority (TCTA)**

Externally, the TCTA have made progress in incorporating transformation initiatives into their project environments. They have fully embrace government's initiative to extend entrepreneurial opportunities to ordinary members of society. They have begun implementing policies to ensure that all tender awards create opportunities for partnerships between established entities and small enterprises. They are proud of their achievements in this area, but are also cognisant of the significant mileage yet to be covered and the challenges ahead. A strategy that demonstrated their aspirations on transformation and socio-economic development will be implemented during the 2010/11 financial cycle. The transformation and socio-economic development (SED) initiative is a catalyst for change, aiming to realise the goal of ensuring that all project activities facilitate social transformation and build sustainable communities.

To accomplish this goal, their new strategy seeks to achieve the following prime objectives:

- To promote and develop small, micro and medium enterprises.

- Promote and develop agribusiness and other agricultural activities (aquaculture, vermicomposting, hydroponics, etc.) through managerial and technical support, infrastructure investments and other support services in the course of implementing Sustainable Utilisation Plans.

- Undertake skills development and capacity building to create employment opportunities and enhance socio-economic empowerment and entrepreneurial abilities.

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• Partner with public health institutions to share knowledge and to curb the scourge of chronic diseases such as HIV and tuberculosis, leading to healthy host communities.

In terms of the TCTA’s B-BBEE scorecard, they have achieved 11.66 points out of a possible 15 for enterprise development initiatives during the year 2009/10.

In the year 2009/10, they have begun implementing policies to ensure that all tender awards create opportunities for partnerships between established entities and small enterprises.

Their SMME preferential procurement targets set for 2009/10 were to spend a total of (7, 5%) or R6 631 214 of funds allocated to the procurement of goods and services²¹⁴.

### 4.23. Transnet Limited

Transnet is the largest and most crucial part of the freight logistics chain that delivers goods to each and every South African. Every day Transnet delivers thousands of tons of goods around South Africa, through its pipelines and both to and from its ports. It moves cargo on to ships for export while it unloads goods from overseas.

Transnet operates and an integrated freight transport company, formed around a core of five operating divisions that complement each other. These are supported by a number of company-wide specialist functions such as Transnet Projects which underpin the group as a whole.

Transnet has completed a four-point turnaround strategy and have embarked on a four-point growth strategy. Prior to adopting their growth strategy, they have embarked on a rebranding exercise. As part of that growth strategy, Transnet is investing R78 billion on revitalizing and extending its infrastructure. These plans include widening and deepening ports; building a new pipeline and buying hundreds of new locomotives²¹⁵.


The new Transnet is made up of the following operating divisions:

- Transnet freight rail (formerly Spoornet – the freight rail division)
- Transnet rail engineering (formerly Transwerk - the rolling stock maintenance business)
- Transnet national ports authority (formerly the NPA - fulfills the landlord function for South Africa’s port system)
- Transnet port terminals (formerly SAPO - managing port and cargo terminal operations in the nation’s leading ports), and
- Transnet pipelines (formerly Petronet - the fuel and gas pipeline business, pumps and manages the storage of petroleum and gas products through its network of high-pressure, long distance pipelines)

Transnet has elected to participate in a Competitive Supplier Development Programme (CSDP) managed by the Department of Public Enterprises (DPE), which involves “procuring in such a way as to increase the competitiveness, capacity and capability of the local supply base, where there are comparative advantages and potential competitive advantages of local supply”. The ultimate goals of the CSDP are: to contribute to the ASGI-SA aims of increasing economic growth, employment creation, skills development and B-BBEE; to develop local industries to supply participating SOEs with high-quality, globally-competitive goods and services; to improve the quality, efficiency and cost-effectiveness of the services provided by the SOEs, as a result of their obtaining more-competitive goods and services from local suppliers; and to improve the competitiveness of the SOEs as a result of procurement savings from engaging innovative, responsive and more competitive suppliers.

The objective of Transnet Strategic Supply Management (SSM) within Transnet is to become an integrated value-added professional partner to Transnet’s stakeholders, providing a reliable, cost-effective and customer focused service. In uncertain economic times, meeting
this objective is critical to attaining Transnet’s overall strategy and reducing the cost of doing business for the Company’s customers\textsuperscript{216}. 

At Transnet SSM’s request, an internal review of its policies and procedures were conducted to help identify areas for improvement. This resulted in a refinement of policies and the standardisation of procedures across Transnet. Going forward, this will improve the Company’s relationship with suppliers and assist in generating more value for money. Transnet SSM also focused on how best to implement the Company’s Competitive Supplier Development Programme (CSDP), which encourages international suppliers to focus on long-term investment in South Africa in a way that promotes enterprise development and black economic empowerment within the infrastructure and logistics industry.

Transnet has spent R1,9 billion accounting for 9\% of total procurement spend against a target of 5\% on B-BBEE AND CSDP exempted micro-enterprises (turnover up to of R5 million)\textsuperscript{217}.

Procurement from qualifying small enterprises (turnover of R5 million to R35 million) was R2,7 billion accounting for 13\% of total procurement spend against a target of 5\%\textsuperscript{218}.

\textbf{4.24. An assessment of selected SOE’s in their contribution to rural development, the provisioning of housing, health and social services to communities}

The socio-economic pillar of government’s New Growth Path provides a connection between economic and social measures which is in need of further strengthening. In addition to their important social goals, basic and secondary education plays a critical role in long-run


equality, access to employment and competitiveness. So does investment in health, including effective measures to address HIV/AIDS. Government has prioritised health and education investment and delivery. While the detailed measures are not spelt out in the New Growth Path, these services are critical success factors to enhance employment creation.

While urbanisation will continue, a significant share of the population remains in rural areas, engaged in the rural economy. In terms of New Growth Path, the Government needs to step up its efforts to provide public infrastructure and housing in rural areas, both to lower the costs of economic activity and to foster sustainable communities (NGP, 2009). Rural development programmes can achieve a measurable improvement in livelihoods for 500 000 households, as well as stimulating employment in other sectors.

Enhancing rural employment requires finalisation of a spatial perspective that sets out the opportunities available and the choices required to lay the basis for aligning government spending, infrastructure and housing investment and economic development initiatives.

A number of SOE’s are currently utilised by government to further their aims of socio economic and rural development in the country. The aim of this section of the report will be to provide an overview of SOE’s that are making significant contributions in furthering governments rural development, housing, health and social service objectives.

4.24.1. Agriseta

The need for rural development is the main driving force behind AgriSETA’s investment in B-BBEE firms/NGOs/CBOs/Coops. Whilst this investment can take various forms (learnerships, skills programmes, ABET, etc), the main focus is on mentorships. By allocating funding mainly to large agribusinesses, these enterprises are being supported to engage experienced mentors who in turn assist selected small and emerging enterprises. A total of R6, 9 million was invested in supporting this particular programme. For 2009/10, 41
B-BBEE firms and 128 NGO/CBO/Cooperatives were supported as part of this programme²¹⁹.

4.24.2. Council on Higher Education (CHE)

The South African Council on Higher Education is an independent statutory body established by the Higher Education Act, No. 101 of 1997. The CHE as the Quality Council for Higher Education advises the Minister of Education on all higher education issues and is responsible for quality assurance and promotion through the Higher Education Quality Committee (HEQC).

The CHE was established in May 1998 in terms of the Higher Education Act, No 101 of 1997.

The responsibilities assigned to the CHE by the Higher Education Act and the Education White Paper 3 of 1997 (reference: Education White Paper 3: A Programme for the Transformation of Higher Education) can be grouped into four main areas of work²²⁰:

- Advising the Minister of Education at his or her request, or proactively, on all policy matters related to higher education.

- Assuming executive responsibility for quality assurance and quality promotion within higher education and training, including programme accreditation, institutional audits, programme evaluation, quality promotion and capacity building.

- Monitoring and evaluating whether, how, and to what extent and with what consequences the vision, policy goals and objectives for higher education are being realised, including reporting on the state of South African higher education.


• Contributing to the development of higher education by taking initiatives to provide guidance on key national and systemic issues, producing publications, holding conferences and conducting research to inform government and stakeholders about immediate and long-term challenges of higher education.

The Office of the CHE’s Chief Executive Officer and the Monitoring and Evaluation Directorate are responsible for giving effect to the organisation's responsibilities in the areas of advice and monitoring, and the development of higher education.

The CHE has one permanent committee, the Higher Education Quality Committee (HEQC). The HEQC has executive responsibility for quality promotion and quality assurance in higher education. It is led by an Executive Director, with a Deputy Director responsible for coordinating the work of the HEQC with that of the higher education institutions and for relations with stakeholders in general.

The HEQC has three directorates:

- Institutional Audits Directorate - responsible for conducting audits of public and private higher education institutions' systems for ensuring good quality of provision in the three core functions of teaching and learning, research and community engagement.

- National Reviews Directorate - responsible for re-accrediting existing programmes in specific disciplines and/or qualification areas.

- Programme Accreditation Directorate - responsible for accrediting the learning programmes of public and private higher education institutions.

4.24.3. Development Bank of South Africa (DBSA)

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As a major development finance institution, the DBSA has an important role to play in advancing the country along government priorities. Priorities such as rural development have featured prominently in the work conducted by the Development Bank.

The Bank’s focus is mainly on addressing market failure, with a focus on rural development and in areas that are underperforming. Its engagement with government departments also aims to assist with the acceleration of the rollout of priority infrastructure projects in health and education. In the health sector, the Bank is participating in initiatives to facilitate public-private partnerships in the provision of hospital infrastructure.

Non-financial assistance to local government focused largely on maintaining their investment in building the institutional capacity of municipalities to deliver services to households and the business community. This entailed identifying and addressing the bottlenecks and constraints which hamper the ability of municipalities to scale up service delivery and to provide services more efficiently and effectively. The DBSA’s initiatives and programmes in this regard are an integral component of its developmental business model. Initiatives and programmes include the Siyenza Manje programme, training interventions by the DBSA Vulindlela Academy, the Rural Development programme, and a new Operations and Maintenance support programme.

The DBSA’s rural development unit facilitates catalytic infrastructure programmes that improve living standards and increase socio-economic activity in rural communities. It comprises three units: Rural Infrastructure Development, Institutional Turnaround and Rural Development Solutions.

The Rural Development Solutions Division of the DBSA Development Unit aims to integrate development interventions in poor regions and municipalities to catalyse and diversify economic growth through improved infrastructure and service delivery. This Division has also made progress in finalising the integrated divisional Municipal Infrastructure Grants (MIG) leverage framework, resulting in the leveraging of (MIGs) worth R278 million in collaboration with the South African Operations Division of the DBSA. The Division supported 47 rural

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municipalities in identifying and packaging socio-economic infrastructure projects. It tailor-made economic development models for these municipalities and facilitated their implementation with a view to diversifying economic development. Seventeen turnaround strategies were developed and approved by municipal councils.

The DBSA also has a Development Fund which aimed to be a leading catalyst in capacity building in order to maximise the impact of development finance in South Africa. The Fund identifies, prepares and implements catalytic rural social and economic infrastructure in addition to institutional and economic turnaround strategies.

The DBSA’s Community Development Facilitation Division sets the basis for integrated sustainable development by supporting the structuring and implementation of projects through facilitation, coordination and negotiation processes. The Division achieves its strategic objectives through the services offered by its three units. Examples of programs that support education and housing development include:

- A programme to eradicate unhealthy and unsafe school structures in the Eastern Cape. This strategic initiative seeks to address the existing backlog of 539 unsafe schools in one programme. The Division will also resuscitate the Winter School programme during 2011/12. This was a pilot programme implemented jointly by the DBSA, BHP Billiton, Eskom Limited Holdings and Sasol through the KwaZulu-Natal Foundation. The programme operated between 2007 and 2009, providing winter school tuition for two-week periods to learners from rural schools in Limpopo, KwaZulu-Natal and the Eastern Cape.

- The Elliotdale Rural Sustainable Human Settlement pilot project is a three-year initiative to construct 1 000 housing units. The project is a strategic partnership between the Fund, the national Department of Human Settlements and the Eastern Cape Department of Human Settlements. Similar projects have been facilitated at Rooidakke in Grabouw, Extension 7 in Ba-Phalaborwa and Mthatha in the King Sabata Dalindyebo Municipality. The Development Fund is mandated to pilot appropriate alternative models for delivering shelter in sustainable human
settlements, both rural and urban. The immediate objective is to model innovative strategic approaches that address the overwhelming lack of adequate shelter in Elliotdale in the Eastern Cape, one of the poorest administrative areas in the country. The project is located in Wards 17 and 26 of Mbhashe Municipality in the Amathole District.

Under a Memorandum of Understanding with the Department of Rural Development and Land Reform, the Community Development Facilitation Division supported three Comprehensive Rural Development Programme wards and municipalities: Muyexe, Riemvasmaak and Maluti a Phofung. The Division assisted the sites with stakeholder management plans that resulted in the identification of catalytic socio-economic infrastructure needs, using Integrated Development Plans, Comprehensive Infrastructure Plans and Local Economic Development plans.

Key performance indicators of the DBSA’s assistance to rural municipalities are the measure of rand value of MIG’s and other grants released for rural municipalities. The target for the year 2010 was R1 billion with a final figure of 1,179 billion achieved. The target for the number of rural municipalities supported was 55. The actual number supported was 47.

4.24.4. Independent Development Trust (IDT)

The IDT’s mission is to assist and enable poor communities to access resources, recognise and unlock their own potential and continuously improve their quality of life through partnerships with other strategic partners.

The organisation operates in the same space as development finance institutions such as the Development Bank of Southern Africa (DBSA) and the Umsobomvu Youth Fund (UYF); however the mandates of these DFI’s are complementary to that of the IDT. The organisation’s mandate is also complimentary to that of the National Development Agency

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(NDA) which is charged with contributing towards the eradication of poverty and its causes by granting funds to civil society organisations. While the organisation does not have formal partnership agreements with these public entities, it has worked in partnership at operational level.

The focus of the IDT is shaped by key policy Government priorities. Among others, the priorities for the 2009/14 period are:

- Introducing a massive programme to build economic and social infrastructure.
- Developing and implementing a comprehensive rural development strategy linked to land and agrarian reform and food security.
- Improving the health profile of all South Africans.

The IDT has been very active in creating models of poverty eradication and sustainable development, mainly targeting rural, marginalised and vulnerable communities and women in particular.

Over the past two decades the IDT has crafted a distinctive development footprint in rural and marginalised communities across South Africa. It has 20 years of experience and knowledge drawn from diverse development programmes in different sectors across the country.

The essential activities and strength of the IDT fall within five core business areas:

- Development programme management for government;
- Leveraging and harnessing resources for poor communities;
- Institutional Delivery and Capacity Building for programme delivery and sustainable development;
- Knowledge Management to create a vibrant culture of learning and growth;

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• Social Facilitation to encourage community participation in the development intervention in order to ensure ownership and sustainability.

The IDT believes that the organisation's positioning/niche will be advanced through the following roles which include:

• **Advocacy** (Immediate to Short-Term Focus): To establish a fundamental paradigm shift in respect of the eradication of poverty. The organisation will actively engage in the current ideological debate in respect of poverty eradication, in building consensus in South Africa as to who is poor, what the goals of poverty eradication are, and how to reach these objectives. The organisation will assist with the development of a national direction and clarity in respect of the debates on poverty and poverty eradication.

• **Operational Programmes** (Ongoing Focus): Refers to the immediate to medium-term focus on infrastructure programmes aimed at addressing key backlogs, such as health, education and justice; and an ongoing focus on developmental programmes (citizen empowerment etc). In the longer term, the social infrastructure delivery programme could be delivered through an independent and self-funding entity.

  The current utilisation of the term ‘social infrastructure’ reflects the construction of physical infrastructure (bricks and mortar) responsible for the provision of social services such as education and health. However, the IDT’s value-add is the provision of enabling systems and a focus on outcomes rather than only outputs.

• **Best Practice and Capacity Building** (Short to Longer Term): Build the organisation’s capacity to drive best practice development and capacity building in respect of long-term poverty eradication strategies (with a particular emphasis on innovation).

### 4.24.5. Land Bank

The Land Bank is a specialist agricultural bank guided by a government mandate to provide financial services to the commercial farming sector and to agri-business and to make
available new, appropriately designed financial products that would facilitate access to finance by new entrants to agriculture from historically disadvantaged backgrounds. The Bank is a development finance institution that serves all farmers equally.

The mission of Land Bank is:

- To develop and provide appropriate products for commercial and development clients.
- To leverage private sector investment into the agricultural sector.
- To develop partnerships with intermediaries for on-lending.
- To develop techniques for financing high-risk agriculture and new business areas.
- To support programmes of the Ministry of Land Affairs and Agriculture by aligning the Bank’s products with these programmes.
- To contribute to rural development by linking up with government structures and activities.

Support to government initiatives includes the Land Redistribution for Agricultural Development (LRAD), Agricultural Sector Plan and the Integrated Sustainable Rural Development Strategy (ISRDS). As a development finance institution, the Bank is also constantly looking at ways of supporting farmers and contributing to development, without focusing on profit as the only motive.

As part of the broader public sector, the Land Bank may claim public funds to support its development funding responsibility. The Bank is obligated to invest and lend in a rational way that reflects the preferences of government and society. In pursuing its mandate, the Bank seeks to make a development impact by funding the agriculture value chain and focusing on dynamics that enhance economic and social benefits, and which ultimately improve the quality of life. The Bank’s objectives flow from the Land Bank Act, and are aligned with government policies and the country’s socioeconomic needs. The Bank is expected to play a pivotal role in advancing agriculture and rural development. The broad
mandate of the Bank, as expressed in the act, falls into three core themes – transformation, growth and integration\textsuperscript{226}.

The Bank uses the reputable South African Social Accounting Matrix (SA SAM) model to report on its development impact. In partnership with the DBSA, this model was piloted in February 2011. It has been credibly and widely used by other South African DFIs, for development impact on a macro level.

Over the past financial year, the Bank has given extra attention to the development impact of its activities, including the drafting of a development policy. The approved policy provides a basis for the Bank’s role in agriculture and rural development. Three crucial instruments have been put in place to support the Bank’s role. This includes\textsuperscript{227}:

- A wholesale finance facility for strategic partners to qualifying participants.
- An emerging farmer support facility, approved by Cabinet and in its pilot phase.
- An incentivisation scheme which credits projects with high development impact by reduced lending rates (cost of credit).

These instruments will aid the Bank’s outreach to its key development clients while reducing financing, outreach and management risks. The Bank is also designing a dedicated Banking division, Retail Emerging Markets, to focus on emerging farmers.

During 2009/10, the Bank approved loans to the value of R5.9 billion, while disbursements during the same period amounted to R17.9 billion. The Bank’s funding has an indirect impact on additional government spending. The potential increase in state revenue resulting from the Bank’s loan approvals is estimated at R2 billion. The actual increase is R6.4 billion and could result in greater government expenditure on social services and general service


delivery. This development impact estimate excludes the Bank's disbursement impact on social services provision\(^{228}\) (health, education and so on).

### 4.24.6. Agricultural Research Council

The ARC was established in 1990 through the Agricultural Research Act, 1990 (Act no. 86 of 1990). The Agricultural Research Council proved itself to be the principal agricultural research institution in South Africa. The primary mandate of the ARC is to promote agriculture and industry, to contribute to a better quality of life; and to facilitate and ensure resource conservation. The Act sets out the objectives of the ARC as “condu\(^{228}\)cting of research, development & technology transfer in order to:

- Promote agriculture & industry;
- Contribute to better quality of life;
- Facilitate/ensure natural resource conservation”

This function is carried out through 11 research institutes whose activities are grouped under five divisions: Field Crops (Grain and Industrial Crops), Horticulture, Animal Production and Health, Natural Resources and Engineering as well as Technology Transfer\(^{229}\). The ARC is also responsible for maintaining national assets and undertaking programmes or rendering services that are required from time to time by the department and other stakeholders.

The ARC undertakes research and development that promotes the sustainable utilisation and management of agricultural natural resources. Emphasis is placed on the transfer of sustainable technologies and knowledge to rural and disadvantaged urban communities using participatory applied research approaches.


For the financial year 2009/10, the ARC sourced 42% of their funding from the public sector. Considerable effort was spent on understanding the requirement of the departments of science and technology (social programmes specifically) and rural development and land reform. The premise for this approach was that outside the DAFF, these two had the best potential for fit between the outputs of agricultural R&D and its application in addressing the government’s intentions with regard to socio-economic development²³⁰.

The ARC has conducted a number of research projects and initiatives with rural development objectives. Some examples for illustration are:

- **African swine fever (ASF) vaccine**: ASF is an acute hemorrhagic fever of domestic pig which causes mortality approaching 100%. It causes large economic losses to the rural and peri-urban poor pig farmers as well as commercial farmers. In areas where ASF is endemic the disease impacts negatively on the sustainability of these practices thereby limiting the availability of cheap, high-quality proteins and steady income streams for rural communities.

- **The Small Grain Institute** was active with on-farm trials and demonstrations in 13 rural communities where 104 emerging commercial farmers were trained in an endeavour to fast-track their successful entrance into the commercial sector. Specific producers were able to increase their yields from 2.5 tons/ha to 4 tons/ha as a result.

- **Knowledge on intercropping and diversification of food base for smallholder farmers in South Africa** is of importance. Results on the project on intercropping legumes with vegetables showed that cropping Amaranthus and pigeon peas is beneficial and compatible in relation to Amaranthus and cowpea combination. The short duration Pigeon pea cultivar was found to fix atmospheric nitrogen at a rate of 60 kg N ha⁻¹. Intercropping pigeon peas provided a source of dietary protein for rural...
poor communities. The crop also provided compensatory yield during drought periods.

- African Leafy Vegetables have been an essential source of food for years providing vital nutrients and vitamins in South African rural communities. However, little is known about their agronomic requirement while today’s agricultural economy dictating producers to fine-tune their farming practices to maximise yields and minimize production costs. In order for farmers to increase their production; they must be able to know their plant population, planting time and harvesting method with considerable precision. Research results identified optimum transplanting time (14-21 days from emergence) that avoids early flowering of Amaranths, which is critical for resource poor farmers marketing the vegetable.

4.24.7. Housing Development Agency (HDA)

The HDA is a national public development agency established by an Act of Parliament (Act 23 of 2008). The HDA promotes sustainable communities by making well-located land and buildings available for the development of housing and human settlements.

The HDA was established to address the land acquisition and assembly process so as to accelerate housing delivery and human settlement development. The specific functions of the Agency are spelt out in Section 7 of the Act.

The two main objectives of the Agency are to identify, acquire, hold, develop and release well-located land and buildings as well as providing project management support and housing development services.

In order to achieve these objectives, the Agency must:

- Ensure that residential and community developments are sustainable, viable and appropriately located.

- Ensure that job creation is optimised in the process of residential and community development.
• Introduce and manage a land inventory and information system.

• Ensure that community participation takes place.

The HDA provides project delivery services in the form of land acquisition and management, project structuring, project planning, capacity assembly, as well as the management of projects. The type of assistance provided is negotiated and expressed through an Implementation Protocol (IP). Intergovernmental agreements are structured between the Agency and the respective organs of state with a view of ensuring that there is collaboration and intergovernmental and integrated alignment for housing development services. In general the agreement outlines the framework of cooperation, the areas of activity in both land and building acquisitions, management and project management, and the institutional arrangements, for example, the establishment of a steering committee. Specific project-based agreements are then formulated to guide the overall agreement covering the following key services provided by the HDA.

Land Acquisitions and Management

• Land identification and planning

• Acquisitions management

• Land and property assets and holding

• Land geo-spatial services

Project Management Support Service and Programmes

• Technical support and project programming

• Capacity assembly and project packaging

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• Project management support services

• Priority Housing Development Areas

The HDA collaborates with provinces and municipalities, as well as supplementing their capacity in the development of housing and human settlements. The HDA does not, and cannot, replace the province and municipality in the fulfillment of housing development functions.

In order to perform in these key areas, the HDA is structured into three key business areas: Land Acquisitions and Management, Projects and Programmes, and Intergovernmental Relations and Strategy Alignment.

Current project involvements of the HDA include the following (HDA, 2011):

• Project management of mandated projects (Zanemvula and N2 Gateway)

• Informal settlement project support (Northern Cape)

• Priority Housing Development Areas (PHDA) development (Germiston)

• Neighbourhood/precinct development initiatives (Johannesburg / Germiston)

• Project support on request and development feasibilities (Cornubia)

• Development of project support products, tools and best practice

• Refinement of project support services and framework

In terms of the performance delivery agreement signed between the President and the National Minister of Human Settlements, and further elaborated on in the delivery agreements signed between the National Minister and the three key ministries, the HDA is directly responsible for the acquisition of 6 250 hectares of well-located publicly-owned land and buildings for human settlements development. Several land offers and requests, to the estimated value of R821 942 million, were received and processed during 2010/11.
However, the major limiting factor for the Agency has been a funding gap, which has meant that not all land offers could be favourably considered\(^{232}\).

### 4.24.8. Human Sciences Research Council

The Human Sciences Research Council (HSRC) of South Africa is a statutory body established in 1968. It supports development nationally, in the Southern African Development Community (SADC) and in Africa. It primarily conducts large-scale, policy-relevant, social-scientific projects for public-sector users, non-governmental organisations and international development agencies, in partnership with researchers globally, but specifically in Africa\(^{233}\).

The organisation has structured itself to respond flexibly and comprehensively to national priority areas and requirements, by aligning its research capabilities into interdisciplinary and problem-orientated research programmes.

The HSRC has six research programmes of which four, have research foci that touches upon issues of rural development, education and health. These groups are:

- **Economic Performance and Development**

  Under the theme, sustainable development, this research programme seeks to understand and improve the functioning of social programmes with broader developmental objectives, including policies to improve the social wage, to protect vulnerable groups, to promote food security, to promote rural development in order to reduce poverty and address environmental and ecological concerns.

- **Education and Skills Development**


The ESD programme researches education, skills development and capability enhancement at the individual, institutional and systemic levels. It has the ability to harness research work both across and at the interface of these three areas as well as across multiple levels of provision.

Projects in this Group concentrate on investigating the four themes at four different levels which include: schooling and education, from grade R to 12 and adult learning, with a focus on acquisition of knowledge, skills and capabilities through teaching and learning.

Intermediate skills and capability development, focuses on the technical and vocational education and training delivered through institutions such as FET Colleges (both private and public institutions), as well as learnership, apprenticeship programmes and ABET programmes.

Higher Education and High Skills development focuses on access and success in higher education institutions (private and public) and firms. With the changing role of universities, research is undertaken on the developmental role of universities.

Training and capability development in firms, in local, national and global contexts.

- HIV/AIDS, STIs and TB

The HIV/AIDS, STIs and TB (HAST) research programme specialises in evidence-based research on socio-epidemiological determinants and implications of HIV/AIDS, STIs and TB.

HAST conducts research in three main areas namely, behavioural and social aspects of HIV/AIDS, Epidemiology, strategic research and health policy and operations and implementation research.

- Population Health, Health Systems and Innovation

The PHHSI programme conducts primary and secondary research on Health, Science and Technology and Innovation, which enables evidence-based decision-making by partners. PHHSI works with external partners, the research programmes of the HSRC
and, through various networks, builds Health and Science and Technology expertise in South Africa and the continent.

The principal activities in this research programme involve:

- Developing innovative research methods and strategies to analyse population health and to make recommendations on necessary, evidence-based interventions.

- Contributing to the better understanding and use of the health care systems and health financing in South Africa and the African continent with the aim of achieving better population health.

- Defining the social and environmental determinants of health in South Africa and the continent.

- Compiling spatial data sets to provide a comprehensive picture of South Africa’s and Africa’s population health as well in Science, Technology and Innovation.

- Designing, implementing and analysing quantitative and qualitative data of national surveys in the Health, Science and Technology and Innovation domains. The data from such surveys are used for evidence-based policy formulation.

- Designing and validating primary and composite indicators in Health as well in Science, Technology and Innovation.

- Conceptualising and implementing research project, programme and strategic evaluations and promotion of monitoring and evaluation.

- Working with peers across the African continent and internationally to promote social scientific research, grow capabilities and share knowledge and experience across our fields of expertise.

4.24.9. Medical Research Council
The South African Medical Research Council (MRC) was established in 1969 by an Act of Parliament. The Council has since worked to earn its place as one of Africa’s top science councils.

The MRC’s task is to improve the health and quality of life of the population of South Africa through excellent scientific research. Health, development, economic growth and the well-being of the nation are closely linked, and research is the cornerstone of health care.

The MRC interprets health needs and mobilises skills and resources into action to tackle them.

Their work transcends national and international boundaries. The MRC works on its own, or forges strategic alliances to mobilise targeted task teams to address specific problems.

MRC research has an impact on everyday life by:

- seeking an effective AIDS vaccine for Africa
- effecting changes in mosquito control and malaria drugs
- participating in the Global Alliance on Tuberculosis Drug Development (they are one of three centres in the world, their role being to research and develop new TB drugs)
- preventing babies at risk from dying in the womb
- fighting for accurate accounts of everyday horrors like rape and violence, so that they can deal with them properly
- incorporating indigenous communities in research through assessing traditional medicines for potential cures, and
- inventing cures and solutions (for example, how to grow new bone tissue to fix terrible injuries, or finding new treatments for pneumonia and meningitis).

The MRC provides crucial information at many levels, giving decision-makers in government policy recommendations on issues such as alcohol or tobacco misuse, intestinal parasites in children and specific information regarding the rates of crime, violence and injury in South Africa.
It carries out capacity development - crucial for creating the scientists South Africa will need tomorrow. A programme exists for the accelerated fast-tracking of black African medical and health scientists.

The MRC identifies current problems and long-term issues, getting the teams and the money together and developing solutions.

The MRC is a science, engineering and technology institution (SETI), largely funded by the government. Activities undertaken by SETIs must serve to advance national goals and priorities.

The MRC's research is organised into a number of research units which focus on 14 priority areas which is shown in the table below²³⁴.

Table 1: MRC Research Units listed according to Research Priorities²³⁵

<table>
<thead>
<tr>
<th>RESEARCH PRIORITIES</th>
<th>RESEARCH UNITS</th>
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| HIV and AIDS        | • HIV Prevention Research Unit  
                     | • South African AIDS Vaccine Initiative |
| Tuberculoses        | • Tuberculosis Epidemiology and Intervention research  
                     | • Clinical and Biomedical Tuberculosis Research Unit  
                     | • Molecular Mycobacteriology Research Unit  
                     | • Centre for Molecular and Cellular Biology |


| CARDIOVASCULAR DISEASE AND DIABETES | • Chronic Diseases of Lifestyle Research Unit  
• Inter-university Cape Heart Research Unit  
• Exercise and Sports Medicine Research Unit |
| INFECTIOUS DISEASES | • Immunology of Infectious Diseases Research Unit  
• Diarrhoeal Pathogens Research Unit  
• Inflammation and Immunity Research Unit  
• Respiratory and Meningeal Pathogens Research Unit  
• Malaria Research Unit |
| CRIME, VIOLENCE AND INJURY | • Safety and Peace Promotion Research Unit |
| CANCER | • Cancer Epidemiology Research Unit  
• Programme on Mycotoxins and Experimental Carcinogenesis (PROMEC)  
• Oesophageal Cancer Research Unit  
• Oncology Research Unit |
| PUBLIC HEALTH | • Burden of Disease Research Unit  
• Biostatistics Research Unit  
• South African Cochrane Centre  
• Health Policy Research Unit |
<table>
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<tr>
<th>Category</th>
<th>Units</th>
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<tr>
<td>HEALTH PROMOTION</td>
<td>• Health Systems Research Unit</td>
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<td></td>
<td>• Rural Public Health and Health Transition Research Unit</td>
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<td></td>
<td>• Alcohol and Drug Abuse Research Unit</td>
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<td></td>
<td>• Health Promotion Research and Development Unit</td>
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<tr>
<td>WOMEN, MATERNAL AND CHILD HEALTH</td>
<td>• Gender and Health Research Unit</td>
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<td></td>
<td>• Mineral Metabolism Research Unit</td>
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<td></td>
<td>• Maternal and Infant Health Care Strategies Research Unit</td>
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<tr>
<td>NUTRITION</td>
<td>• Nutritional Intervention Research Unit</td>
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<tr>
<td>BRAIN AND BEHAVIOUR</td>
<td>• Anxiety and Stress Disorders Research Unit</td>
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<td></td>
<td>• Medical Imaging Research Unit</td>
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<tr>
<td>GENOMICS AND PROTEOMICS</td>
<td>• Bioinformatics Capacity Development Research Unit</td>
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<td>• Bone Research Unit</td>
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<td>• Human Genetics Research Unit</td>
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<td></td>
<td>• Human Genomic Diversity Research Unit</td>
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<td></td>
<td>• Receptor Biology Research Unit</td>
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<tr>
<td>ENVIRONMENT AND HEALTH</td>
<td>• Environment and Health Research Unit</td>
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<tr>
<td>SOUTH AFRICAN TRADITIONAL MEDICINE</td>
<td>• Drug Discovery and Development Research Unit</td>
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</tbody>
</table>
The MRC conducts or supports research on its own or with experienced partners such as universities and scientific institutions. The MRC’s teams network with health policy-makers, other researchers and stakeholders in research such as the universities, as well as with the wider research community.

### 4.24.10. National Development Agency (NDA)

The National Development Agency is a section 3A statutory organisation, which was established by the National Development Agency Act (Act No. 108 of 1998) in November 1998.

The NDA is a public entity listed under schedule 3A of the Public Finance Management Act (PFMA) and reports to Parliament through the Minister for Social Development and is mandated to carry out the following\(^{236}\):

**Primary mandate:**

To contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of:

- Implementing development projects of poor communities; and
- Strengthening the institutional capacity of other civil society organisations that provide services to poor communities.

Secondary mandate:

- To promote consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state, debate development policy;

- and to undertake research and publication aimed at providing the basis for development policy.

The National Development Agency is an institution which supports growth and skills development in the South African economy and plays an important role in the Accelerated and Shared Growth Initiative of South Africa (ASGI-SA).

While the NDA plays a critical role in the distribution of funds to Civil Society Organisations (CSO), it is also tasked to transfer social, economic, financial and agricultural skills on behalf of government (NDA, 2011). This is to ensure that the CSOs become sustainable and profitable. Government funding was never meant to be a continuous and constant contribution, but rather a once-off contribution to kick-start CSOs on their way to becoming sustainable. Furthermore, the NDA also contribute to skills development of CSO’s to ensure their sustainability and independence. In essence, the NDA functions as a catalyst to ensure that relevant skills are transferred through intermediaries.

The NDA uses research as a tool to provide strategic guidance and direction in funding projects. Consequently, the NDA is in a position to intervene in a more efficient way to broaden their impact on the poorest of the poor.

Using CSO’s as drivers, the NDA targets the most marginalised groups of people which include the elderly, people with disabilities, single mothers and members of certain minority groups.

The NDA recognises the history of the country and consequent structural limitations imposed on the economy, which is one of the fundamental reasons why a capacity building programme was conceived and implemented through intermediaries.

The NDA pledges to execute its mandate of eradicating poverty through a continued, dedicated application of its efforts towards funding projects focusing on unlocking potential.
4.24.11. Rural Housing Loan Fund (RHLF)

The Rural Housing Loan Fund is a Section 21 Company, which was established in 1996 by the National Department of Housing, South Africa with initial grant funding from the German development bank, the Kreditanstalt "fur Weiderbau (KFW). The RHLF was set up as a wholesale development finance institution with the mandate of enabling low income earners to access small loans that they could afford to repay. Borrowers use these loans to incrementally improve their housing conditions. As a wholesale finance institution, the RHLF facilitate housing microloans through intermediary or retail housing finance lenders. These partners borrow funds from RHLF and on-lend to individual borrowers throughout the rural areas of South Africa, including small towns and secondary cities. Intermediary lenders enable RHLF to reach all nine provinces of South Africa.

The primary objective is to improve the basic living standards of low income rural people through the provision of funding to qualified intermediaries. Low incomes, informal employment and relatively remote rural regions disqualify end users from dealing with major commercial banks.

The RHLF approved retail lenders, on the other hand, know their communities and their markets well. They are able to lend to low income country people, keeping bad debts and arrears under control.

The RHLF is one of the few organisations able to lend to people living on communal land and informal settlements because houses are not used as collateral. Housing finance organisations are conspicuous by their absence from most rural areas. In this market, transaction costs and credit risks are high.

Through its 37 retail lending clients since inception, the RHLF has funded housing improvements for the rural poor. Typically, the final borrowers earn less than R9,800. The average loan size is R4,600 and about 55% of borrowers are female.

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Amounts borrowed seem too small to render real improvements in housing - but most final borrowers have resources of their own and gather many of their own building materials before they apply for a loan. After many home owners have paid off loans, they apply for more credit to extend their houses.

The borrowers, or very small-scale builders in the communities, undertake virtually all building work. The RHLF publishes guidance on home building and improvement and the retail lenders assist borrowers to get the most out of their building loans.

To summarise, the RHLF is in the business of making a responsible contribution to the long term social development of rural communities by focusing on what really makes a difference in people's lives - improved housing conditions.

RHLF specialises in incremental housing and it goes where others hesitate to go. It practices gender equality, environmental soundness and its activities are based on true collaboration with retail lenders and educated consumers.

The RHLF believes a loan should be more than a transaction. It should be a considered two-way decision, looking beyond the numbers to the effect it will have on the lives of the borrower and his or her family.

The rates of RHLF retail lenders are competitive. Generally, the RHLF caters for the funding longer term needs of lower income earners. Out of the total number of new loans for 2011 (40 289), 16779 or 41.6% were granted to people residing in rural areas across the nine provinces (RHLF, 2011). Loan usage statistics are reflected in Table 2.

Table 2: Development Impact Statistics

<table>
<thead>
<tr>
<th>Development impact statistics compiled from monthly Housing impact</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
</table>

\[\text{Table 2: Development Impact Statistics}^{238}\]

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## Monitoring reports

<table>
<thead>
<tr>
<th>Number of new loans</th>
<th>32,028</th>
<th>36,310</th>
<th>40,537</th>
<th>33,112</th>
<th>40,289</th>
</tr>
</thead>
</table>

**Loan usage**

<table>
<thead>
<tr>
<th></th>
<th>2%</th>
<th>6%</th>
<th>8%</th>
<th>3%</th>
<th>4%</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>New house</em></td>
<td>2%</td>
<td>6%</td>
<td>8%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td><em>Extension</em></td>
<td>10%</td>
<td>8%</td>
<td>17%</td>
<td>8%</td>
<td>10%</td>
</tr>
<tr>
<td><em>Improvement</em></td>
<td>48%</td>
<td>56%</td>
<td>50%</td>
<td>71%</td>
<td>68%</td>
</tr>
<tr>
<td><em>Services</em></td>
<td>10%</td>
<td>4%</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
</tr>
<tr>
<td><em>Others (mainly education)</em></td>
<td>30%</td>
<td>26%</td>
<td>22%</td>
<td>16%</td>
<td>15%</td>
</tr>
</tbody>
</table>

### 4.25. Concluding Remarks

#### 4.25.1. The contribution of SOE’s to SMME development

The role of Schedule 2 SOE’s in their contribution to SMME development revealed a number of interesting facts and figures. Most of the SOE’s reviewed did not officially report on SMME procurement or development as is required for B-BBEE. It is therefore difficult to make a very accurate assessment of the current support (financial or other) that SMMEs receive from SOE’s. However, some innovative supportive initiatives were reported on by some SOE’s.

As a general rule, larger infrastructure intensive SOE’s such as ESKOM, Transnet, Telkom had procurement rules in place which benefited SMMEs. Other more specialised SOE’s such as the ATNS reported that they experienced difficulty in procuring from SMMEs due to the high technology components needed for the air travel navigation which was only available internationally.

Some of the larger parastatals such as Eskom have also reported for instance, that they would allocate between 6.34% and 8.85% of local content commitments to SMME
companies for large projects such as the construction of the new Medupi and Kusile power stations\textsuperscript{239}. This amounted to more than R5 billion which is a significant boost to SMMEs in the construction and engineering sector. Eskom also hosts an opportunities and franchise expo for SMMEs which is potentially very valuable to small businesses and large corporations who wants to expand their procurement databases.

A second point worth mentioning is the SMME skills development programmes supported by a number of SOE’s. Eskom, the Post Office and Transnet all have put in place supplier development programmes through which they identify SMME suppliers and provide them with coaching and assistance.

The IDC makes a very valuable contribution to SMME support in South Africa. They financed SMMEs to the value of R2 103 million in 2010 and reported on increased support to entrepreneurial development for start-up and expansionary enterprises in poorer provinces and areas of depressed industrial activity across earmarked priority sectors\textsuperscript{240}. They also reported on a programme where SMMEs with approved government blue-chip tenders are funded within 21 days of the submission of their application.

The Land Bank also reported on the funding of new entrants to agriculture, particularly those from disadvantaged backgrounds.

The role of the media in SMME development seems to be lacking. The media could be an invaluable tool in assisting SMMEs with obtaining development related information, highlighting opportunities and the education of entrepreneurs.

An initiative worthy of more attention is that of Telkom who have developed a score card method which reflects procurement spent on SMME’s. This score card is used to guide performance on a number of indictors which focus amongst others, on SMME and B-BEEE preferential procurement. The SMME scorecard initiative could be particularly useful if


adopted by all SOE’s. This will provide an excellent tool to assess and compare SOE contributions to SMME development in general.

4.25.2. The contribution of SOE’s to rural development, housing, education and health

A number of SOE’s have been mandated by government to assist specifically with rural development, housing, education and health. Very few SOE’s contributed to these focus areas when it did not relate directly to their core mandate and business. One of the institutions worthy of being mentioned in terms of contributing to all the listed areas is the HSRC. Due to their social science focus and research mandate, a wide range of government priority areas are addressed. The HSRC conduct research on all of these themes, with education and health research receiving substantial attention.

Other SOE’s each has their own niche area of specialisation. Housing and rural development in particular are receiving good support from a number of institutions which was created by government to assist with rural development and eradicating stumbling blocks of housing development among the poor.

A range of institutions were brought to life to support governments housing provision aims. This include the Housing Development Agency and Rural Housing Loan Fund which caters for the development of low cost housing by acquiring suitable land for development and assisting low income groups with finance support.

Those SOE’s that support rural development include the Agriseta, Land Bank, ARC, DBSA, IDT and NDA. Core support for rural development is located at SOE’s mandated to assist agricultural development in terms of finance, infrastructure and land and skills development. The DBSA in particular plays an extremely important role in financing rural municipal infrastructure (MIG’s) and providing institutional development support to rural municipalities. Tailor-made economic development models for municipalities are developed and implemented with a view to diversifying rural economic development.

Health as priority area is supported by relatively few SOE’s due to its specialised nature. The Medical Research Council plays a major role in a whole range of health related research
questions. In this review, the HSRC was found to be the only other SOE to significantly support government health imperatives. Little support exists for education at primary and secondary levels. In contrast, good support is provided by numerous seta’s or sector specific training councils on sector specific training matters. As an area of research, education is only supported by the HSRC. The Council on Higher Education in turn has a very specific role of assisting the Minister of Education on all higher education issues and is responsible for quality assurance and promotion though it’s Higher Education Quality Committee.

Generally, the contributions of SOE’s to the delivery of social services are limited. However, SOE’s such as the National Development Agency and Rural Housing Loan Fund sets excellent examples of how SOE’s can enhance their impact by using intermediaries to broaden their reach. Their focus is on capacitating intermediaries to a level where they could provide effective and tailor made services specifically adapted to South African socio-economic conditions and the needs of all communities. This could potentially be a useful model for adoption by SOE’s with a core mandate to deliver social services to communities.

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5. A QUALITATIVE REVIEW OF THE SOE LANDSCAPE

5.1. Introduction

Since the mid-20th century, considerable attention has been focused on State-Owned-Enterprises (SOEs) as a persistent feature of the public service in developed and developing economies. SOEs have become prominent based on the need to address market deficits, capital shortfalls, promote economic development, reduce mass unemployment and ensure national control over the overall direction of the economy. By strategically positioning itself to provide capital and technology, most governments resorted to SOEs to expand capital formation, produce essential goods at lower prices, create employments and generally contribute to overall economic development. This has resulted in the proliferation of SOEs in several countries globally, to accomplish development objectives and the provision of services and infrastructures in areas where the private sector is relatively weak. The performance of SOEs presents a mixed bag. On the one hand, while some have overtly failed to perform, many are limited by political interventions, bureaucratic inefficiencies, ineffectiveness, incompetence, corruption and the looting of the public till. On the other hand, SOEs in some countries are managed effectively and are reputed to provide efficient service needed for development. This forms the backdrop against which governments globally have been restructuring, liquidating, commercializing and privatizing SOEs in the last three decades.

For most developed industrialized economies, while SOEs have been established for ideological reasons aimed at ‘slowing down’ or ‘controlling’ the process of economic adjustment, they have remained crucial in driving social and economic policies. With reference to critical issues confronting the African continent, like poverty reduction and underdevelopment, understanding the role of SOEs, how and why they are established, how

they operate in relation to the private sector and government, and how they perform their functions provides valuable insights into the critical role of SOEs in developing economies. Understanding the phenomenon of SOEs has also become crucial from an African perspective in view of the advent of the New Partnership for African Development (NEPAD) and the United Nations Millennium Development Goals (MDGs). These initiatives have revived the debate about how state institutions and organizations can be ‘reinvented’ or ‘restructured’ to meet the developmental agenda.\(^\text{242}\) It has become imperative for governments seeking to meet the requirements of NEPAD and the MDG to redefine the role of SOEs in a context where the private sector seem to have a strong presence and where national development hinges strongly on provision of services and infrastructure. State-Owned-Enterprises (SOEs) have been identified as critical to government investment and performance and also capable of providing a structural arrangement through which government and other public institutions can serve as a catalyst for national development by making considerable investments that are social, political and economic in nature.

Hence, the critical question that emerges in the South African context is how SOEs can be used in achieving the mandate of the developmental state, or put differently, the place of SOEs in a developmental state. To this end, during the Budget Vote Speech on 12 May 2010, President Jacob Zuma announced the establishment of the Presidential SOE Review Committee (SOE) to critically examine the connections between the SOEs and the South African developmental state and the relationship between both in the South African context. The establishment of the PRC was hailed as a response to the acknowledgement that there is a need to strengthen the role of SOEs to ensure that whilst they remain financially viable, they respond to a clearly defined public mandate and support the developmental state aspirations of government.\(^\text{243}\) A preliminary study conservatively estimates that the number of public enterprises in South Africa is more than three hundred (300). These SOEs are dispersed across various government Ministries and span all tiers of government (national, regional, and local).


provincial and local). While some of these are wholly state owned others are partially state owned, and have attracted several reviews with respect to sectors, departments, and within individual SOEs.

5.2. **Problem and Statement of Research Question**

Based on the foregoing, the critical problems this research grapples with stems from the prevailing distortions in State Owned Enterprises in South Africa that are inimical to the democratic developmental state objectives of government. This is outlined in the following manner:

a) What accounts for the distortions in SOEs and the inability to meet the government’s developmental imperatives?

b) What opportunities exist, if any, to radically transform State Owned Enterprises and enhance their contribution to development in South Africa?

c) Are there short to long-term policy proposals, interventions and recommendations that will shape the future of State Owned Enterprises in South Africa?

d) What accounts for the divergent views on the subject of State Owned Enterprises and Developmental State in South Africa?

5.3. **Rationale and Methodology of the Study**

This qualitative review involves a complete assessment and rigorous analysis of the nature of the SOE landscape. The rationale behind this is to cover areas that cannot be articulated or interpreted with the use of quantitative data sources. The review will cover four critical areas:

- The alignment of SOEs to the government’s developmental agenda.
- The competitive landscape within which SOEs operate.
The effectiveness of SOEs in service delivery and customer care’

The inherent difficulties, challenges and obstacles faced by SOEs in the delivery of their mandate.

By embarking on an assessment and analysis of the current SOE landscape this research seeks to define the SOEs and their role in the Developmental State; investigate the state of SOEs in relation to the Developmental State objectives looking at governance, ownership and management of SOEs. The research methodology is initially designed firstly to scientifically collect sufficient desktop data and secondary information on the state of SOEs and investigate their performances through existing literature and materials with a view to identify and substantiate recommendations on the future of the SOEs in South Africa (future constructs of SOEs); and finally, to advice on the implementation of recommendations.

It is envisaged that at an early stage the research will rely on secondary sources which will involve the following sources, amongst others:

- Libraries and archives (including Government departments, SOEs resource centres, and reports from various local and international institutions such as OECD);
- Key Informants interviews (including relevant and key personnel in Government departments, subject matter experts etc.)

After this initial phase, a more focused primary research that seeks to close the gaps that are in the existing information will be conducted based on case studies of specific State Owned Enterprises.

5.4. Literature Review

One of the most critical aspects in the study of SOEs has to do with the definitional complexities associated with SOEs and how definitions impact on the scope of coverage of understandings and perceptions of SOEs. Several definitions have emerged to capture the
specificities, particularities and prevalent organizational form of SOEs both in South Africa and abroad. Apart from being referred to as State-Owned-Enterprises, SOEs are also referred to as Public Enterprises (PE), Parastatals, Public Companies, Government-Owned-Corporations (GOCs), Public Sector Enterprises, Government Linked Companies or Public Corporations.\textsuperscript{244} As Ferreira points out, definitions of SOEs are framed around their reporting structures as legal entities established as business organisations by government, owned wholly or partly by the state, to carry out its commercial activities and are supposed to earn the bulk of their revenues from the sales of products, goods or services they trade in.\textsuperscript{245} They are generally viewed as organizations which are controlled by the government or business organizations wholly or partly owned by the state and controlled through a public authority. SOEs comprise a diverse blend of internationally competitive companies, large public service providers, manufacturing or financial outfits and various kinds of small and medium-scale enterprises exclusively-owned by governments. They are also predominant in natural resource extraction, air and rail transport, telecommunications, broadcasting, banking and insurance industries. SOEs, by their nature, occupy critical sectors of the economy where political factors and market considerations coexist or interact. This makes the definition of SOEs deeply steeped in theories and approaches that are grounded in either political, market or economic considerations.

As such, different definitions and diverse perspectives have been advanced by scholars to accommodate or integrate these views, and there have also been discernible similarities in these definitions. By definition, ‘a state owned enterprise is an enterprise that has its own activities, within which it sets objectives and assembles and organizes the necessary resources to achieve them’.\textsuperscript{246} Another reference to an SOE sees it as ‘an organization established by the government under public law or private law as a legal personality which is autonomous or semi-autonomous and produces/provides goods and services on a full or partial self-financing basis, and in which the Government or a public body/agency

\textsuperscript{244} This paper adopts these terms interchangeably. However, some experts are wary of an interchangeable usage, but refer to the different terms as indicative of different forms or degree of government ownership in processes of economic adjustment.


participates by way of having shares or representation in its decision-making structure’. Other definitions privilege a political perspective owing to the power considerations that arises when the state is involved. Such definitions views SOEs as ‘institutions or organizations which are owned by the state or in which the state holds a majority interest, whose activities are of a business in nature and which provide services or produce goods and have their own distinct management’. Yet, some scholars place SOEs within the ambits of ‘organizations whose primary function is the production and sale of goods and/or services and in which government or other government-controlled agencies have no ownership stake that is sufficient to ensure their control over the enterprises regardless of how actively that control is exercised’.

There are several elaborations and perspectives to the definition of SOEs. For instance, the World Bank defines SOEs: ‘as government-owned or controlled commercial entities that generate all or most of their revenues form the sale or goods and services’, While the IMF defines them as ‘legal entity (ies) that is/are owned or controlled by the government and that produces goods or services for sale in the market at economically significant prices … corporations are members of the nonfinancial corporations sector or financial corporations sector’. Although, an earlier report by the UN alluded to the lack of uniformity among experts as regards the definition of SOEs, the dominant trend in the United Nations position is that which perceives SOEs as ‘incorporated or large unincorporated enterprise in which public authorities hold a majority of shares and/or can exercise control over management decisions’. Another UN document, titled: System of National Accounts (SNA) qualifies this definition by characterising SOEs as ‘publicly owned and/or controlled enterprises primarily

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engaged in non-financial activities which are (i) incorporated public corporations… or (ii) large unincorporated units (government enterprises) that sell most of the goods or non-financial services they produce to the public’. OECD reports define SOEs as ‘business entities established by central and local governments, and whose supervisory officials are from the government’. This, however, is a narrow definition implying full government ownership of SOEs devoid of government privatization and corporatization reforms.

The critical issue that arises out of this is how SOEs, no matter their definitional context, level of government ownership and control, can make meaningful contributions to the developmental agenda. Closely linked to this is the capacity of SOEs to deliver on certain developmental goals and objective like job creation, rural development, education, and poverty eradication or alleviation. SOEs are critical vectors through which issues related to state ownership, control of national assets and role of state in the economy are articulated, with a view to informing policy initiation, formulation and implementation. Apart from being part of a global debate on the structural transformation of national economies, in line with the recent presidential injunction, this paper delves into a qualitative review of the SOE landscape in order to examine their alignment with the country’s developmental agenda.

5.5. **History of SOEs: From the Global to the Local Context**

The proliferation of research projects on SOEs have been linked to the significant role they have played in most developed economies and key sectors. These developments have directed considerable attention on their structure, issues of political intervention, transparency, corruption and other serious issues that are in need of reform. However, the bulk of literatures on SOEs are products of research that describe their role and importance, by alluding to detailed accounts of how SOEs operate or how they are officially controlled on a country-by-country basis. While this body of research fails to reach a consensus on the

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definition of the SOEs, there appears to be more divergence than agreement in the
definition. The precise definition of SOEs varies from country to country, and may change
time. The absence of an authoritative and generally acceptable definition of SOEs
largely stems from the enormous number and types of organizations the term captures and
the rationale for which they are set up.\textsuperscript{255} This could also be attributed to the fact that public
enterprises were established at different times in different countries, with each context
providing its own peculiar circumstances which invariably shaped the outcomes.\textsuperscript{256}

Globally, the dominant mode of SOE definition is by control, with emphasis on an ‘enterprise
which is controlled by the government’. This definition raised issues bordering on who
actually controls? Is it the central or the local authorities? Some countries only reflect
enterprises run by the central government as SOEs, while enterprises controlled by the local
government are excluded. State control normally reflects three paradigms: the conventional
decentralized model where SOEs are under the auspices of relevant sector ministries; the
dual model where SOEs are under the combined control of the relevant sector ministry and a
central ministry or entity (usually, the Ministry of Finance or Treasury); and the centralized
model where an SOE is under the centralized aegis of a single ministry.\textsuperscript{257} Apart from issues
related to control, SOEs are also defined based on property rights. This includes the legal
right to appoint and dismiss directors and the right to receive the profits from the operations
of an SOE. This becomes applicable in a context where an enterprise is established as a
corporation with no privately exchangeable rights to the profits, and where directors are
appointed by the government. Other forms of definition are those related to sources of
revenue where SOEs receive subsidies from governments in the interest of wider social
objectives, and may offer services at low or zero prices to certain customers.\textsuperscript{258} These
distinctions elicit difficulties in interpretation and applicability in intermediate cases where an
SOE does not clearly meet a specific definition.

\textsuperscript{256} Sosna, S. A, \textit{Public Enterprises in Developing Countries: Legal Status}. Moscow: Progress Publishers, 1983, p.27.
\textsuperscript{258} See CAPDM Demonstration, ‘Government, Industry and Privatization’.
The discovery of enormous gold deposits in Witwatersrand in the 1880s marked the advent of state intervention in the economy in South Africa. Nancy Clark’s book, titled: *Manufacturing Apartheid: State Corporation in South Africa* (1994) provides a breakdown of different historical epochs within which the evolution of SOEs in South Africa can be understood. Her work vividly captures developments within two critical epochs. The first phase (1880-1920) was marked by monopoly concession and political patronage under the influence of Paul Kruger. This period witnessed among other things; the intensification of the interest of mining capitalists; monopoly dominance in electricity generation; the development of a domestic steel industry and railway nationalization. The second phase (1920-1948) witnessed the formation of the Electricity Supply Commission (ESCOM) in 1923, the Iron and Steel Corporation (ISCOR) in 1928 and the Industrial Development Corporation (IDC) in 1939. Clark offers an extensive account of how H.J. van der Bijl, who is referred to as the ‘economic czar’ of South Africa set in motion specific strategies which includes attracting of foreign investments, stipulating market share arrangements with foreign firms and the mobilization of black labour for the survival SOEs. This captures a view contrary to that of Bozzoli and Davies et al, which articulated these developments as representing a victory of national capital over imperial capital, but demonstrates that the early stages of the development of SOEs in South Africa involved a combination of different strategies of compromise between state, local and foreign capital.

The period between 1948 and 1994 captures the apartheid era and third phase of SOE development in South Africa. The political victory of the National Party (NP) meant that apartheid was to become an official government policy for the next four decades and gave ideological content to the evolution and management of SOEs in South Africa. As Williams points out, the NP in a sharp deviation from the free-market system assumed an interventionist character and embarked on a massive expansion of government role in the economy, and SOEs became instruments of intervention in the process of industrialization.

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and economic growth. The intention, according to Makondo was to use SOEs as ‘growth poles’ in the NP’s strategy of preserving the apartheid system, and to promote the development of Afrikaner capital, as part of the industrialization strategy hinged on an export-oriented economy and import-substitution. Effectively, these policies presaged various government attempts to enforce the apartheid system through industrial development and job creation, and b the 1960s, SOEs were well-entrenched as part of a socio-economic system that privileged whites over black.

The first national democratic elections in 1994 and the emergence of the ANC marked the beginning of another SOE phase in South Africa. The emergent ANC was involved in a dilemma of sorts on how to deal with SOEs, either to follow the route of outright privatization or that of nationalization. The immediate issue that resonated in this debate bordered on implementing socialist or capitalist policies, and this has been a contentious issue right from 1994, to the ANC Youth League pronouncements, and to the ANC Conference in Polokwane. The failure of state socialism in Eastern Europe and Soviet Union, clearly interpreted as a failure of socialism did not only force a rethink of the socialist option for South Africa under the ANC, but led to a degree of recognisable ambivalence in economic policy initiation, formulation and implementation within the ruling party. The task embarked upon after 1994 by the Department of Public Enterprises (DPE) was to contextualize the challenges confronting SOEs in a post-apartheid South Africa. The document, titled: An Accelerated Agenda Towards Restructuring of State Owned Enterprises, situated the challenges of SOEs in a historical context and emphasized the need for a thorough restructuring that transcends mere privatization. Several policy issues and recommendation has greeted the SOE space since 1994. The present work of the PRC on

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SOE heralds another important stride in this direction as SOEs remain critical to government’s growth and development strategy.

5.6. Assessment of the SOE Landscape

In concrete terms, the assessment and analysis of the current SOE landscape is meant to probe into how SOEs can be deployed to advance or deliver on government’s development agenda. To grasp what the idea of development entail, it is critical to engage with the history of the term and its application in the broadest sense possible. The concept of state and development (developmental state) gained prominence in the 1960s, but other perspectives put the date at a much earlier period in history dating back to the 1870s in Germany, 1920s in Japan. Most countries subsequently took on the concept as a model of development in the configuration of their nationhood through the implementation of nationalistic policies and the heavy presence of state and public enterprises which owned the means of production.

Despite this, the East Asian model of development which later emerged in the 1980s has been largely attributed to the work of Chalmers Johnson which was published in 1982, titled: *MITI and the Japanese Miracle: The Growth of Industry Policy 1925-1975*. Based on Japanese industrial policy, Chalmers analysed the factors that provided the basis for Japan’s post-war reconstruction and industrial emergence, and transcending the dominant perspectives of American and Soviet models which had held sway prior to that time. Johnson’s study provided contextual insights into the workings of the Japanese example and the role played by the state in the miraculous advancement of the economy. After Johnson’s influential work, a rich body of literature has emerged on the subject, developing on the back of successful economic miracles in the post-World War II period in East Asian economies like South Korea, Taiwan, Singapore and Hong Kong. These developments have

elicited serious ideological contentions between proponents of state-led development and the Anglo-American stream of scholarship that rejects state intervention in the economy.

5.7. Alignment of SOEs to Government’s Developmental Agenda

The current global economic meltdown has brought back debates about the role of the state in development, and invariably, this involves using SOEs as tools of state intervention in the economy. In South Africa, the role of SOEs have changed overtime, this is due to the fact that the SOE landscape has thrived as a product of different policy orientation in different epochs. From the proliferation of SOEs to address the challenge of poor white problem during the apartheid era, to the post-apartheid reforms of SOEs in a democratic context to meet the challenges of transformation and development, there are strategic considerations in every context. Realigning SOEs to conform to government’s development agenda has not only involved the restructuring of SOEs, but this has occurred at the same time with the need to optimise shareholders’ value and economic efficiency. This tendency is articulated in the Growth, Employment and Redistribution (GEAR) programme of the government which was meant to create a balanced environment for the attainment of the Reconstruction and Development (RDP) programmes of government.

After the advent of the ANC, serious issues began to emerge about the profitability, relevance and efficiency of SOEs in a democratic context. As response, privatization was proposed to address the myriad of challenges in this regard, and based on this; GEAR recommended the privatization of SOEs. According to Lamona, this was a policy path that had severe implications for strategy due to the fact that SOEs were to position, both as instruments of economic transformation and as vehicles for economic growth. The proclivity to privatize SOEs stemmed from a comparative assessment of dismal performances of SOEs in other African countries, which Khan summarised as management

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inefficiencies, overstaffing, corruption, technological shortcomings and other related problems.273 Added to this was the widespread implementation of neo-liberal policies globally, and the disintegration of the Soviet Union and state socialism. These factors combined to give vent to the call for privatization of SOEs in South Africa, until post-2007 developments and national discourse began to reflect a different direction and mandate for SOEs in the country. Lamona attributes this to the urgent call for a more interventionist role for the state in the economy and the underlying importance of SOEs to this endeavour.274 The new Minister for Public Enterprises, Malusi Gigaba, emphasized this shift in direction by affirming that SOEs were to become precipitators of development and principal vehicles for socio-economic development in South Africa.275

From the foregoing, it is clear that SOEs are to promote the socio-economic developmental agenda of the state and visions of government. It is necessary to interrogate the manner in which SOEs carry out their functions, since SOEs are deployed in various ways across the globe to achieve this function. The East Asian system of developmental state deployed SOEs in a strategic manner, which were far from homogenous, to achieve this aim. Methods ranged from a tripartite combination of labour market, fiscal incentives and taxation in Singapore,276 to weak institutionalized links between government and business in Taiwan,277 and to a commitment to private property and market in Japan and Korea.278 The situation in South Africa weighed heavily in favour of a state where SOEs were saddled with the responsibility to make profit and remain financially viable. GEAR ensured economic growth in South Africa but failed to deliver on other development goals and challenges confronting the country.279

The ANC’s vision is geared towards the improvement of the quality of life of South African citizens through the provision of adequate, affordable and sustainable economic and social

274 Ibid. p. 45.
278 Ibid, p.111
services. Given this scenario, critical SOEs in the economy like Denel, Eskom, Transnet and Telkom were to provide these accessible, affordable and high quality services to a historically-disadvantaged group among the South African population, thereby, contributing to the strategic aim of the government for a better South Africa.\footnote{SABINETLAW, State-Owned Enterprises Are ‘Vehicles for Socio-Economic Development’, 2010, Available at: \url{http://www.sabinetlaw.co.za/public-enterprise/articles/state-owned-enterprises-are-%E2%80%9Cvehicles-socio-economic-development%E2%80%9D} (Accessed: 15 November 2011).} Plans to privatize the above-named sectors have since been jettisoned by government, but massive corrupt practices still plague these sectors and hampers adequate service delivery. Going by the following, the performance of SOEs still leaves so much to be desired as they have failed in many respects to advance the developmental agenda of government. The commitment to government’s developmental agenda and style is evidently lacking, and issues of ownership, governance and management still remain in need of urgent attention.

5.8. Effectiveness of SOEs in Service Delivery and Customer Care

Evidence suggests that there are various areas in the operation of SOEs in need of urgent attention and strategic repositioning so as to serve as pillars of economic growth and development. One of the critical issues in this regard is the strategic positioning of SOEs to provide service delivery and customer care. The New Growth Path as an economic policy commits to the pursuit of economic and social goals like poverty, joblessness and inequality on a large scale. Hence, SOEs have been identified in the New Growth Path as one of the veritable tools with which Eskom, Transet, Broadband Infrac, the Water Boards, provincial and municipal entities can contribute to the creation of 20 million jobs by 2020.\footnote{The New Growth Path: The Framework, 2010. Available at: \url{http://www.info.gov.za/view/DownloadFileAction?id=135748} (Accessed: 15 November 2011).} In this regard, it has become imperative to align the development strategies of these entities to that of government in relation to service delivery, customer care and the country’s menace of persistent and severe structural unemployment. Based on a distorted pattern of development, the South African economy has failed to absorb the increasing labour capacity of the economy or generate employment intensive growth, underscoring the massive


poverty, joblessness and inequality confronting the country. To improve on service delivery and customer care, issues around the governance, ownership and management are critically important. As a government that maintains state ownership of SOEs, it is imperative to establish a clear policy, regulatory and legislative framework for SOEs that would create enabling standards and procedures for external and internal audit, and accurate accounting and financing procedures. A major challenge confronting SOEs in this regard the multiplicity of functions they perform which range from policy, to regulation and shareholding.

The discussion below draws exclusively from the report submitted by the Executive Mayor of the City of Cape Town, Ms. Patricia de Lille to the Presidential Review Commission on State Owned Enterprises in August 2011. The report deals with the performance of some key SOEs present in the city and the nature of service delivery and customer being received by customers. These SOEs include: Transnet, Airport Company of South Africa (ACSA), Passenger Rail Agency of South Africa, South African National Road Agency Limited, National Port Authority of South Africa, and Eskom. It is evidently clear that the services provided by these SOEs are critical to the functionality of the city and for its future development. But a critical issue which emerged from the submission was that the need to integrate policies, strategies, infrastructure planning, operations and activities to align with the City’s short term Integrated Development Plan or the long term City Development Strategy. This according to the mayor will provide an opportunity to create growth, sustainability and social cohesion which is currently being missed by this misalignment of state institutions and resources.

With specific reference to key areas of transport and energy, the analysis of misalignment in service delivery and customer care are reflected in a variety of ways. First, in the transport sector, one of the key issues pointed out in the submission is the ‘inadequate capacity, declining standards of service and deteriorating infrastructure of passenger rail which is
having a considerable negative impact on communities and prospects for economic growth in the City’. This is based on inappropriate prioritization of the passenger rail programme by PRASA, resulting in a misalignment between the city city’s priorities and that of PRASA, and a lack of coordination and joint planning. Also of critical concern is the absence of joint planning between Transnet and the city in the area of freight strategy. This has resulted into ‘increasing shift of freight from rail to road based transportation in the City’ and the consequent deterioration of the city’s road network. The inability of Transnet to take decisive decisions regarding its waste by rail service and has compelled the city to utilize the more expensive road transport option. Secondly, in the energy sector, there is a critical issue of ‘Eskom’s policies, conditions of supply and tariffs for the supply of electricity in the Eskom area of supply in the jurisdictional area of the City differing from that of the City of Cape Town’. Thereby, resulting in community concerns and differing priorities between both parties, and in services rendered to community settlements. Other areas of concerns is the lack of close planning and alignment between Eskom and the city is with the bulk supply of electricity, the cost of bulk supply and the security of bulk supply, as well as, the Koeberg Nuclear Power Station, particularly, in disaster management planning.

According to the submission, the critical issues emanating from SOE service delivery and customer care models are summarised as follows:

- SOEs rely overwhelmingly on a nationally-driven agenda and tend to ignore specific local and city-specific concerns, resulting in the prominence of national programmes, priorities and policies, to the detriment of city-based concerns.
- SOEs at the city levels are primarily concerned with commercial and operational needs, while the attainment of the city’s long-term economic, environment and social objectives are jettisoned.
- The absence of adequate formal institutional platforms and arrangements that ensures close liaison and co-ordination between SOEs and the City which enables local and City concerns to be taken up in the SOEs policy development, planning and programming.
• Declining levels of service from PRASA and significant underinvestment in passenger rail, particularly, rolling stock, infrastructure and signalization systems, all of which hinders PRASA from playing the role of being the backbone of transport in the city.

It is against this background, that submission makes the following proposal on the way forward:

• The establishment of Regional Boards to ensure City and Provincial input at local level into the high level policies, priorities and programmes of the SOEs mentioned as well as oversight over operational matters.

• The establishment of Statutory Integrated Planning committees to ensure City and Provincial input at local level into the planning, budgeting, tariff setting programme and project implementation of SOEs. In particular the planning at Provincial and City level, the Integrated Development Plan and the City Development Strategy needs to integrate and align with the planning of the SOEs.

• The establishment of Statutory Operational Planning committees to assess and oversee operational performance, level of service and safety issues.

• The urgent recapitalization of passenger rail and augmentation of operational resources for PRASA in other to ensure that passenger rail can take its place as the backbone of Public Transport in Cape Town.  

5.9. **SOE Operation in a Competitive Context**

One of the critical issues confronting SOEs is the need to remain competitive in a context where the private sector and other players have remained viable in areas where SOEs are involved. The idea of public-private partnership (PPP) has been raised between institutions of government and those in the private sector, non-governmental organisations and civil society to provide socially beneficial goods and services to the society. PPP are critical to

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284 These sections were gleaned from the submission of the Executive Mayor of Cape Town, Ms. Patricia de Lille to the Presidential Review Commission on State Owned Enterprises, 1 August 2011.
the extent that apart from providing a basis to draw on the domestic and foreign business, community groups, civil society and cooperatives, voluntary associations, small enterprises and a broad range of non-governmental organization, they provide a platform for sharing of resources and expertise for the common good, and do not necessarily exists to foster competition. Alignments can occur as joint venture partnerships, concessions, build-operate-transfer (BOT) basis, build-transfer-operate (BTO) basis, build-operate-own-transfer (BOOT), and other forms of voluntary and involuntary co-operations.

The viability of SOEs in a competitive context is critically linked to the amount of investment it makes in the area of human capital development. As Chang points out, good enterprises also require good people to run them right from the managerial level to the level of ordinary workers. The centrality of human capacity to the goals of national development is consistent with Amartya Sen’s theory of capability, and Evans’ theory of constructing the 21 century developmental state, which all emphasize the need for adequate training and development to be undertaken systematically and consistently. South Africa’s New Growth Path has specifically identified artisanal and engineering skills as crucial for economic growth, but ties concretely into the improvement of education and skills level. Skills level in South African SOEs have deteriorated drastically since 1994 ushering in an era of scarce skills both at the managerial and artisanal levels, and leaving the SOEs acutely incapacitated. Closely linked to this is the development of competitive market-related salary structure and other related incentives in order to remain viable and competitive. Salaries and negotiations for remunerations must necessary take into cognisance a broad proactive perspective and align with critical bargaining structures in light of the developmental agenda being pursued by government.

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In a technologically and scientifically-relevant world, SOEs come under severe pressure to improve the efficiency of their operations in the pursuit of their mandate. To remain competitive and relevant, it becomes crucial for SOEs to align with the imperative of cost-effectiveness, its relevance to the core business performed by each SOE and the level of efficiency maximization. Debt-ridden and financially unsustainable SOEs in the current context have been deemed as unnecessary and disposable. Ethical questions remain rife as to the kind of service provided by some SOEs in South Africa, like Denel and South African Airways. Hansen raises questions as to the appropriateness of a democratic developmental state as South Africa to manufacture arms for sale or provide luxury air travel, while the same argument is not made for Eskom and Transnet who provide critical service to the masses of South African population. Privatization of the former group (Denel and SAA) has been considered, while for the latter group (Eskom and Transnet) stronger measures need to be adopted by government in the improvement of their services owing to the critical nature of service they render to the country.

5.10. Inherent Difficulties, Challenges and Obstacles Confronted by SOEs

Issues around the non-performance of SOEs are replete in every aspect of the paper and points to a broader failure of the state to engage with issues in many respects. The transition from apartheid to black majority rule in South Africa occurred within a global context that was characterised by the triumph of capitalism and free market doctrine. After coming into power, the ANC agreed to a series of transformative packages in the form of black economic empowerment, employment equity and affirmative action to address a legacy of socio-economic injustices and the ownership of the means of production. SOEs became one of the veritable tools with which the programme of economic transformation was to occur. However, within the context of a state where capitalism and free market practices remain dominant, the ruling party finds itself in an ideological quagmire as to the best approach to


292 Ibid.
achieve these objectives, while different ideological positions exist as to the question of ownership of national assets.

While issues of ownership remain critical, the ANC has maintained an approach based on the balance of evidence, and supportive of state focus on areas that provide public goods. Sometimes, the ANC seems to be supportive of business, and other times, it seems to support its left-leaning allies. This ambiguous posture of the ruling party also poses a dilemma for SOEs to the extent that there are conflicting and ambiguous mandates. Critical to this, is the proliferation of different regimes of corruption and uncertainty in the entire system, and SOEs become cash cows for these practices, particularly, at the provincial and municipal levels where critical oversight is at its lowest. While there are arguments that the apartheid system used SOEs to profit and enrich a few whites, there appears to be a justification around the claim by black economic entrepreneurs to use the same structures to ensure the rise of a black capitalist bloc, to the detriment of critical developmental objectives of the state. The ruling party has been implicated in this act, and speculations are rife about the existence of a clandestine policy of deployment where SOEs are used as the main source of dispensing government patronage.

Another thorny issue is the lack of an overarching legislative framework that stipulates the duties, roles and responsibilities of SOEs, their governance structures, what they should do and lines of accountability. Current debates in the DPE border around whether or not SOEs should have a different or specific legislature to govern them. This confirms the argument of the presiding Minister for Public Enterprises that there is not common governance model.

The political baggage of irregular demands of accounting from political interests and summons to parliament also engenders a sense of deep-seated lack of co-ordination. The need for SOEs to remain financially viable and fund expansion programmes has led to foreign borrowings from the IMF and World Bank. As crucial as this needs may be, they come with certain strings attached and may engender a counter effect and conflict with national development goals and objectives.

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Currently, there seems to be accuracy in the number of SOEs in the country. At the onset of the PRC review, it was stated that there were 300 SOEs, but in the course of this review, the figure has moved remarkably to almost 600. Critical issues have since emerged from provinces and municipalities with regards to governance of SOEs, board compositions and remunerations. SOEs line of reporting is littered across different government departments in a manner that induces confusion as to who or what department a particular SOE reports to. Prominent in this regard are contestations and turf battles between the Department of Energy and Department of Public Enterprises over the ownership band reporting of Eskom, and the same between Department of Transport and Department of Public Enterprises over Transnet. All of this reveals a void in the SOE governance framework and a need to embark on a comprehensive review of the SOE landscape, a review which has not occurred since 1994. The PRC exercise should be taken as a first step in this process with concrete recommendations emerging on how the future state of SOEs should be within the context of government’s developmental agenda.

5.11. Conclusion: Findings and Recommendations

This review has demonstrated that SOEs have been used to achieve the goals of development in other countries of the world, as such, the South African experience is not be the first in this regard. Nevertheless, the fundamental issue in the South African context is how to deploy SOEs in achieving the developmental objectives of the state. This has prompted the commissioning of a review committee to oversee the possibility of transforming SOEs to fulfill this critical mandate. Some of the findings in the current SOE review exercise reveal that:

- SOEs are not in the best shape to deliver on the mandate of development currently pursued by the state.

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295 This assessment is based on evidence drawn from the Database Compilation exercise currently being undertaken by the Human Sciences Research Council.

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The performance of SOEs is not satisfactory and capable of delivering this mandate. The strategy, operation and orientation of SOE as currently constituted do not align with the government style of developmental state. SOEs themselves do not grasp the nitty-gritty and crucibles of developmental objectives of government.\(^{296}\)

Against this backdrop, SOEs need to transform their operations based on the following grounds:

- Engage in strategic partnerships with a view to optimise their contribution to development.
- This can take the form of embedding their operations and activities to align with broad-based government development programmes be it the New Growth Path or Industrial Policy Action.
- SOEs must advance social and economic equality, but at the same time remain financially viable.
- There should be clear policy, legislative and regulatory framework for the governance and operation of SOEs.
- Policies should clarify the position of stakeholders and shareholders in SOEs, and the role of government as a stakeholder should be clarified.
- Various platforms for Private-Public-Partnerships should be explored to maximise SOEs contribution to development.
- Issues of socio-economic justice and the balancing of promises of liberation with actual economic realities should be addressed with respect to the mandate of SOEs.
- Accounting systems and practices must be standardised and tightened for maximal outputs.
- Political deployments and patronage, and the role of SOEs in these practices must be addressed for SOEs to realise their true potentials.

\(^{296}\) A Survey Report conducted on a sample of 140 SOE reveal that SOEs advanced several understandings of their mandate to respondents which conflicted with popular conceptions of their role in the country.
Finally, a national debate, conference or consensus is adequate in this direction so as to clarify the mandate of SOEs and its role in the developmental state objectives of government.

5.12. References


Meeting on Reinventing Public Enterprises and their Management, Department of Economic and Social Affairs, United Nations, 27-28 October.


5.13. **APPENDIX A: STATE-OWNED ENTERPRISES AND ENTITIES REPORTING TO NATIONAL, PROVINCIAL AND LOCAL GOVERNMENT STRUCTURES**

5.13.1. **National government departments**

- **Department of Agriculture, Forestry and Fisheries**: Agricultural Research Council (ARC); Inala Farms (Pty) Ltd; Land and Agricultural Development Bank; National Agricultural Marketing Council; Ncera Farms (Pty) Ltd; Onderstepoort Biological products; Perishable Products Export Control Board.

- **Department of Arts and Culture**: Artscape; Die Afrikaans Taal Museum; Freedom Park Trust; Iziko Museums of Cape Town; Luthuli Museum; Natal Museum; National Arts Council of South Africa; National Film and Video Foundation of South Africa; National Museum; Bloemfontein; Nelson Mandela National Museum; Northern Flagship Institution;
Performing Arts Council of the Free State; Robben Island Museum; South African National Heritage Resources Agency; South African Library for the Blind; The National English Literary Museum; The Playhouse Company; The South African State Theatre; Voortrekker Museum; War Museum of the Boer Republics; William Humphreys Art Gallery; Windybrow Theatre.

- **Department of Basic Education**: Education Labour Relations Council; South African Council of Educators; Umalusi Council for Quality Assurance in General and Further Education and Training.

- **Department of Communications**: Telkom; the South African Broadcasting Corporation (SABC); the South African Post Office (SAPO); the Independent Communications Authority of South Africa (ICASA); the National Electronic Media Institute of South Africa (Nemisa); Sentech; the telecommunications infrastructure company Broadband Infraco; and the Universal Service Agency of South Africa (USASA). The Media Development Diversity Agency; Universal Service and Access Agency of South Africa; Universal Service and Access Fund.

- **Department of Cooperative Governance and Traditional Affairs**: South African Local Government Association.

- **Department of Defence and Military Veterans**: Armaments Corporation of South Africa (ARMSCOR); Castle Control Board.

- **Department of Economic Development**: Industrial Development Corporation of South Africa;
● **Department of Energy and Mineral Resources**: Council for Mineral Technology; Electricity Distribution Industry Holdings; the National Nuclear Regulator; the National Energy Regulator of South Africa (NERSA); the Nuclear Energy Corporation of South Africa; the Central Energy Fund Group; the State Diamond Trader. The Mining Health and Safety Council; The Minister of Energy has oversight responsibilities over five State Owned Entities (SOE) and their subsidiaries which are either classified as schedule 2 or 3 in the PFMA. The enabling legislation requires the Minister to appoint members of the boards of all state owned entities reporting to the Minister of Energy. All board members; with the exclusion of CEOs; are non-executive. The Department is represented on all of these boards; with the exception of NERSA (the independent energy regulator). Boards are ultimately accountable and responsible for the performance of the entities. They give strategic directions to the entity in line with the mandate and this is in turn implemented by management.

● **Department of Environmental Affairs and Tourism**: Breede River Catchment Management Agency; International Marketing Council; Marine Living Resources Fund; South African National Parks; South African National Biodiversity Institute; South African Tourism;

● **Department of Finance**: Financial Intelligence Centre; Independent Regulatory Board for Auditors; Office of the Ombud for Financial Services Providers; Public Sector Investment Corporation Limited; South African Revenue Service; South African Special Risk Insurance Association Limited;

● **Department of Health**: Council for Medical Schemes; Medical Research Council; National Health Laboratory Service;

● **Department of Higher Education and Training**: Council on Higher Education; National Student Financial Aid Scheme; South African Qualifications Authority;
● **Department of Home Affairs**: Film and Publications Board;

● **Department of Human Settlements**: Housing Development Agency; National Home Builders Registration Corporation; National Housing Finance Corporation; Rural Housing Loan Fund; Social Housing Foundation; Social Housing Regulatory Authority; Thubelisha Homes

● **Department of Intelligence**: Electronic Communications Security (Pty) Ltd;

● **Department of International Relations and Cooperation**: African Renaissance and International Cooperation Fund;

● **Department of Justice**: Legal Aid Board;

● **Department of Labour**: Agricultural Sector Education and Training Authority; Banking Sector Education and Training Authority; Chemical Industries Education and Training Authority; Clothing; Textiles; Footwear and Leather Sector Education and Training Authority; Construction Education and Training Authority; Commission for Conciliation; Mediation and Arbitration; Compensation Fund; Education; Training and Development Practices Sector Education and Training Authority; Energy Sector Education and Training Authority; Food and Beverage Manufacturing Industry Sector Education and Training Authority; Forest Industries Sector Education and Training Authority; Health and Welfare Sector Education and Training Authority; Information Systems; Electronics; and Telecommunications Technologies Sector Education and Training Authority; Insurance Sector Education and Training Authority; Local Government; Water and other related services Sector Education and Training Authority; Manufacturing; Engineering and Related Services Sector Education and Training Authority; Media; Advertising;
Publishing; Printing and Packaging Sector Education and Training Authority; Mining Qualifications Authority; National Economic Development and Labour Council (NEDLAC); Productivity South Africa; Safety and Security Sector Education and Training Authority; Services Sector Education and Training Authority; SETA for Finance; Accounting; Management Consulting and Other Financial Services; Tourism; Hospitality and Sport Education and Training Authority; Transport Education and Training Authority; Wholesale and Retail Sector Education and Training Authority; Unemployment Insurance Fund;

- **Department of Mineral Resources**: South African Diamond and Precious Metals Regulator;

- **Department of Public Enterprises**: Alexkor; the Pebble Bed Modular Reactor; Eskom; Denel; Safcol; Infraco; South African Airways; the South African Forestry Company; Transnet; and South African Express Airways.

- **Department of Public Services and Administration**: State Information Technology Agency (SITA);

- **Department of Public Works**: Independent Development Trust (IDT); Construction Industry Development Board; Council for the Built Environment;

- **Department of Safety and Security**: Private Security Industry Regulatory Authority;

- **Department of Science and Technology**: Africa Institute of South Africa; Human Sciences Research Council; National Research Foundation; South African National Space Agency; Technology Innovation Institute; Council for Scientific and Industrial Research;
- **Department of Social Development**: National Development Agency; South African Social Security Agency;

- **Department of Sports and Recreation**: Boxing South Africa; South African Institute for Drug-free Sport;

- **Department of Trade and Industry**: Competitions Commission; Competitions Tribunal; Estates Agency Affairs Board; Export Credit Insurance Corporation; International Trade Administration Commission; Khula Enterprises Finance Limited; National Consumer Commission; National Consumer Tribunal; National Credit Regulator; National Empowerment Fund; National Gambling Board; National Lotteries Board; National Metrology Institute of South Africa; National Regulator for Compulsory Specifications; Small Enterprises Development Agency; South African Bureau of Standards; South African National Accreditation System; National Regulator for Compulsory Specifications; Small Enterprise Development Agency; South African National Accreditation System;

- **Department of Transport**: Cross-Border Road Transport Agency; Passenger Rail Agency of South Africa; Ports Regulator of South Africa; Road Accident Fund; Railways Safety Regulator; Road Traffic Management Corporation; South African Civil Aviation Authority; South African Maritime Safety Authority; South African National Roads Agency Limited; Urban Transport Fund;

- **Department of Water Affairs**: Albany Coast Water Board; Amatola Water Board; Bloem Water; Botshelo Water; Bushbuckridge Water Board; Ikangala Water; Inkomati Catchment Management Agency; Lepelle Northern Water; Magalies Water; Mhlathuze Water; Namaqua Water Board; Overberg Water; Pelladrift Water Board; Rand Water; Sedibeng Water; Umgeni Water; Water Research Commission;
- **National Treasury**: Accounting Standards Board; Co-operatives Banks Development Agency;

- **The Presidency**: National Youth Commission; National Youth Development Agency; Special Investigations Unit; Umsobomvu Youth fund;

5.13.2. **Provincial government departments**

- **Eastern Cape**: AsgiSA Eastern Cape Pty Ltd; COEGA Development Corporation; Eastern Cape Provincial Arts and Culture Council; Eastern Cape Parks Board; Eastern Cape Rural Finance Corporation Limited; Eastern Cape Socio-Economic Consultative Council; Eastern Cape Tourism Board; Eastern Cape Youth Commission; Eastern Cape Appropriate Technology Unit; Eastern Cape Gambling and Betting Board; Eastern Cape Liquor Board; East London Industrial Development Zone Corporation; Eastern Cape Development Corporation; Mayibuye Transport Corporation

- **Free State**: Free State Gambling and Liquor Authority; Free State Investment Promotion Agency; Free State Tourism Authority; Phakisa Major Sport and Development Corporation; Free State Development Corporation; Free State Housing Fund; Free State Liquor Board; Free State Political Party Fund; James Robertson Bursary Fund; Free State Nature Conservation Fund; Patient Private Fund; Recreation Trust Fund; Small Holdings Trust Fund; Thomas Robertson Bursary Fund; Free State Fleet Management Trading Entity; Free State Youth Commission; Free State Gambling and Liquor Authority.

- **Gauteng**: Blue IQ Investment Holdings (Pty) Ltd.; Gauteng Economic Development Agency; Gauteng Enterprise Propeller; Gauteng Gambling Board; Gauteng Partnership Fund; Gauteng Tourism Authority; Gautrain Management Agency; XHASA ATC Agency; Gauteng Film Commission.
- **Limpopo**: Limpopo Appeal Tribunals; Limpopo Development Enterprise; Limpopo Development Tribunals; Limpopo Gambling Board; Limpopo Housing Board; Limpopo Liquor Board; Limpopo Local Business Centre; Limpopo Panel of Mediators; Limpopo Planning Commission; Limpopo Roads Agency; Gateway Airport Authority Limited; Limpopo Development Corporation; Limpopo Agribusiness Development Corporation.

- **KwaZulu-Natal**: Amafa AkwaZulu Natali; Ezemvelo KwaZulu-Natal Wildlife; KwaZulu-Natal Agricultural Development Trust; KwaZulu-Natal Gambling Board; KwaZulu-Natal House of Traditional Leaders; KwaZulu-Natal Provincial Planning and Development Commission; KwaZulu-Natal Tourism Authority; Natal Sharks Board; uMsekelile Municipal Support Services; Cowslip Investments (Pty) Ltd; Ithala Development Finance Corporation; Ithala Limited; Mjindi Farming (Pty) Ltd; Mpendle-Ntambanana Agricultural Company (Pty) Ltd; KwaZulu-Natal Growth Fund Managers (Pty) Ltd; KwaZulu-Natal Nature Conservation Board; KZN Business Rehabilitation Trust Fund; KZN Housing Fund; KZN Provincial Pharmaceutical Supply Depot; KZN Represented Political Parties’ Fund; Natal Joint Municipal Pension Fund (Provident); Natal Joint Municipal Pension Fund (Retirement); Natal Joint Municipal Pension Fund (Superannuation); Trade and Investment KZN; Traditional Levies and Trust Account; KZN Film Company (New Audit); Liquor Board KZN (New Audit); KwaZulu-Natal Gaming and Betting Board.

- **Mpumalanga**: Mpumalanga Gambling Board; Mpumalanga Regional Training Trust; Mpumalanga Tourism and Parks Board; Mpumalanga Agricultural Development Corporation; Mpumalanga Economic Growth Agency; Mpumalanga Housing Finance Company.

- **Northern Cape**: Northern Cape Tourism Authority; Northern Cape Gambling Board; McGregor Museum; Arts and Culture Council; Gwao BOSWA Kapa Bokone (NC Provincial Heritage Resources Authority); Northern Cape Premier’s Education Trust; Mme Re Kanthisu Trust; Northern Cape Economic Development Agency; Northern Cape Liquor
Board; Northern Cape Housing Board; Kalahari Kid Corporation; Nieuwoudtville Rooibos Tea

- **North West**: Invest North West; Mmabana Arts, Culture and Sport Foundation; North West Eastern Region Entrepreneurial Support Centre; North West Gambling Board; North West Housing Corporation; North West Parks and Tourism Board; North West Provincial Aids Council; North West Provincial Arts and Culture Council; North West Provincial Heritage Resources Authority; North West Youth Development Trust; North West Development Corporation; Mafikeng Industrial Development Zone (Pty) Ltd; Directorate for Entrepreneurial Development; North West Transport Investments (Pty) Ltd; Signal Hills (Pty) Ltd; North West Craft and Design Institute; A Re Ageng Forum; Dirapeng; Kgama.

- **Western Cape**: Destination Marketing Organization; Western Cape Commissioner for the Environment; Western Cape Cultural Commission; Western Cape Gambling and Racing Board; Western Cape Investments and Trade Promotion Agency; Western Cape Language Committee; Western Cape Liquor Board; Western Cape Nature Conservation Board; Western Cape Provincial Development Council; Cape Agency for Sustainable Integrated Development in Rural Areas (CASIDRA) Pty Ltd; Western Cape Trade and Investment Promotion Agency; Western Cape Rental Housing Tribunal; Western Cape Provincial Operating Licensing Board; Western Cape Housing Board

5.13.3. **Local government departments**

- **Eastern Cape**: Ntinga OR Tambo Development Agency; Amatole Economic Development Agency; Blue Crane Development Agency; Buffalo City Development Agency; Kouga Development Agency; Motlie Investments; Kouga Cultural Centre; Mthombo Sediba Development Agency; Mandela Bay Development Agency; Nkonkobe Economic Development Agency; Port St. Johns Development Agency.
- **Free State**: Ljweleputswa Development Agency; Metsimaholo Mayor’s Trust; Maluti-a-Phufong; Centlec (Pty)Ltd; Fezile Dabi DM Trust; Krynaauwlust Farming Trust (Pty) Ltd; Canton Trading 123 (Pty) Ltd t/a Jomago Health; Cross Point Trading 123 (Pty) Ltd; Highlands Furniture Factory (Pty) Ltd; Mafube Risk Insurance Consultants (Pty) Ltd; Phiritona Plastics (Pty) Ltd; Qwa-Qwa Datnis (Pty) Ltd; Rumar Manufacturing (Pty) Ltd; Scopefull 21 (Pty) Ltd; Twin Cities (Pty) Ltd; Welkom Diamond Cutting Works; Centre Medical Trading Account.

- **Gauteng**: Johannesburg City Parks; Johannesburg Tourism Company; Pikitup Johannesburg (Pty) Ltd; The Joburg Theatre (Pty) Ltd; Johannesburg Social Housing Co(Pty)Ltd; City of Johannesburg Property Company; Johannesburg Water(Pty) Ltd; Johannesburg Metropolitan Bus Services; Johannesburg Zoo; City Power Johannesburg(Pty)Ltd; Johannesburg Roads Agency; Johannesburg Development Agency; Roodepoort City Theatre; The Johannesburg Fresh Produce Market; The Metropolitan Trading Co(Pty)Ltd; Temba Roodeplaat Water Services Trust; Sandspruit Works Association (t/a ODI Water Services); Civirelo Water; Tshwane Centre for Business Information& Support; Tshwane Housing Company; East Rand Water Care Company(ERWAT); Pharoe Park Housing Company; Brakpan Bus Company; Ekurhuleni Development Company(Greater Germiston Inner City Housing); Lethabong Housing Institute; Germiston Phase II Housing Company.

- **Limpopo**: Zelpy 1903(Pty) Ltd; Polokwane Housing Association.

- **KwaZulu-Natal**: Durban Marine Theme Park(Pty)Ltd; ICC Durban; Hibiscus Coast Development Agency; Ilembe Management Development Enterprise(Pty)Ltd; Safe City; Uthukela Water(Pty)Ltd; uThungulu Financing Partnership; Umhlosingesa Development Agency; Ugu South Coast Tourism; Banzi Pan Devco (Pty) Ltd; Durban Wharfside Trust; Mabibi Development Company (Pty) Ltd; Moses Kotana Institute; Nongoma Plaza; Richards Bay Industrial Development Zone; Rocktail Bay Devco (Pty) Ltd; Sibaya
Conservation Projects (Pty) Ltd; Sundumbili Plaza; Ubiciko Twines; Dube Tradeport; KwaZulu-Natal Local Government Association (KWANALOGA).

- **Mpumalanga**: Govan Mbeki Housing Company; Mbombela Development Trust; Umjindi Local Economic Development Agency; Munsoft Section 21 Company.

- **Northern Cape**: Namaqualand South Development Association.

- **North West**: Moses Kotane Local Development Agency (Pty) Ltd; Rustenburg Water Services Trust.

- **Western Cape**: Convence-Cape Town ICC; The Khayelitsha Community Trust; Overstarand LED Agency (OLEDA); George Housing Association.

### 5.14. **APPENDIX B: STATE-OWNED ENTERPRISES AND ENTITIES REGULATED UNDER THE PUBLIC FINANCE MANAGEMENT ACT**

#### 5.14.1. **Schedule 2**

**MAJOR PUBLIC ENTITIES**

1. Air Traffic and Navigation Services Company Limited
2. Airports Company of South Africa Limited
3. Alexkor Limited
4. Armaments Corporation of South Africa Limited
5. Broadband Infrastructure Company (Pty) Ltd
6. CEF (Pty) Ltd
7. DENEL (Pty) Ltd
8. Development Bank of Southern Africa
9. ESKOM

10. Independent Development Trust

11. Industrial Development Corporation of South Africa Limited

12. Land and Agricultural Development Bank of South Africa

13. South African Airways (Pty) Limited


15. South African Express (Pty) Limited

16. South African Forestry Company Limited

17. South African Nuclear Energy Corporation Limited


19. Telkom SA Limited

20. Trans-Caledon Tunnel Authority

21. Transnet Limited

All subsidiaries of the above major public entities

5.14.2. SCHEDULE 3

OTHER PUBLIC ENTITIES

5.14.2.1. Part A: National Public Entities

1. Accounting Standards Board

2. Africa Institute of South Africa

3. African Renaissance and International Cooperation Fund

4. Agricultural Research Council

5. Agricultural Sector Education and Training Authority
6. Artscape
7. Banking Sector Education and Training Authority
8. Boxing South Africa
9. Breede River Catchment Management Agency
10. Castle Control Board
11. Chemical Industries Education and Training Authority
12. Clothing, Textiles, Footwear and Leather Sector Education and Training Authority
13. Commission for Conciliation Mediation & Arbitration
14. Compensation Fund, including Reserve Fund
15. Competition Commission
16. Competition Tribunal
17. Construction Education and Training Authority
18. Construction Industry Development Board
19. Council for Geoscience
20. Council for Medical Schemes
21. Council for the Built Environment
22. Council on Higher Education
23. Cross-Border Road Transport Agency
24. Die Afrikaanse Taal Museum
25. EDI Holdings (Pty) Ltd
26. Education Labour Relations Council
27. Education, Training and Development Practices Sector Education and Training Authority
28. Electronic Communications Security (Pty) Ltd
29. Energy Sector Education and Training Authority
30. Estate Agency Affairs Board
31. Film and Publication Board
32. Financial Intelligence Centre
33. Financial Services Board
34. Food and Beverages Manufacturing Industry Sector Education and Training Authority
35. Forest Industries Sector Education and Training Authority
36. Freedom Park Trust
37. Health and Welfare Sector Education and Training Authority
38. Housing Development Agency
39. Human Sciences Research Council
40. Independent Regulatory Board for Auditors
41. Information Systems, Electronics and Telecommunications Technologies Training Authority
42. Ingonyama Trust Board
43. Inkomati Catchment Management Agency
44. Insurance Sector Education and Training Authority
45. International Marketing Council
46. International Trade Administration Commission
47. iSimangaliso Wetland Park
48. Iziko Museums of Cape Town
49. Legal Aid Board
50. Local Government, Water and Other Related Services Sector Education and Training Authority

51. Luthuli Museum

52. Manufacturing, Engineering and Related Services Sector Education and Training Authority

53. Marine Living Resources Fund

54. Market Theatre Foundation

55. Media Development Diversity Agency

56. Media, Advertising, Publishing, Printing and Packaging Sector Education and Training Authority

57. Medical Research Council of South Africa

58. Mine Health and Safety Council

59. Mining Qualifications Authority

60. Municipal Infrastructure Investment Unit

61. Natal Museum

62. National Agricultural Marketing Council

63. National Arts Council of South Africa

64. National Consumer Commission

65. National Consumer Tribunal

66. National Credit Regulator

67. National Development Agency


69. National Electronic Media Institute of South Africa

70. National Empowerment Fund
71. National Energy Regulator of South Africa
72. National Film and Video Foundation of South Africa
73. National Gambling Board of South Africa
74. National Health Laboratory Service
75. National Heritage Council of South Africa
76. National Home Builders Registration Council
77. National Housing Finance Corporation Limited
78. National Library of South Africa
79. National Lotteries Board
80. National Metrology Institute of South Africa
81. National Museum, Bloemfontein
82. National Nuclear Regulator
83. National Regulator for Compulsory Specifications
84. National Research Foundation
85. National Student Financial Aid Scheme
86. National Urban Reconstruction and Housing Agency
87. National Youth Commission
88. National Youth Development Agency
89. Nelson Mandela National Museum
90. Northern Flagship Institution
91. Office of the Ombud for Financial Service Providers
92. Office of the Pension Funds Adjudicator
93. Performing Arts Council of the Free State
94. Perishable Products Export Control Board
95. Ports Regulator of South Africa
96. Private Security Industry Regulatory Authority
97. Productivity SA
98. Public Sector Education and Training Authority
99. Railway Safety Regulator
100. Road Accident Fund
101. Road Traffic Management Corporation
102. Robben Island Museum
103. Rural Housing Loan Fund
104. Safety and Security Sector Education and Training
105. Servcon Housing Solutions (Pty) Ltd
106. Services Sector Education and Training Authority
107. SETA for Finance, Accounting, Management Consulting and Other Financial Services
108. Small Enterprise Development Agency
109. Social Housing Foundation
110. South African Civil Aviation Authority
111. South African Council for Educators
112. South African Diamond and Precious Metals Regulator
113. South African Heritage Resources Agency
114. South African Library for the Blind
115. South African Local Government Association
116. South African Maritime Safety Authority
117. South African National Accreditation System
118. South African National Biodiversity Institute
119. South African National Parks
120. South African National Space Agency
121. South African Qualifications Authority
122. South African Revenue Service
123. South African Social Security Agency
124. South African Tourism
125. South African Weather Service
126. Special Investigation Unit
127. State Information Technology Agency
128. Technology Innovation Agency
129. The Co-Operatives Banks Development Agency
130. The National English Literary Museum
131. The Playhouse Company
132. The South African Institute for Drug-free Sport
133. The South African National Roads Agency Limited
134. The South African State Theatre
135. Thubelisha Homes
136. Tourism, Hospitality & Sport Education and Training Authority
137. Transport Education and Training Authority
138. uMalusi Council for Quality Assurance in General and Further Education and Training
139. Unemployment Insurance Fund
140. Universal Service and Access Agency of South Africa
141. Universal Service and Access Fund
142. Urban Transport Fund
143. Voortrekker Museum
144. War Museum of the Boer Republics
145. Water Research Commission
146. Wholesale and Retail Sector Education and Training Authority
147. William Humphreys Art Gallery
148. Windybrow Theatre

All subsidiaries of the above national public entities

1. Albany Coast Water Board
2. Amatola Water Board
3. Bloem Water
4. Botshelo Water
5. Bushbuckridge Water Board
6. Council for Mineral Technology
7. Council for Scientific and Industrial Research
8. Export Credit Insurance Corporation of South Africa Limited
9. Ikangala Water
10. Inala Farms (Pty) Ltd
11. Khula Enterprises Finance Limited
12. Lepelle Northern Water
13. Magalies Water
14. Mhlathuze Water
15. Namaqua Water Board
16. Ncera Farms (Pty) Ltd
17. Onderstepoort Biological Products Limited
18. Overberg Water
19. Passenger Rail Agency of South Africa
20. Pelladrift Water Board
21. Public Investment Corporation Limited
22. Rand Water
23. SA Bureau of Standards
24. SA Special Risk Insurance Association Limited
25. Sedibeng Water
26. Sentech Limited
27. State Diamond Trader
28. Umgeni Water
29. Umsobomvu Youth Fund

All subsidiaries of the above national government business enterprises

5.14.2.3. Part C: Provincial Public Entities

EASTERN CAPE

1. Eastern Cape Appropriate Technology Unit
2. Eastern Cape Arts Council
3. Eastern Cape Gambling and Betting Board
4. Eastern Cape Liquor Board
5. Eastern Cape Parks Board
6. Eastern Cape Rural Finance Corporation Limited
7. Eastern Cape Socio-Economic Consultative Council
8. Eastern Cape Tourism Board
9. Eastern Cape Youth Commission

FREE STATE

1. Free State Gambling and Racing Board
2. Free State Investment Promotion Agency
3. Free State Tourism Authority
4. Phakisa Major Sport and Development Corporation

GAUTENG

1. Blue IQ Investment Holdings (Pty) Ltd
2. Gauteng Economic Development Agency
3. Gauteng Enterprise Propeller
4. Gauteng Gambling Board
5. Gauteng Partnership Fund
6. Gauteng Tourism Authority
7. Gautrain Management Agency
8. XHASA ATC Agency
KWA-ZULU NATAL

1. Amafa AkwaZulu Natali
2. Ezemvelo KwaZulu-Natal Wildlife
3. KwaZulu-Natal Agricultural Development Trust
4. KwaZulu-Natal Gambling Board
5. KwaZulu-Natal House of Traditional Leaders
6. KwaZulu-Natal Provincial Planning and Development Commission
7. KwaZulu-Natal Tourism Authority
8. Natal Sharks Board
9. uMsekeli Municipal Support Services

LIMPOPO

1. Limpopo Appeal Tribunals
2. Limpopo Development Enterprise
3. Limpopo Development Tribunals
4. Limpopo Gambling Board
5. Limpopo Housing Board
6. Limpopo Liquor Board
7. Limpopo Local Business Centres
8. Limpopo Panel of Mediators
9. Limpopo Planning Commission
10. Limpopo Roads Agency
11. Limpopo Tourism and Parks Board
12. Trade and Investment Limpopo

MPUMALANGA

1. Mpumalanga Gambling Board
2. Mpumalanga Regional Training Trust
3. Mpumalanga Tourism and Parks Board

NORTHERN CAPE

1. Northern Cape Tourism Authority
2. Northern Cape Gambling Board

NORTH WEST

1. Invest North West
2. Mmabana Arts, Culture and Sport Foundation
3. North West Eastern Region Entrepreneurial Support Centre
4. North West Gambling Board
5. North West Housing Corporation
6. North West Parks and Tourism Board
7. North West Provincial Aids Council
8. North West Provincial Arts and Culture Council
9. North West Provincial Heritage Resources Authority
10. North West Youth Development Trust

WESTERN CAPE

1. Destination Marketing Organisation
2. Western Cape Commissioner for the Environment
3. Western Cape Cultural Commission
4. Western Cape Gambling and Racing Board
5. Western Cape Investments and Trade Promotion Agency
6. Western Cape Language Committee
7. Western Cape Liquor Board
8. Western Cape Nature Conservation Board
9. Western Cape Provincial Development Council

All subsidiaries of any of the above provincial public entities

5.14.2.4. Part D: Provincial Government Business Enterprises

EASTERN CAPE

1. East London Industrial Development Zone Corporation
2. Eastern Cape Development Corporation
3. Mayibuye Transport Corporation
FREE STATE

1. Free State Development Corporation

KWA-ZULU NATAL

1. Cowslip Investments (Pty) Ltd
2. Ithala Development Finance Corporation
3. Mjindi Farming (Pty) Ltd
4. Mpendle-Ntambanana Agricultural Company (Pty) Ltd

LIMPOPO

1. Gateway Airport Authority Limited
2. Limpopo Development Corporation

MPUMALANGA

1. Mpumalanga Agricultural Development Corporation
2. Mpumalanga Economic Growth Agency
3. Mpumalanga Housing Finance Company

NORTH WEST

1. North West Development Corporation
2. Mafikeng Industrial Development Zone (Pty) Ltd

WESTERN CAPE

1. Casidra (Pty) Ltd

All subsidiaries of any of the above provincial government enterprises


5.15. APPENDIX C: CATEGORIES OF STATE-OWNED ENTERPRISES

5.15.1. Statutory Bodies

These are bodies created by an act of parliament and are specialized agencies of the government. Included here are:

- **Boxing SA**: A Boxing Commission which is a juristic person known as Boxing SA was established in terms of Section 4 of the South African Boxing Act, 11 of 2001. It started to operate on the 25th May 2002 May under the new board appointed by the then Minister of Sport and Recreation Minister Ngconde Balfour.

- **Die Afrikaanse Taalmuseum en Monument (ATM)**: The ATM, also known as The Afrikaans Language Museum and Monument, is situated in Paarl, Western Cape, South Africa. By virtue of the powers bestowed on him by section 3 of the previous Cultural Institutions Act, 1969 (Act 29 of 1969), the then Minister of Education declared the ATM Paarl as an institution which falls under the terms of that Act with effect from 1 June
1977. Since then the Cultural Institutions Act of 1969 has been replaced by the Cultural Institutions Act, 1998 (Act 119 of 1998). The ATM receives an annual subsidy from the Department of Arts and Culture.

- **Freedom Park**: The Park is governed by inter alia the following legal framework: the Constitution of the Republic of South Africa, 108 of 1996, Public Finance Management Act, 1 of 1999, National Heritage Resources Act, 25 of 1999, and the Cultural Institutions Act, 119 of 1998. The core function of Freedom Park is the creation of a memorial that will narrate the story of South Africa’s pre-colonial, colonial, apartheid, and post-apartheid history and heritage, spanning a period of 3.6 billion years of humanity, to acknowledge those that contributed to the freedom of the country and managing the Freedom Park as a cultural institution.

- **Land and Agricultural Development Bank of South Africa (Land Bank)**: The Land and Agricultural Development Bank was established as a juristic person by the provisions of the Land and Agricultural Development Bank Act, 2002 (No. 15 of 2002). It is a specialist agricultural bank guided by a government mandate to provide financial services to the commercial farming sector and to agri-business and to make available new, appropriately designed financial products that would facilitate access to finance by new entrants to agriculture from historically disadvantaged backgrounds.

- **Legal Aid South Africa**: The Constitution of South Africa, Act 108 of 1996, provides the overall legal framework from which Legal Aid South Africa derives its mandate. Chapter Two, of the Bill of Rights, outlines the right to equality (Section 9) the right to access to courts (Section 34) the rights of arrested, detained and accused persons (Section 35) and the rights of children (Section 28). These constitutional rights provide substance to Legal Aid South Africa’s core mandate of providing legal services to the indigent at the expense of the state. It operates in terms of the Public Finance Management Act of 1999. The constitutional obligations of the Legal Aid South Africa are further defined in terms of the Restitution of Land Rights Act 22 of 1984, the Extension of Security of Tenure Act of 1999, and the Criminal Procedure Act 51 of 1997. Legal Aid South Africa is an
independent statutory body established in terms of the Legal Aid Act, 1969 (Act 22 of 1969).

- **Media Development Diversity**: This agency was set up by an Act of Parliament (Act 14 of 2002) to enable “historically disadvantaged communities and persons not adequately served by the media” to gain access to the media. Its beneficiaries are community media and small commercial media.

- **Road Traffic Management Corporation (RTMC)**: The RTMC was established in terms of Section 3 of the Road Traffic Management Corporation Act, No. 20 of 1999, for cooperative and coordinated strategic planning, regulation, facilitation and law enforcement in respect of road traffic matters by the national, provincial and local spheres of government.

- **South African National Parks (SANParks)**: The National Parks Act, Act No. 56 of 1926, was promulgated and the first board of South African National Parks was appointed in that year. SANParks is the leading conservation authority in all national parks around this country, responsible for 3 751 113 hectares of protected land in 20 national parks. The focus for SANParks since the advent of democracy has been to make national parks more accessible to tourists in order to ensure conservation remains a viable contributor to social and economic development in rural areas.

- **South African Tourism**: This is the statutory national tourism agency responsible for marketing South Africa as a destination internationally and domestically. It aims to make tourism the leading economic sector in South Africa, and so promote sustainable economic and social empowerment of all South Africans. At the same time South Africa is marketed as an integral part of Africa and particularly the subcontinent of southern Africa. To accomplish these goals, South African Tourism commits to meaningfully contribute to the government’s objectives of increased GDP growth, sustainable job
creation and redistribution and transformation through: increasing tourist volume; increasing the geographic spread, length of stay and tourist spend of all visitors; improving seasonality arrivals patterns; and working to transform the industry so that historically.

- **The Accounting Standards Board (ASB):** The ASB is the national public entity charged with developing and maintaining financial reporting standards that lead to proficient performance in the public sector. The Board is accountable to the Minister of Finance to demonstrate that it has fulfilled its mandate effectively, efficiently and economically. Its financial statements are audited and its annual report is tabled in Parliament. The implementation of Standards is the responsibility of the South African National Treasury.

- **The Africa Institute of South Africa (AISA):** AISA was first established in 1960 as a non-profit organisation. Today it is a statutory body following the Africa Institute of South Africa Act (no 68 of 2001). Although the institute has been existence for more than 51 years, this saw it being brought into the fold of science councils in South Africa and given the full support of the Department of Science and Technology. AISA has been at the forefront of research and training on African Affairs.

- **The African Renaissance and International Co-operation Fund:** The African Renaissance and International Co-operation Fund Act (Act No 51 of 2000) was promulgated on 22 January 2001. The Act provides for the establishment of the Fund for the purpose of enhancing international co-operation with and on the African Continent and to confirm the Republic of South Africa’s commitment to Africa. The establishment of the African Renaissance and International Cooperation Fund enables the South African government to identify and fund, in a proactive way: co-operation between South Africa and other countries, particularly African countries; the promotion of democracy, good governance; the prevention and resolution of conflict; socio-economic development and integration; humanitarian assistance; and human resource development. The Fund is under the control of the Director-General: Foreign Affairs, who, as the accounting officer, keeps
records and accounts of all payments into and out of the Fund. An Advisory Committee was established to make recommendations to the Ministers of Foreign Affairs and Finance on the disbursement of funds, as spelt out in the Act.

- **The Agricultural Research Council (ARC):** ARA was established in 1990 through the Agricultural Research Act, 1990 (Act no. 86 of 1990). The Agricultural Research Council proved itself to be the principal agricultural research institution in South Africa. The primary mandate of the ARC is to promote Agriculture and Industry, to contribute to a better quality of life; and to facilitate and ensure resource conservation.

- **The Breede-Overberg Catchment Management Agency:** The Agency exists to manage water resources in the Breede Water Management Area, which is situated in the south-west corner of South Africa. It derives its name from the largest river within its boundaries, the Breede River. The WMA (Water Management Area) is bounded by the Indian and Atlantic Oceans to the south, the Olifants/Doorn WMA in the northwest, the Berg WMA in the west and the Gouritz WMA in the east. It falls entirely within the Western Cape Province.

- **The Castle Control Board:** In terms of Castle Management Act, the Castle of Good Hope has been placed under the juristic control of the Castle Control Board, which should comprise representatives of the various national and provincial stakeholders. Built by soldiers, sailors and slaves of the Dutch East India Company as headquarters of its maritime replenishment station, the Castle was a powerful link in the trade between East and West, and witnessed the arrival in Africa of new peoples, languages, religions, customs, fashions, forms of government and flags. The Defence Endowment Property and Account Act, 1922 (Act 33 of 1922) transferred the Castle to the Republic of South Africa for the benefit of defence force organisations, establishments and land defences, or to conserve the value of such property. Since then the Castle of Good Hope has been governed and managed by the Minister of Defence. The Castle Management Act, 1993 (Act 207 of 1993) provides for the Castle Control Board to govern and manage the Castle.
of Good Hope on behalf of the Minister of Defence and deal with the aspirations and concerns of all stakeholders.

- **The Commission for Conciliation, Mediation and Arbitration (CCMA):** The CCMA is a dispute resolution body established in terms of the Labour Relations Act, 66 of 1995 (LRA). It is an independent body, does not belong to and is not controlled by any political party, trade union or business. The Governing Body is the supreme policy making body of the CCMA and consists of a chairperson, three state representatives; three representatives from organised labour and three representatives from organised business; all of whom are nominated by NEDLAC and the Director of the CCMA nominated by the Governing Body.

- **The Compensation Fund:** The Fund provides compensation to employees who are injured or contract diseases through the course of their employment. The Fund is governed by the Compensation for Occupation Injuries and Diseases Act (COIDA) of 1993 (amended in 1997) which determines how (and by whom) the fund is administered and the conditions for eligibility for compensation. The first Workmen’s Compensation Act (WCA) was passed in 1914 establishing a fund for workers’ compensation.

- **The Competition Commission:** The Commission is a statutory body constituted in terms of the Competition Act, No 89 of 1998 by the Government of South Africa empowered to investigate, control and evaluate restrictive business practices, abuse of dominant positions and mergers in order to achieve equity and efficiency in the South African economy. The Competition Commission has a range of functions in terms of Section 21 of the Act. These include investigating anti-competitive conduct in contravention of the Chapter 2 of the Act; assessing the impact of mergers and acquisitions on competition and taking appropriate action; monitoring competition levels and market transparency in the economy; identifying impediments to competition and playing an advocacy role in addressing these impediments.
● The Competition Tribunal: The Tribunal has jurisdiction throughout South Africa and adjudicates competition matters in accordance with the Competition Act (Act 89 of 1998). The Competition Tribunal adjudicates competition matters, in accordance with the act and has jurisdiction throughout South Africa. It is independent and subject to the constitution and the law. It must be impartial and perform its functions without fear, favour or prejudice.

● The Construction Industry Development Board (CIBD): The CIBD was established to provide leadership to stakeholders and to stimulate sustainable growth, reform and improvement of the construction sector for effective delivery and the industry’s enhanced role in the country’s economy. In 1997 government published the Green Paper on “Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry” paving the way for establishment of the CIBD. The Construction Industry Development Board Act (Act 38 of 2000) was passed in October 2000 establishing the CIBD mandate to lead stakeholders in construction development. The CIBD Act mandates the Board to: establish a national register of contractors and of construction projects to systematically regulate, monitor and promote the performance of the industry for sustainable growth, delivery and empowerment; promote improved delivery management capacity and the uniform application of procurement policy throughout all spheres of government; promote improved performance and best practice of public and private sector clients, contractors and other participants in the construction delivery process; promote sustainable participation of the emerging sector and provide strategic direction and develop effective partnerships for growth, reform and improvement of the construction sector.

● The Council for GeoScience; The Council, established in terms of the Geoscience Act 1993, No 100 of 1993, is the national agency that is tasked with the systematic development and maintenance of the national geoscience knowledge infrastructure for both the onshore (land) and offshore (oceans) environment of South Africa.
• **The Council for Medical Schemes**: The Council is a statutory body established by the Medical Schemes Act (131 of 1998) to provide regulatory supervision of private health financing through medical schemes. The governance of the Council is vested in a board appointed by the Minister of Health.

• **The Council for Industrial and Scientific Research (CSIR)**: The CSIR is one of the leading scientific and technology research, development and implementation organisations in Africa. Constituted by an Act of Parliament in 1945 as a science council, the CSIR undertakes directed and multidisciplinary research, technological innovation as well as industrial and scientific development to improve the quality of life of the country’s people.

• **The Council for Mineral Technology (Mintek)**: Mintek was established in terms of the Mineral Technology Act (30 of 1989). Mintek provides research, development and technology transfers that foster the development of businesses in the mineral and mineral products industries.

• **The Council for the Built Environment (CBE)**: The CBE is a statutory body established in terms of the Council for the Built Environment Act, 2000 (No. 4 of 2000. CBE was launched and held its first meeting on 8 April 2002. The members of the Council were appointed by the Minister of Public Works on the basis of the strength of their experience in their particular fields of expertise and their commitment to the advancement of the built environment professions. The Council is, among other things, responsible for transforming the professions, and contributing to the creation of a dynamic built environment. CBE represents the Engineering Council of South Africa, the South African Council for the Architectural Profession, the South African Council for the Quantity Surveying Profession, and the South African Council for the Property Valuers Profession.
• **The Cross-Border Road Transport Agency**: The Agency regulates and controls access to the cross-border road transport market by the road transport industry and is in the process of facilitating the establishment of co-operative and consultative relationships and structures between public and private sector institutions with an interest in cross-border road transport. It is also involved in the collection, processing and dissemination of relevant information, the provision of training, capacity building and the promotion of entrepreneurship generally and, in particular, with respect to small, medium and micro enterprises with an interest in cross-border road transport. The regulation and control of cross-border road transportation is a service provided to the land-based sector of the transport industry operating across borders. This function used to be heavily subsidised by government in the past, but is now carried out along commercial (non-profit cost recovery) lines.

• **The Eastern Cape Gambling and Betting Board**: The Board was established by section 3 of the Gambling and Betting Act, 1997 (Act No. 5 of 1997) (EASTERN CAPE) (as amended) and brought into operation by various Proclamations, the initial Proclamation being Proclamation No. 5 of 1997 of 9 July 1997. The objective of the Board is to oversee all gambling and betting activities in the Province and matters incidental thereto, contemplated in the Act and to advise the Member of the Executive Council of the Province for Economic Affairs with regard to gambling matters and to exercise certain further powers contemplated in the Act. Amongst the most important functions of the Board are the licensing of the legal gambling industry, the regulation of license holders, the collection of gambling taxes on behalf of the Province and taking steps to ensure the abolition of unlicensed gambling. In this regard, the Board undertakes licensing investigations and may issue and revoke licenses and determine the conditions which apply to any license. It is the responsibility of the Board to ensure that an accountable and credible legal gambling industry exists in the Province and that internationally recognised standards in the industry are complied with.
● **The Eastern Cape Provincial Arts and Culture Council (ECPACC):** ECPACC is a statutory body appointed to advise on policy and support arts and culture in the province. ECPACC is governed by a Council whose members are appointed by the MEC for Sport, Recreation, Arts and Culture.

● **The Education Labour Relations Council (ELRC):** ELRC serves the public education sector nationally. The ELRC is a statutory council, initially established by the Education Labour Relations Act of 1993 but now draws authority from the LRA of 1995. The ELRC is primarily established with the aim of maintaining labour peace within public education. This is achieved through a process of dispute prevention and dispute resolution. The ELRC is integrally involved in initiatives to prevent disputes from arising within the public education sector. This is achieved through facilitating the process of constructive collective bargaining between the educator unions and the department of education as the employer. The ELRC also conducts various workshops to increase the level of awareness and understanding of sound labour relations procedures. Disputes which arise are generally resolved through the processes of conciliation and arbitration. Whilst the bargaining council is guided by its own constitution in resolving disputes, the framework for this is governed by the various labour legislations of South Africa viz. *Labour Relations Act, Basic Conditions of Employment Act, Education Labour Relations Act, South African Schools.*

● **The Free State Liquor Board:** The Board is a statutory body established in terms of the Free State Liquor Act, No. 3 of 2007.

● **The Housing Development Agency (HDA):** The HDA was established in 2009 as a public development agency whose mission is fast-tracking the acquisition and release of state, private and communally owned land for human settlement developments. The Housing Development Agency Act created the Agency as a juristic person. The legislative mandate of the NDA also has roots in the Constitution of the Republic of South Africa of 1996 and the enabling legislation provided by the Housing Act of 1997.
26 of the Bill of Rights (as contained in Chapter Two of the Constitution) mandates the state to achieve the progressive realisation of the rights of all citizens to adequate housing. Section 3 (4) (h) of the Housing Act of 1997 provides for the establishment and financing of institutions for the purpose of housing development, including the National Home Builders’ Registration Council (NHBRC), National Housing Finance Corporation (NHFC), National Urban Reconstruction and Housing Agency (Nurcha), Rural Housing Loan Fund (RHLF), and the Social Housing Foundation (SHF). The mandate, role and functions of the HDA are defined in the Housing Development Agency Act (Act No 23 of 2008). This Act provides the framework in which the HDA operates, and it makes provision for the HDA to expedite the processes of housing development by overcoming the delivery challenges across all spheres of government. The specific mandate of the HDA is to identify, acquire, and manage the release of land and development of land for human settlement developments.

- **The Human Sciences Research Council (HSRC):** The HSRC Act, No. 17 of 2008 was published in the Government Gazette No. 31470 of 30 September 2008. The aim of the Act is “To provide for the promotion of research in the field of human sciences in order to improve understanding of social conditions and the process of social change; to provide for the continued existence of the Human Sciences Research Council; and to provide for matters connected therewith.” The new legislation replaced the Human Sciences Research Act, 1968 (Act No. 23 of 1968).

- **The Inkomati Catchment Management Agency (ICMA):** The ICMA draws its mandate from the National Water Act (No 36 of 1998) that requires water to be equally distributed to all as a human right.

- **The International Trade Administration Commission (ITAC) ITAC** was established through an Act of Parliament, the International Trade Administration Act 71 of 2002, which came into force on 1 June 2003. The aim of ITAC, as stated in the Act, is to foster
economic growth and development in order to raise incomes and promote investment and employment in South Africa and within the Common Customs Union Area by establishing an efficient and effective system for the administration of international trade subject to this Act and the Southern African Customs Union (SACU) Agreement. The core functions are: customs tariff investigations; trade remedies; and import and export control.

- The National Arts Council of South Africa (NAC): The NAC, formed in 1997, is a statutory public entity with the Department of Arts and Culture (DAC) as its executive authority. The institution is subject to a complex governance framework that includes the NAC Act (1997) and the Public Finance Management Act (PFMA) amongst others.

- The National Development Agency (NDA): The NDA is a section 3A statutory organisation, which was established by the National Development Agency Act (Act No. 108 of 1998) in November 1998. The NDA is a public entity listed under schedule 3A of the Public Finance Management Act (PFMA) and reports to the Parliament of the Republic of South Africa through the Minister for Social Development and is mandated to carry out the following: to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of Implementing development projects of poor communities and strengthening the institutional capacity of other civil society organisations that provide services to poor communities; to promote consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state, debate development policy; and to undertake research and publication aimed at providing the basis for development policy.

- The National Empowerment Fund (NEF): The NEF was established by the National Empowerment Fund Act No 105 of 1998 to promote and facilitate black economic equality and transformation. Its mandate and mission is to be the catalyst of Broad-based Black Economic Empowerment (BB-BEE).
The National Health Laboratory Service (NHLS): The NHLS was established in 2001 by an Act of Parliament, amalgamating the former South African Institute for Medical Research (SAIMR), National Institute for Virology and National Centre for Occupational Health as well as university and provincial pathology laboratories. The NHLS is mandated to: provide cost-effective and efficient health laboratory services to all public sector healthcare providers; support and conduct health research; and provide training for health science education. The NHLS is the largest diagnostic pathology service in South Africa, with laboratories in all nine provinces served by 6,700 members of staff, and covering 80% of the country’s population.

The National Heritage Council of South Africa: The National Heritage Council, a Schedule 3A public entity that came into existence through an amendment of the Cultural Laws Second Amendment Act 69 of 2001, was officially constituted through the National Heritage Council Act 11 of 1999, assented to on 14 April, 1999 and officially proclaimed on 26 February, 2004. The Council is a government institution that is responsible for the preservation of the country’s heritage. The important areas that the NHC focuses on are policy development for the sector to meet its transformation goals, public awareness and education, knowledge production in heritage subjects that were previously neglected, as well as making funding available to projects that place heritage as a socio-economic resource.

The National Library of South Africa (NLSA): The NSLA is a custodian and provider of the nation’s key knowledge resources. It is mandated by the National Library of South Africa Act to collect and preserve published documents and make them accessible. The NSLA ensures that knowledge is not lost to posterity and that information is available for research. The National Library’s collections include rare manuscripts, books published in South Africa, periodicals, government publications, official foreign publications, maps, technical reports, Africana and newspapers. The National Library is controlled by a Board appointed by the Minister of Arts and Culture. The National Library’s core national library
functions are: to build up a complete collection of published documents emanating from or relating to South Africa; to maintain and extend any other collections of published and unpublished documents with the emphasis on documents emanating from or relating to Southern Africa; to promote the optimal management of collections of published documents held in South African libraries as a national resource; and to render a national bibliographic service and to act as the national bibliographic agency; to promote optimal access to published documents, nationally and internationally; to provide reference and information services, nationally and internationally; to act as the national preservation library and to provide conservation services on a national basis; to promote awareness and appreciation of the national published documentary heritage; and to promote information awareness and information literacy.

- **The National Research Foundation (NRF):** The NRF was established through the National Research Foundation Act (Act No 23 of 1998), following a system-wide review conducted for the Department of Arts, Culture, Science and Technology (DACST). The new entity incorporated the functions of the research funding agencies that were previously servicing various sections of the research community, namely the former Centre for Science Development (CSD) of the Human Sciences Research Council (HSRC) and the former Foundation for Research Development (FRD) that included several National Research Facilities. As an independent government agency, the NRF promotes and supports research in all fields of knowledge. It also conducts research and provides access to National Research Facilities. The NRF provides services to the research community especially at Higher Education Institutions (HEIs) and Science Councils with a view to promote high-level human capital development.

- **The Office of the Ombud for Financial Services Providers (FAIS Ombud):** The FAIS Ombud was established by the Financial Advisory and Intermediary Services Act, 37 of 2002. The FAIS Ombud’s role is to resolve disputes between financial services providers and their clients in a procedurally fair, informal, economical and expeditious manner.
● The Perishable Products Export Control Board (PPECB): PPECB’s creation in South Africa during 1926 became necessary as the need for an authority to encourage the export of perishable products intensified during the early part of the previous century. It was established and mandated to determine which shipping companies would be used for export and which perishable products would enjoy priority when assigning space aboard vessels. At the time, export products under PPECB’s control consisted mainly of deciduous and citrus fruit. However, the product range soon expanded and shipping space that had previously been available exclusively to fruit was being shared with meat, eggs, poultry, dairy and other products. Today there are over 230 products on the export list. From a modest beginning in 1926, reporting to the Minister of Transport, PPECB has grown into a well-respected organisation the world over, employing some 300 staff members today. Its offices are spread across the whole country - indeed wherever perishable products are grown. As a statutory parastatal body it works closely with the National Department of Agriculture, especially with regards to food safety and certification of food supply processes in South Africa and even Africa.

● The Road Accident Fund (RAF): The RAF compensates victims of motor vehicle accidents on terms and conditions provided for in various Acts. The Fund receives a dedicated Road Accident Fund levy, which is imposed on petrol and diesel.

● The Small Enterprise Development Agency (Seda): SEDA is an agency of the South African Department of Trade and Industry. SEDA was established in December 2004, through the National Small Business Amendment Act, Act 29 of 2004. It is mandated to implement government’s small business strategy; design and implement a standard and common national delivery network for small enterprise development; and integrate government-funded small enterprise support agencies across all tiers of government. SEDA’s mission is to develop, support and promote small enterprises throughout the country, ensuring their growth and sustainability in co-ordination and partnership with various role players, including global partners, who make international best practices available to local entrepreneurs.
The South African Institute for Drug-Free Sport: The institute’s core focus is to tackle doping in sport in order to ensure a culture of ethics and fair play within South Africa. The Drug-Free Sport Act gives the Institute authority and jurisdiction to carry out drug testing across all sports codes. The aim is to inspire a drug-free sports culture in South Africa.

The South African Heritage Resources Agency (SAHRA): SAHRA is a statutory organisation established under the National Heritage Resources Act, No 25 of 1999, as the national administrative body responsible for the protection of South Africa’s cultural heritage. SAHRA replaced the National Monuments Council (NMC) through the promulgation of the Act. The Act follows the principle that heritage resources should be managed by the levels of government closest to the community. These local and provincial authorities will manage heritage resources as part of their planning process. The objective of SAHRA is to coordinate the identification and management of the national estate. Its aims are to introduce an integrated system for the identification, assessment and management of the heritage resources and to enable provincial and local authorities to adopt powers to protect and manage them. The national estate encompasses heritage resources of cultural significance for the present community and for future generations. It may include places to which oral traditions are attached or which are associated with living heritage; historical settlements; landscapes and natural features of cultural significance; archaeological and paleontological sites; graves and burial grounds, including ancestral and royal graves and graves of traditional leaders; graves of victims of conflict; and sites relating to the history of slavery in South Africa. The national estate includes movable objects such as those recovered from the soil or waters of South Africa; objects associated with living heritage; ethnographic and decorative art; objects of scientific interest; and books, documents, photographs, film material or sound recordings. A place or object is considered part of the national estate if it has cultural significance because of its importance in the community, or pattern of South Africa’s history, its possession of rare aspects of South Africa’s natural or cultural
heritage, its strong or special association with a particular cultural group for social, cultural or spiritual reasons.

- **The South African Council on Higher Education (CHE)** is an independent statutory body responsible for advising the Minister of Higher Education and Training on all higher education policy issues, and for quality assurance in higher education and training. The responsibilities assigned to the CHE by the Higher Education Act and the Education White Paper 3 of 1997 can be grouped into four main areas of work: advising the Minister of Education at his or her request, or proactively, on all policy matters related to higher education; assuming executive responsibility for quality assurance and quality promotion within higher education and training, including programme accreditation, institutional audits, programme evaluation, quality promotion and capacity building; monitoring and evaluating whether, how, to what extent and with what consequences the vision, policy goals and objectives for higher education are being realised, including reporting on the state of South African higher education; and contributing to the development of higher education by taking initiatives to provide guidance on key national and systemic issues, producing publications, holding conferences and conducting research to inform government and stakeholders about immediate and long-term challenges of higher education.

- **The South African Local Government Association (SALGA):** SALGA is an autonomous association of municipalities with its mandate derived from the 2006 constitution of the Republic of South Africa. This mandate defines SALGA as the voice and sole representative of local government. SALGA interfaces with parliament, the National Council of Provinces (NCOP), cabinet as well as provincial legislatures. The association is a unitary body with a membership of 278 municipalities. SALGA’s mission is to be consultative, informed, mandated, credible and accountable. In line with its mandate SALGA has set out its role to: represent, promote and protect the interests of local government; transform local government to enable it to fulfill its developmental role; raise the profile of local government; ensure full participation of women in local
government; perform its role as an employer body; and develop capacity within municipalities.

- **The South African Revenue Service (SARS):** The South African Revenue Service Act 34 of 1997, gives SARS the mandate to collect all revenues that are due; ensure maximum compliance with the legislation; and provide a customs service that will maximise revenue collection, protect the country’s borders and facilitate trade.

- **The South African Social Security Agency (SASSA):** SASSA was established in terms of the Social Assistance Act of 2004. The mandate of the Agency is to ensure the provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework. The Act provides a national legislative framework for the provision of different types of social grants, social relief of distress, the delivery of social assistance grants by a national Agency and the establishment of an Inspectorate for Social Security. The South African Social Security Agency Act of 2004 provided for the establishment of SASSA as a schedule 3A public entity in terms of the PFMA. The principle aim of the Act is to make provision for the effective management, administration and payment of social assistance and service through the establishment of the Agency.

- **The Special Investigations Unit (SIU):** The SIU, created in terms of the SIU and Special Tribunals Act, 1996 (Act 74 of 1996), is an independent statutory body that is directly accountable to Parliament and the President of South Africa. It was established to conduct investigations at the President’s request, and to report to him on the outcomes of these. The SIU functions in a manner similar to a commission of inquiry, in that the President refers cases to it by way of a proclamation. It may investigate any matter set out in Section Two of the SIU and Special Tribunals Act, 1996 regarding: serious maladministration concerning the affairs of any state institution; improper or unlawful conduct by employees of any state institution; unlawful appropriation or expenditure of
public money or property, and any unlawful, irregular or unapproved acquisitive act, transaction, measure or practice that has a bearing on state property; intentional or negligent loss of public money or damage to public property; corruption in connection with the affairs of any state institution; and unlawful or improper conduct by any person who has cause to or may cause serious harm to the interest of the public or any category of the public.

- **The Technology Innovation Agency (TIA):** TIA was established in terms of the Technology Innovation Agency Act, (Act No. 26 of 2008), with the objective of – “Stimulating and intensifying technological innovation in order to improve economic growth and the quality of life of all South Africans by developing and exploiting technological innovations”. TIA was set up as a public entity with the aim to enhance the country’s capacity to translate a greater proportion of local research and development into commercial technology products and services.

- **The Universal Service and Access Agency of South Africa:** The Agency was established in terms of the Electronic Communications Act with a sole mandate to promote the goals of universal access and universal service. It also facilitates and offers guidance on evaluating, monitoring and implementing programmes, which propose to improve universal access and service. The agency is mandated by the Telecommunications Act (1996) to manage the Universal Service and Access Fund. The fund, with monies appropriated by Parliament, is used for infrastructure for the universal services area licensees as well as for providing infrastructure for telecentres and school cyber labs (computer laboratories with ICT equipment which enable access to the internet and provide multimedia services). The Agency is accountable to parliament and the general public. Its status as a public body is affirmed through Schedule 3A of the Public Finance Management Act (Act No. 1 of 1999).
• **The Urban Transport Fund**: The Fund was established in terms of the Urban Transport Act of 1977. On a yearly basis a budget is submitted to the Minister of Transport for approval after funds have been allocated through Parliament to the budget of the Department of Transport. The fund is utilised for urban transport projects, with some major project including the extension of the Khayelitsha commuter rail line and the Mabopane station.

• **The Water Research Council**: The WRC was established in terms of the Water Research Act (Act No 34 of 1971), following a period of serious water shortage. It was deemed to be of national importance to generate new knowledge and to promote the country’s water research purposefully, owing to the view held that water would be one of South Africa’s most limiting factors in the 21st century. In 1971 when the WRC was founded, water research and development (R&D) in South Africa was limited to a few institutions and the funding level inadequate. There was no research co-ordination and an apparent neglect of some key research fields. In addition, there was little strategic direction or leadership that would provide for the identification of priority areas or appropriate technology transfer.

• **The Western Cape Cultural Commission**: The Commission is a statutory body that advises the Minister on the preservation, promotion and development of arts and culture in the communities it represents. The commission members are nominated by the public and appointed by the Minister.

5.15.2. **Statutory bodies registered as private companies**

• **Alexkor**: Alexkor was established in 1989, when the state alluvial diggings was taken over by the government and transformed into the Alexander Bay Development Corporation. Since November 1992 Alexkor has been run as a public company with the state as sole share-holder. Alexkor is a schedule 2 public entity, incorporated in 1992 in
terms of the Alexkor Limited Act (No. 116 of 1992), and trading as Alexkor Limited. The core business of Alexkor is the mining of diamonds on land, along rivers, on beaches and in the sea along the north-west coast of South Africa. These activities are complemented by geology, exploration, ore reserve planning, rehabilitation and environmental management. The non-core businesses commenced and/or were revamped in the early 1990’s as part of the company philosophy to create alternative employment opportunities on an economically sustainable basis. A total amount of R7 million was invested over the period 1994-1996 to the development for these activities. These include dairy and cattle farming, ostriches, Lucerne, grain, fruit, cheese making and mari-culture (oysters).

- **Armaments Corporation of South Africa Ltd (ARMSCOR):** ARMSCOR was incorporated by the Armaments Corporation of South Africa Ltd Act (51 of 2003) and is the officially appointed acquisition organisation for the SA Department of Defence. With the approval of the SA Minister of Defence, it also renders a professional acquisition service to other government departments and public entities. In October 1948 an Advisory Committee on Union Defence Force Equipment Requirements was appointed. This date may therefore be regarded as the beginning of Armscor. As the Act in terms of which Armscor had been set up prohibited it or any of its subsidiaries from manufacturing civilian products of competing with the private sector, Armscor was split into two separate entities. On 1 April 1992 a new company, Denel (Pty) Ltd, was established under the Minister of Public Enterprises. Armscor has since focused its energies towards programme management and acquisition, whilst Denel is a major supplier of manufactured products and systems. Armscor is a statutory body. The Minister of Defence is the Executive Authority responsible for Armscor. The management and control of Armscor reside with a Board of Directors, whilst its day-to-day management vests in the hands of the Management Board.

- **CEF (Pty) Ltd:** CEF is a private company, incorporated in terms of the Companies Act, and is governed by the CEF Act. In terms of the CEF Act, the purpose of CEF is to give effect to the objectives of the Central Energy Fund, which are to: finance and promote the
acquisition of coal, the exploitation of coal deposits, the manufacture of liquid fuel, oil and other products from coal, the marketing of the said products and any matter connected with the said acquisition, exploitation, manufacture and marketing; the acquisition, generation, manufacture, marketing or distribution of any other forms of energy and research connected therewith; any other object for which the fund may be applied, and which has been designated or approved by the said Minister with the concurrence of the Minister of Finance.” Apart from CEF, the CEF Act also establishes the Central Energy Fund and the Equalisation Fund and determines that CEF will take up the shares in SFF, which is responsible for managing South Africa’s strategic crude oil stocks on behalf of the government. The one share issued is held by the State and is not transferable. The company is controlled by the Minister of Minerals and Energy. The Minister appoints the board of directors, who act as the accounting authority in terms of the PFMA. The CEF group operates in the energy sector and controls entities with commercial, strategic, regulatory and developmental roles. The CEF group consists of seven operating subsidiaries: PetroSA, iGas; Petroleum Agency SA; OPCS; South African National Energy Research Institute (Saneri); The National Energy Efficiency Agency (NEEA); and The Strategic Fuel Fund Association (SFF). CEF includes the Energy Development Corporation (EDC), a newly created division. The CEF group of companies focuses on gas and oil exploration, oil trading, petroleum products, promoting offshore and onshore exploration, tank terminal management, pollution prevention and control, gas infrastructure development, renewable energy and low-smoke fuels.

- **Electronic Communication Security (Pty) Ltd**: Formed through the Electronic Communications Security (PTY) Ltd Act, No. 68 of 2002, this is a company established by the Department of Energy to provide electronic communications security products and services to organs of state; and to provide for matters connected therewith.

- **Public Investment Corporation Limited (PIC)**: PIC is wholly owned by the South African government, with the Minister of Finance as shareholder representative. PIC was established as a corporation on 1 April 2005 in accordance with the Public Investment
Corporation Act, 2004. Corporatisation has enabled PIC to structure its investment activities and operations in a manner comparable to that of private sector investment managers. PIC manages assets valued at R1.032 trillion as at 31 March 2011, making it one of the largest investment managers on the African continent. Its clients are public sector entities, most of which are pension, provident, social security, development and guardian funds. PIC’s role is to invest funds on behalf of these clients, based on investment mandates set by each client and approved by the Financial Services Board (FSB), with which PIC is registered as a financial services provider.

- **South African Express (Pty) Ltd**: South African Express Airways is one of the fastest growing regional and domestic airlines in South Africa. The airline’s current shareholder is Transnet and forms part of the strong South African Airways alliance.

- **Sentech Ltd**: Sentech was established in terms of the Sentech Act (as amended) operating in the broadcasting signal distribution and telecommunications sectors and reporting to the Minister of Communications. Sentech began as a technical division of the South African Broadcasting Corporation (SABC) responsible for signal distribution services of the Corporation. In 1992, the SABC corporatised the division as Sentech, a wholly owned subsidiary of the Corporation. In 1996, the Sentech Act 63 of 1996 was amended, converting Sentech into a separate public company responsible for providing broadcasting signal distribution services as a ‘common carrier’ to licensed television and radio broadcasters. In line with the Electronic Communications Act and Sentech Act, the main objective of the Company is “…to provide electronic communications services and electronic communications network services.” Sentech Ltd was established in terms of the Sentech Act (1996) as a common carrier to provide broadcasting signal distribution for broadcasting licensees. In 2002, Sentech was licensed, through the Telecommunications Amendment Act (2001), to provide international carrier-to-carrier voice services as well as multimedia services. Sentech is viewed as a core provider of wireless broadband in South Africa. The Cabinet confirmed this policy statement and declared that Sentech shall remain as a strategic State-Owned Enterprise.
● **Telkom SA Ltd**: Telkom SA Limited was founded on the 1st October 1990 when it was separated from the South African Post Office. Telkom provides fixed-line and mobile services throughout South Africa and increasingly into other African countries. Telkom is the incumbent fixed line operator in South Africa and holds the exclusive license to provide public switched telecommunication services. Telkom’s 50% shareholding in the Vodacom Group makes it Africa’s leading provider of mobile services. Telkom also has investments in Telkom Directory Services, its yellow and white pages business, and SwiftNet, its wireless data application business. Telkom benefits from strong international partners through its 30% equity shareholder Thintana Communications LLC, a consortium comprising of SBC Communications and Telkom Malaysia, and Vodacom’s 31.5% equity shareholder Vodafone plc. Ucingo Investments, a broad-based investment company representing more than 20 empowerment groups from all nine provinces in South Africa, has a 3% shareholding in Telkom SA Limited.

● **The Airports Company of South Africa (ACSA)**: ACSA was established in terms of the Airports Company Act (No. 44 of 1993) enabling the creation of the company in terms of the Companies Act (No. 61 of 1973) with the State holding all the shares in the company.

● **The Air Traffic and Navigation Services Company**: The Air Traffic and Navigational Services Company Act (No. 45 of 1993) was promulgated enabling the creation of the company in terms of the Companies Act (No. 61 of 1973). The Company is responsible for safe, orderly and expeditious air traffic and navigational and associated services in its area of control. It provides extensive air traffic information services and related aeronautical support services in the major airspace and at 21 airports throughout South Africa. The Company College is a well-established facility currently used by a large number of African countries for air traffic services training, as well as technical training for equipment support. Company objectives for 2002-2004 include: implementation of the 3 Flight Information Region Concept in RSA-managed airspace; enhancement of Air Traffic Management Service Delivery to users; participation in the development and
implementation of one regional upper airspace management centre for SADC; and commercial sustainability, achieving set financial targets. The Company does not receive government transfers and derives its funding from its operations.

- **The Co-operative Banks Development Agency**: The Agency was established to regulate, promote and develop co-operative banking, including deposit-taking and lending co-operatives. It was formed in terms of the Cooperatives Banks Act, No. 40 of 2007.

- **The Independent Development Trust (IDT)**: The IDT is a Schedule 2 Public Entity established in 1990 as a development management agency. The IDT has a mandate to contribute to the government in meeting its social mandate of alleviating poverty in improving the quality of life of poor rural communities. The IDT has created a reputation of being a development programme implementing agency focusing on development planning, implementation, and the coordination of government programmes. The IDT reports to Parliament through the Minister of Public Works as its Executive Authority. In compliance with the PFMA, the IDT prepares and submits its Corporate Plan and Budget to, and enters into a Shareholders Compact Agreement with its Executive Authority. It reports in writing to fulfill these requirements on a quarterly and annually basis through its annual report. The organisation is audited by the Auditor-General.

- **The Industrial Development Corporation of South Africa Limited**: The Industrial Development Corporation was established in 1940 as a national development finance institution set up to promote economic growth and industrial development. It is fully owned by the South African government under the supervision of the Economic Development ministry. The IDC’s primary objectives are to contribute to the creation of balanced, sustainable economic growth in South Africa and on the rest of the continent. It promotes entrepreneurship through the building of competitive industries and enterprises based on sound business principles. The IDC is a registered development public finance institution established in terms of the Industrial Development Corporation Act (Act No 22, 1940 as amended) – the IDC Act.
• **The International Marketing Council of South Africa (IMCSA):** IMCSA is not only involved in tourism but also in various other sectors such as exports; culture and heritage; governance; people; and investment and immigration. The approach of the Council was to promote Brand SA. The Council’s role is to improve the country as a destination for tourism and business.

• **South African Airways (Pty), Ltd. (SAA):** SAA provides passenger airline services in South Africa and internationally. It also offers transportation services for goods, such as live stock, human remains, perishable products, dangerous goods, valuable cargo, postcards, and unit load devices, as well as provides international courier and ground handling services. In addition, the company provides aircraft and components maintenance, repair, and overhaul services. South African Airways was founded from the assets of Union Airways, a private carrier the Union of South Africa acquired on February 1, 1934. SAA was made a division of Transnet, the South African government’s holding company for transportation enterprises, on April 1, 1990, putting it in line for eventual privatization. SA Express, founded in 1994, and SA Airlink operated other regional routes with turboprops. SAA took a 20 percent interest in SA Express, the founders of which included a Canadian and a black South African. SA Airlink, independent of SAA, was established in 1992. Part of the government’s plans for SAA involved dismantling its various components. In 1997, the Johannesburg Airport, which had itself been a part of SAA, was transferred to another state enterprise, Airport Company SA, also in the process of privatization. In 1999 Transnet planned to unbundle SAA’s business units: Technical, Cargo, and Passenger. It planned to sell up to 49 percent of the company; British Airways, Virgin, Singapore Airlines, Lufthansa, and other eminent airlines were considering investing. SAA finally became independent of parent Transnet on March 31, 1999, under the name “SAA (Pty) Ltd.”

• **The South African Broadcasting Corporation (SABC):** The SABC was established in terms of the Broadcasting Act (1936) as a government enterprise to provide radio and
television broadcasting services to South Africa. As provided for in the Broadcasting Amendment Act (2002), from October 2004 the SABC has been incorporated into a limited liability company with two operational divisions: public broadcasting services and commercial broadcasting services. The SABC is the national public services broadcaster and operates 17 radio stations and 3 television stations. Its operations are based on the broadcasting charter, which guarantees independence and freedom of expression in creative, journalistic and programming terms. The charter also requires the SABC to encourage South African expression by providing a wide range of programming in all official languages.

- **The South African National Biodiversity Institute**: The Institute was formed in September 2004 through the signing into force of the National Environmental Management: Biodiversity Act, 2004 (No. 10 of 2004). This act expanded the responsibility of SANBI’s forerunner, the National Botanical Institute – which was flora focused – to include responsibilities relating to the full spectrum of South Africa’s biodiversity, while continuing to build upon the internationally respected programmes in conservation, research, education and visitor services that were developed over the past century by the National Botanical Institute.

- **The South African Nuclear Energy Corporation Limited (NECSA)**: NECSA is a state-owned public company, registered in terms of the Companies Act, (Act No. 61 of 1973). NECSA derives its mandate from three regulatory frameworks. The Nuclear Energy Act of 1999, the Nuclear Energy Policy of 2008 as well as directives conferred on it by the Minister of Energy. NECSA’s primary function according to the Act is to serve as the anchor for nuclear energy research, development and innovation in South Africa. Its strong research focus is directed mainly at nuclear technology applications particularly relating to medical isotopes production; applied chemistry with an emphasis on uranium chemistry etc. In addition to its legislative mandate, NECSA is also governed by the provisions of the Nuclear Energy Policy, which directs the organisation to develop viable nuclear fuel cycle operations for South Africa. It is also responsible for managing certain
institutional obligations of South Africa, as delegated by the Minister of Energy, in respect of international agreements, or in the national or public interest, concerning matters arising from or otherwise involving the use of nuclear energy.

- **The South African National Roads Agency Ltd (SANRAL):** SANRAL was established in April 1998 by an Act of Parliament as an independent statutory company operating along commercial lines and at arm’s length from Government. The purpose of the company, which is registered in terms of the Companies Act – with the Minister of Transport as the sole shareholder – is to maintain and develop South Africa’s expanding national road network (currently 16 170 km) and to manage assets with an estimated value of more than R6,5 billion (excluding land). The enabling Act charges the Agency, a company registered in terms of the Companies Act, with the following principal tasks: strategically plan, design, construct, operate, rehabilitate and maintain the national roads; deliver and maintain a world-class national road network; generate revenues from the development and management of the assets; undertake research and development to enhance the quality of roads; and advise the Minister of Transport on matters relating to national and other roads.

- **The South African Post Office Ltd (SAPO):** SAPO was established in accordance with the Post Office Act (1958) as a government business enterprise to provide postal and related services to the South African public. SAPO was granted an exclusive mandate to conduct postal services to South Africa by the Postal Services Act (1998). The Act makes provision for the regulation of postal services and the operational functions of the company, including, its universal service obligations. The Post Office is seen to be the core ICT public access network and should be used to achieve South Africa’s universal service goals in the sector.

- **The South African Rail Commuter Corporation:** The Corporation is a statutory agent established in terms of the Legal Succession to the South African Transport Services Act,
(Act 9 of 1989) which aims to provide effective and efficient rail commuter services under concession agreements. In addition to fare revenue its main sources of revenue are the subsidies to cover operational losses and grants to meet capital expenditure. SARCC’s mandate is to ensure that, at the request of the National Department of Transport or any local government body designated as a transport authority, rail commuter services are provided in the public interest.

- **The State Information Technology (SITA):** SITA was established in 1999 to consolidate and coordinate the State’s information technology resources in order to achieve cost savings through scale, increase delivery capabilities and enhance interoperability. SITA leverages Information Technology (IT) as a strategic resource for government, managing the IT procurement and delivery process to ensure that the Government gets value for money, and using IT to support the delivery of e-Government services to all citizens. In short, SITA is the IT business for the largest employer and consumer of IT products and services in South Africa – the Government. SITA was established by an act of parliament, but is managed as a private company. However, the Government is the sole shareholder and the rights attached to the shares shall be exercised by the Minister of Public Services and Administration on behalf of the State.

- **Trans-Caledon Tunnel Authority (TCTA):** TCTA is a state-owned entity, established in terms of Government Notice No 2631 in Government Gazette No 10545, dated 12 December 1986. The notice was replaced by Government Notice 277 in Government Gazette No 21017 dated 24 March 2000, promulgated in terms of the National Water Act, 1988 (Chapter 10). TCTA is a specialised liability management body. Its mission is to finance and implement bulk raw water infrastructure. Among its projects are: The R1.6-billion flagship Berg Water Project in Franschhoek augments the supply of water to the City of Cape Town; the Komati Water Scheme Augmentation Project (KWSAP) designed to resolve the water supply problems to Eskom’s Duvha and Matla power stations in Mpumalanga; the Lesotho Highlands Water Project which diverts water from the Senqu River System in Lesotho to South Africa’s economic hub, the water-stressed Gauteng
region; and the Olifants River Water Resources Development Project which supplies water to the towns of Mokopane, Burgersfort, Steelpoort, Roossenekal, Jane Furse, Polokwane, Lebowakgomo and the rural communities of the Lepelle-Nkumpi, Fetakgomo and Greater Tubatse municipalities.

- **Transnet**: Transnet is governed by the Companies Act and functions in every way as a public company with a board of directors. The entire issued share capital is controlled by the Minister of Public Enterprises. The group consists of the holding company, Transnet, and seven transport businesses as well as a number of related and support businesses. In 1990, the South African Transport Services was corporatised to form Transnet Limited. Since corporatisation, the company has constantly been effecting improvements to its system of corporate governance. For the first five years the operations of the company were organised into semi-autonomous divisions and business units each operating in niche markets within the broader transport sector. During 1996 the evolution gained pace when the composition of the board was restructured in line with the tenets of good governance expounded in the King Report on corporate governance. The new Transnet is made up of the following operating divisions: Transnet freight rail (formerly Spoornet – the freight rail division); Transnet rail engineering (formerly Transwerk - the rolling stock maintenance business); Transnet national ports authority (formerly the NPA - fulfils the landlord function for South Africa’s port system); Transnet port terminals (formerly SAPO - managing port and cargo terminal operations in the nation’s leading ports), and Transnet pipelines (formerly Petronet - the fuel and gas pipeline business, pumps and manages the storage of petroleum and gas products through its network of high-pressure, long distance pipelines).

5.15.3. **Companies owned by government structures**

- **Artscape**: The Artscape Theatre Centre, which belongs to the provincial administration, was opened on 19 May 1971 as the Nico Malan Theatre Centre. In line with the new South African political dispensation and the concurrent changes the complex was
renamed to Artscape in March 2001. Historically the Cape Performing Arts Board (CAPAB) was instituted in the early sixties of the twentieth century. The aim was to promote the performing arts. The arts councils received sufficient government subsidies to fund various art forms as well as the operational requirements of the theatre facilities. CAPAB programmed and managed the Nico Malan Theatre Centre as a production house with four arts companies – orchestra, opera, ballet and drama. Since 1994 government policy changed dramatically. All performing arts boards were transformed to playhouses and the various arts companies had to become independent. Artscape was launched on 27 March 1999 to replace CAPAB. Today it manages the theatre venues and provides essential technical and specialised services on a semi-commercial basis. The emphasis is on sustainable theatre practice, education and development.

- **AsgiSA Eastern Cape Pty Ltd**: AsgiSA was officially launched in May 2007 as a subsidiary of the Eastern Cape Rural Finance Corporation. AsgiSA EC assists the provincial government in accelerating growth and development in the eastern part of the Eastern Cape, also known as the former Transkei. It forms part of the Provincial Growth and Development Plan (PGDP) which aims to halve poverty and unemployment by 2014 which was officially launched in 2006.

- **Amatola Water**: Amatola Water was established in 1997 when the Minister of Water Affairs and Forestry issued notice of its establishment in the Government Gazette of 14 November 1997, authorising the organisation to operate as a water services provider within an initial services area of 11000km². In 1998 Amatola Water started providing water services primarily to municipalities, as provided for by the Water Services Act (Act108 of 1997). Sections 29 and 30 of the legislation state that the primary activity of a water board is to provide bulk water services. By 2008 Amatola Water’s services region had increased by 34 800 km² to 45 800 km² in extent. The area of operation covers a tract of the central Eastern Cape Province, encompassing most of the Amathole and Chris Hani District Municipalities together with lesser portions of the Ukhahlamba and Cacadu Districts.
● **CENTLEC (Pty) Ltd**: This is a business entity wholly owned by Mangaung Local Municipality and established to ensure sufficient supply and delivery of electricity to the Mangaung community.

● **Denel**: On April 1 1992, Denel (Pty) Ltd was established as a private company, incorporated in terms of the Companies Act. The state is the sole shareholder. The Company is managed by a Board of Directors, appointed by the Minister of Public Enterprises. Denel’s diverse industrial base, advanced technological skills and an appropriate infrastructure enables it to provide clients with complete solutions. Denel is an autonomous group, managed in accordance with sound business principles. On March 31 1997, shareholders’ funds reached R3 080 million, ranking it as one of South Africa’s larger industrial groups.

● **Khula Enterprise Finance Limited**: Khula is the flagship development finance institution focusing on small businesses, and operates as a financial facilitator for the development of the rapidly growing Small and Medium Enterprises (SME) sector of the South African economy. The Company is a wholesale finance institution that has well-developed ties in the public and private sectors. Through these channels – which include commercial banks, retail financial institutions, specialist funds and joint ventures in which Khula has shareholdings – the Company plays an effective role as a complementary financial institution, bridging finance gaps that are not addressed by commercial financial institutions in the development of the small business sector. Khula was established in 1996 as an independent agency of the Department of Trade and Industry.

● **Ncera Farms**: This is a public company listed under Schedule 3B of the Public Finance Management Act of 1999, with the department of Agriculture, Forestry and Fisheries as the sole shareholder. Ncera Farms is situated at Kidd’s Beach near East London in the Eastern Cape on state-owned land of approximately 3 102 ha. The primary function of
Ncera Farms is to assist small and emerging farmers through the provision of various services such as advice, extension services, training and ploughing.

- **Mayibuye Transport Corporation**: The Corporation was established in terms of the Ciskeian Corporations Act (Act 16 of 1981) and was assigned to the Department of Roads & Transport of the Eastern Cape Province in terms of the Corporation’s Transitional Provisions Act (Act 12 of 1995). The corporation renders bus passengers transport services in selected routes in the Amathole and Chris Hani District Municipalities of the Eastern Cape Province.

- **Mjindi Farming (Pty) Ltd**: This is a parastatal that administers the water and state land connected with irrigation from the Jozini Dam in the Makhathini Flats area in northern KwaZulu-Natal.

- **Ntinga O.R. Tambo Development Agency**: The Agency is a service utility company established by the O.R. Tambo District Municipality as a Special Purpose Vehicle responsible for spearheading Local Economic Development in the O.R. Tambo district. Ntinga’s mission is to: implement the District Growth and Development Strategy (DGDS) of O.R. Tambo district, focusing on Agriculture, Tourism, Forestry and Mariculture; mobilising and leveraging of financial, human and other non-financial resources in pursuance of innovation and best practice including indigenous systems; instituting integrated poverty eradication Programme and initiatives aimed at improving the quality of life of the people of O.R. Tambo district; creating, supporting, and encouraging promotion of business opportunities, skills development and employment opportunities in the O.R. Tambo District; and sustainable, effective and efficient harnessing of tangible and intangible resources of the region.

- **South African Forestry Company (SAFCOL)**: SAFCOL is the Government’s forestry company, conducting timber harvesting, timber processing and related activities both
domestically and internationally. In 1997, Cabinet decided that the state should exit from plantation forestry. To allow the restructuring, the commercial plantation forests of SAFCOL and the Department of Water Affairs and Forests (DWAF) were separated into five, geographically logical “packages”. Each package was established as a separate company and SAFCOL acts as the holding company for the state’s equity interests in each subsidiary. During the period 1999 to 2005, a majority equity stake in four of the five packages, accounting for some 55% of the total forest area, has been transferred to private ownership. The remaining package that has not yet been sold includes approx. 130,000 hectares of forests, mainly located in Mpumalanga and Limpopo, held in the SAFCOL operations subsidiary KLF. In addition to its forests, KLF has a small research and development (R&D) facility, a tree nursery and one operational sawmill. At present, KLF accounts for more than 90% of SAFCOL’s responsibilities and sales. A transaction which would have transferred majority ownership of KLF was terminated in March 2006, primarily because of concerns regarding industry structure and operation of the market for sawlogs. Whilst overall KLF accounts for only some 3.5% of employment in the sector, it also controls 30% of the country’s supply of softwood sawlogs. As a result of that termination, Cabinet confirmed in August 2006 that the KLF forests should be retained in public ownership, for the foreseeable future, to allow time for review of the future role of SAFCOL and of KLF and for actions to improve industry structure and the working of the sawlog market.

- **The Albany Coast Water Board (ACWB):** The ACWB came into being in 1982 as a National Government Business Enterprise responsible for supplying water of an adequate and sustainable quality to all members of the community within its area. The area of jurisdiction of the Board comprises the greater Kenton-on-Sea and Bushmans River mouth community, extending along the coast from just east of the Kariega River mouth to just west of Boknes, and some 10 km inland from the coast.

- **The Cape Agency for Sustainable Integrated Development in Rural Areas (Casidra):** Casidra is an implementing agency of the sole shareholder, the Western Cape Provincial
Government (WCPG). A shareholders compact has been concluded between Casidra and the WCPG. The organisation is listed as a Schedule 3D Public Entity (Provincial business entity) in terms of the Public Finance Management Act (PFMA) and has a Board of Directors as accounting authority. Casidra resides under the Western Cape Department of Agriculture and its minister as the designated executive authority.

- **The Cape Town ICC (CTICC):** The CTICC was established in the 1990s with the City of Cape Town and the Provincial Government of the Western Cape as its largest shareholders.

- **The Coega Development Corporation (CDC):** The CDC is a state owned entity formed in 1999 mandated to develop and operate the Coega Industrial Development Zone (IDZ) which is located adjacent the modern deep water port facility, Port of Ngqura-developed and owned by Transnet National Ports Authority. The CDC attracts investors from all over the world and in different business sectors through investment promotion as well as Foreign Direct Investment (FDI).

- **The Joburg Property Company (JPC):** JPC is a company mandated to manage and develop the City of Johannesburg’s (CoJ) property portfolio, valued at R8.6 billion. As a promoter of innovative solutions to the development challenges of contemporary Johannesburg, JPC utilises council-owned land assets to leverage private sector investment in public infrastructure. *JPC’s mission is to:* manage the property assets of the CoJ, maximising the social, economic and financial value of the CoJ’s property portfolio, and enhancing the efficiency of its use; provide Asset Management, Property Management, and Property Development services to the CoJ, and interact with the general public; and to support the achievement of the CoJ’s strategic priorities, including economic and social development, and the service delivery objectives of the CoJ.
• The National Electronic Media Institute of South Africa (NEMISA): NEMISA was established as a non-profit organisation by the Department of Communication in terms of the Companies Act (1973). The mandate of the DoC derived from the relevant legislation is ‘To create a vibrant ICT sector that ensures that all South Africans have access to affordable and accessible ICT services in order to advance socio-economic development goals and support the African Agenda and contribute to building a better world’. Furthermore, one of the strategic goals of the DoC is to ‘Accelerate the socio-economic development of South Africans by increasing access to, as well as the update and usage of, ICT’s through partnerships with businesses and civil society and 3 spheres of government. One of the strategic objectives linked to this strategic goal is to contribute to increasing ICT skills base in South Africa and increase access to, and uptake and usage of ICT’s. Pursuant to the mandate of the DoC, NEMISA provides much needed skills training at an advanced level for the broadcasting industry. It is accredited by the Council for Higher Education and offers diploma courses, short courses and internships in three subjects: TV production, radio production and creative multimedia. The emphasis is on equipping students to be market-ready in a wide range broadcasting discipline and to have the ability to work effectively in constantly changing conditions.

• The National Housing Finance Corporation (NHFC): The NHFC is one of several Development Finance Institutions (DFIs) created by the South African Government to sustainably improve on the socio-economic challenges of the country. The developmental financial focus of the NHFC is specifically about finding workable models on affordable housing finance for the low- to middle-income beneficiary target market. The NHFC was established in 1996, by the then National Department of Housing (NDoH), to offer housing finance, project facilitation and technical assistance to private and public entities ensuring availability of housing stock for the target market. As a means of sustaining its funding programs, the NHFC searches for better ways to mobilise finance for affordable housing from sources outside the state in partnership with the broadest range of organisations. The NHFC, in the affordable housing finance market sector, adopts a role of Innovator, Financier and Facilitator to ensure viable housing finance solutions; growth of sustainable human settlements; and mobilisation of relevant partnerships, through
enhanced insights and knowledge gained. The corporation is a registered public company and has been granted the necessary exemption in terms of the Banks Act. As a national public entity, the NHFC adheres to the regulatory framework of the Public Finance Management Act (PFMA).

- **The North West Craft & Design Institute (NWCDI):** NWCDI was set up in 2009 to promote and grow craft and design as an economic sector in the North West province of South Africa. A Section 21 not-for-profit company, the NWCDI is a joint initiative of the Provincial Government Department of Sport, Arts and Culture and the National Department of Trade and Industry in line with the National Craft Sector Programme, Craft Hub Blueprint and Industrial Policy Action Plan approved by Parliament in 2007.

- **The Overstrand Local Economic Development Agency (Pty) Ltd (Oleda):** Oleda is a private company owned by the Overstrand Municipality. The main purpose of Oleda is to be the implementation arm of the Overstrand Municipality in terms of economic, social and environmental projects.

- **The Passenger Rail Agency of South Africa (PRASA):** PRASA merges the operations, personnel and assets of the South African Rail Commuter Corporation, Metrorail, Intersite Property Management Services, Shosholoza Meyl and the long distance bus company, Autopax (Translux and City-to-City).

- **The Rural Housing Loan Fund (RHLF):** The RHLF is a Section 21 Company, "Associated Not for Gain", which was established in 1996 by the national Department of Housing.

- **South African Special Risk Insurance Association Limited (SASRIA):** Sasria was established and registered in terms of Section 21 of the Companies Act, in response the
political unrest of 1976. Reinsurance protection for the peril of political riot was unavailable, hence, following meetings between the Short Term insurance industry, under the auspices of the South African Insurers Association and Government, the Government of the Republic agreed to act as reinsurer of last resort. Sasria was consequently incorporated as a Section 21 company, with the aim of providing such cover on a non-refusuable and non-cancelable basis to all sections of the community. Subsequently, Sasria’s coverage was extended to damage caused by non-political riot and public disorder, including labour disturbance, civil motion, strike and lockout. Coverage was also extended to include loss in respect of Mortgage Loans. The Conversion of Sasria Act of 1998 converted Sasria to a Limited company, with the Government as sole shareholder.

- **Thubelisha Homes**: This is a section 21 company which was established in June 1998 as a special purpose financial vehicle to create housing stock for clients of Servcon Housing Solutions. As a result of the agreement between government and the banks to subsidise the transfer of properties to all of the remaining Servcon clients, the relocation programme has been effectively discontinued. Accordingly, Thubelisha’s mandate has been reviewed in line with the objectives of the department of Human Settlement’s comprehensive housing plan. Thubelisha has been repositioned to provide provinces and municipalities with technical assistance to unblock stalled housing projects and prepare fast-tracked housing projects to respond to emergency housing circumstances.

5.15.4. **Regulatory Bodies**

- **The Estate Agency Affairs Board (EAAB)**: The EAAB was established in 1977 in terms of the Estate Agency Affairs Act 112 of 1976 (“the Act”), with the mandate to regulate and control certain activities of estate agents in the public interest. The EAAB regulates the estate agency profession through ensuring that all persons carrying out the activities of an estate agent as a service to the public are registered with the EAAB. A Fidelity Fund Certificate, which is to be renewed each year, is issued as evidence of such registration
and confirmation that such person is legally entitled to carry out the activities of an estate agent. The EAAB is listed as a Public entity in terms of the Public Finance Management Act (PFMA) Act 1 of 1999. A core function of the EAAB is to manage and control a Fidelity Fund, the Estate Agents Fidelity Fund (Fidelity Fund), in the interest of the public and estate agents registered with the EAAB.

- **The Film and Publication Board**: The Films and Publications Act as amended established the Film and Publication Board. The objective of this Act are to (1) Regulate the creation, production, possession, and distribution of certain publications an certain films by means of classification, the imposition of age restrictions and giving of consumer advice and (2) Make exploitative use of children in pornographic publications, films or on the internet punishable.

- **The Financial Intelligence Centre (the Centre)**: The Centre was established under the Financial Intelligence Centre Act No. 38 of 2001, in February 2002. The Centre started receiving reports on suspicious and unusual transactions on 3 February 2003. The FIC Act also sets up a regulatory anti-money laundering regime which is intended to break the cycle used by organised criminal groups to benefit from illegitimate profits. By doing this the Act aims to maintain the integrity of the financial system. Apart from the regulatory regime the FIC Act also creates the Financial Intelligence Centre. The regulatory regime of the FIC Act imposes ‘know your client’, record-keeping and reporting obligations on accountable institutions. It also requires accountable institutions to develop and implement internal rules to facilitate compliance with these obligations. The FIC Act complements and works with the Prevention of Organised Crime Act, No. 121 of 1998 which contains the substantive money laundering offences.

- **The Financial Services Board**: The Board is a unique independent institution established by statute to oversee the South African Non-Banking Financial Services Industry in the public interest. The FSB is committed to promote and maintain a sound financial investment environment in South Africa. The Financial Services Board (FSB)
was constituted by the Financial Services Board Act, 97 of 1990 (the Act). The functions of the board are: to supervise the compliance with laws regulating financial institutions and the provision of financial services; to advise the Minister on matters concerning financial institutions and financial services, either of its own accord or at the request of the Minister; and to promote programs and initiatives by financial institutions and bodies representing the financial services industry to inform and educate users and potential users of financial products and services. The executive officer of the FSB is the Registrar of Pension Funds, Registrar of Friendly Societies, Registrar of Long-Term Insurance, Registrar of Short-Term Insurance, Registrar of Stock Exchanges, Registrar of Financial Markets, Registrar of Collective Investment Schemes and the Registrar of Financial Services Providers.

- **Railway Safety Regulator (RSR):** The RSR was established in 2003 after the Railway Safety Regulator Act (16 of 2002) was promulgated in 2002. This included appointing the RSR board and developing two sets of regulations as well as the General Standard for Railway Safety. An investigation into the creation of the competent authority for the transportation of dangerous goods by rail was completed.

- **The Cross-Border Road Transport Agency:** The Agency regulates the cross-border public, freight and road market. It facilitates the establishment of cooperative and consultative relationships and structures between public and private sector institutions with an interest in cross-border road transport. The Agency is self-sustaining through a cross-border levy.

- **The Independent Communications Authority of South Africa (ICASA):** The Independent Communications Authority of South Africa Act, (2000) provided for the merger of the South African Telecommunications Regulatory Authority and the Independent Broadcasting Authority to form ICASA. ICASA is responsible for regulating the telecommunications and broadcasting industries in the public interest, to ensure
affordable services of a high quality for all South Africans. In addition to developing regulations ICASA also issues licenses to telecommunications and broadcasting service providers, enforces compliance with rules and regulations, protects consumers from unfair business practices and poor quality services, hear and decides on disputes and complaints brought against licensees, and control and manages the effective use of radio frequency spectrum.

- **The Independent Regulatory Board for Auditors (IRBA):** The IRBA is the statutory body controlling that part of the accountancy profession involved with public accountancy in the Republic of South Africa. The IRBA functions in terms of the Auditing Profession Act, 2005 (Act 26 of 2005). Its members are appointed by the Minister of Finance, who must appoint competent persons, including registered auditors, to effectively manage and guide the activities of the Regulatory Board, based on their knowledge and experience. Following qualification, accountants entering into public practice are required to register with the IRBA and are governed by its regulations.

- **The Mine Health and Safety Inspectorate of South Africa:** The Inspectorate was established through the provisions of the Mine Health and Safety Act (Act No. 29 of the 1996). The basic premises of the act is: to ensure owner responsibility for health and safety through creation of codes of practice, training, identifying potentially hazardous factors, investigating said factors, employing hygienists for the industry, and founding methods of medical attention and recording for the site; to safeguard the rights of employees to refuse or move away from areas which are unsafe or potentially unsafe; to create the Inspectorate of Mining Health and Safety; and to establish the three-party Mine Health and Safety Council. Following amendments in 1997, the original 1996 act now also includes: provision of a monetary fining system in support of tripartite institution regulation and to provide health and safety-appointed employees in the case of any inquiry; the constitution of the Mine Health and Safety Council concerning matters of procedure within said council; and an amendment concerning the election and appointment of health and safety employees, and establishing the authority of health and
safety inspectors. The Inspectorate’s role includes pushing legislation and national mining standards to reduce mining deaths and occupational injuries. The Inspectorate’s goals are: providing policy inputs for the establishment and application of mine safety standards at mining operations, and promote their application; providing policy inputs for the establishment and application of mine equipment safety standards at mining operations, and promote their application; providing policy inputs for the establishment and application of mine health standards at mining operations, and promote their application; and ensuring an effective support and inspection service.

- **The Mining Qualifications Authority (MQA):** The MQA is a statutory body established in terms of the Mine Health and Safety Act (No. 29 of 1996) and is a registered Sector Education and Training Authority for the Mining and Minerals Sector in terms of the Skills development Act No 97 of 1998. The SAQA Act No 58 of 1995 requires of the MQA to generate unit standards and qualifications and enables the organisation to be an Education and Training Quality Assurance (ETQA) body for the sector. The MQA must support the objectives of the National Skills Development Strategy (NSDS) as determined by the Department of Labour and also support the objectives of the Mining Charter in terms of the Minerals and Petroleum Resources Development Act (No. 29 of 1996). The MQA has adopted its Constitution, Policy and Five year business plan. The MQA is responsible for driving transformation in the Mining and Minerals Sector through the facilitation of skills development in terms of the Skills Development Act (No 97 OF 1998). In addition, the MQA in the execution of its mandate supports the broad based socio economic empowerment charter (Mining charter) in terms of the Minerals and Petroleum Resources Development Act (No. 29 of 1996). The priorities outlined in the Mining Charter include amongst others, human resources development aimed at redressing the imbalances brought by the previous dispensation, increased participation of women in mining, and the empowerment of previously disadvantaged communities.

- **The National Credit Regulator (NCR):** The NCR was established as the regulator under the National Credit Act No. 34 of 2005 (The Act) and is responsible for the regulation of
the South African credit industry. It is tasked with carrying out education, research, policy development, registration of industry participants, investigation of complaints, and ensuring the enforcement of the Act.

- **The National Energy Regulator (NERSA):** NERSA is a regulatory authority established in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004). NERSA’s mandate is to regulate the Electricity, Piped-Gas and Petroleum Pipeline industries in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act, 2001 (Act No. 48 of 2001) and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003). While the Electricity industry has been regulated for the past ten years, the piped-gas and petroleum pipeline industries in South Africa were regulated for the first time. In 2002, the Cabinet decided that the NER would be used as the basis to create the National Energy Regulator. In anticipation of the future development of these industries the Gas Act of 2001 and the Petroleum Pipelines Act of 2003 were passed to promote the orderly development of the Piped-Gas and Petroleum Pipelines industries. Both Acts mandated the establishment of a regulator.

- **The National Gambling Board (NGB):** The NGB was established in terms of the National Gambling Act, Act No 33 of 1996 which was repealed on 01 November 2004 by the National Gambling Act, 2004, (Act No 7 of 2004). The latter made provision for the oversight of matters relating to casinos, gambling, betting and wagering and promotes uniform norms and standards in relation to gambling throughout South Africa.

- **The National Home Builders Registration Council:** The Council was established in terms of the Housing Consumer Protection Measures Act, 1998 (Act No. 95 of 1998). The Council is mainly established to protect the interest of housing consumers, and to regulate the home building industry.
- **The National Lotteries Board (NLB):** The NLB was established in terms of the Lotteries Act (No 57 of 1997) to regulate the National Lottery as well as other lotteries, including society lotteries to raise funds and promotional competitions. The NLB also advises the Minister of Trade and Industry on policy matters relating to the National Lottery and other lotteries.

- **The National Metrology Institute of South Africa (NMISA):** The CSIR was mandated by the Scientific Research Council Act (Act 46 of 1988, as amended by Act 71 of 1990) and the Measurement Units and National Measuring Standards Act (Act 76 of 1973, as amended by Act 24 of 1998) to maintain primary scientific standards of physical quantities for South Africa and compare those standards with other national standards to ensure measurement equivalence with the global community. This function was entrusted to the National Metrology Laboratory, a unit in the CSIR, until April 2007. The National Metrology Institute of South Africa (NMISA) was established through the Measurement Units and Measurement Standards Act (Act 18 of 2006). This act transferred all responsibilities for the maintenance, traceability and dissemination of national standards from the CSIR National Metrology Laboratory (CSIR NML) to NMISA.

- **The National Nuclear Regulator:** The role of the National Nuclear Regulator is to protect people, property and the environment against nuclear damage through safety standards and regulatory practices, to regulate safety across the nuclear sector, and to issue nuclear licenses. The activities of Eskom’s Koeberg power station are regulated in this way.

- **The Ports Regulator of South Africa:** The Ports Regulator was established under the provisions of the National Ports Act, 2005. Under this Act, the main functions of the Ports Regulator are to: exercise economic regulation of the ports system in line with government’s strategic objectives; promote equity of access to ports and to facilities and services provided in ports; monitor the activities of the National Ports Authority to ensure
that it performs its functions in accordance with this Act; and hear complaints and appeals under the Ports Act. This mandate is to be exercised in accordance with Government policy as set out in the “National Commercial Ports Policy”, which stipulates that “South Africa’s commercial ports system should be globally competitive, safe and secure, operating at internationally accepted levels of operational efficiency consistent with the goals and objectives of the Government’s macro-economic strategies. The commercial ports system must serve the economy and meet the needs of port users in a manner which is economically and environmentally sustainable.” The Ports Regulator sets the standards for economic regulation in maritime ports.

- **The Social Housing Regulatory Authority (SHRA):** SHRA was established in August 2010 by the Minister of Human Settlements in terms of the Social Housing Act, No. 16 of 2008. The SHRA is classified as a public entity in terms of Schedule 3A of the Public Finance Management Act.

- **The South African Bureau of Standards (SABS):** SABS is a statutory body that was established in terms of the Standards Act, 1945 (Act No. 24 of 1945) and continues to operate in terms of the latest edition of the Standards Act, 2008 (Act No. 29 of 2008) as the national institution for the promotion and maintenance of standardization and quality in connection with commodities and the rendering of services. Compliance with the King Report on Corporate Governance and the Public Finance Management Act 1999 (Act no 1) is therefore an integral part of the objectives as approved by its Council.

- **The South African Civil Aviation Authority (SACAA):** The SACAA is an agency of the Department of Transport (DoT) and its activities are governed by a performance agreement signed between the Board of Directors and the Minister of Transport. Its mandate, defined more fully in the South African Civil Aviation Authority Act No. 40 of 1998, can be summarised as follows: “Regulating the civil aviation industry to ensure security and safety by complying with International Civil Aviation Organisation (ICAO) and
taking into consideration the local context.” The SACAA was established on 1 October 1998 following the enactment of the Act in September of the same year. The Act provided for the establishment of a stand-alone authority charged with promoting, regulating and enforcing civil aviation safety and security.

- **The South African Council of Educators (SACE):** SACE is a statutory body established in terms of the South African Council of Educators Act. In addition, the Council has a responsibility to establish other committees that are necessary for the smooth functioning of SACE.

- **The South African Diamond and Precious Metals Regulator:** The South African Diamond Board was established in 1987 in terms of the Diamond Act, Act 56 of 1986, to regulate control over possession, the purchase, and sale of diamonds, the processing and the export of diamonds. During 2007 three pieces of legislation, namely; the Diamond Amendments Act, Act 30 of 2005, the Diamond Second Amendment Act, Act 30 of 2005 and the Precious Metals Act, Act 37 of 2005 were promulgated thereby broadening the legal mandate of the Board to also regulated precious metals. Subsequently the South African Diamond Board was de-listed as a Schedule 3A public entity in March 2007 and replaced by the South African Diamond & Precious Metals Regulator, which was established by Section 3 of the Diamonds Act, 1986 (as amended in 2005). The South African Diamond & Precious Metals Regulator (SADPMR) was established to administer the Diamonds Act, 1986 (as amended) and the Precious Metals Act, 2005 (Act 37 of 2005). The Precious Metals Act, 2005 (Act 37 of 2005) commenced on 1 July 2007 and Regulations made under the Act took effect on 9 July 2007. These Regulations were amended on 4 April 2008.

- **The South African Maritime Safety Authority (SAMSA):** SAMSA was established on 1 April 1998 in terms of the South African Maritime Safety Authority Act 5 of 1998. It is accountable to the Minister of Transport, and is governed by a Board made up of the
CEO and six non-executive members, including the Chair and Deputy Chair appointed by the Minister. The organisation's primary areas of responsibility include: participating in the development and implementation of national and international maritime safety and marine environment protection standards; enforcing technical and operational standards for all shipping operations in South African waters and for South African ships anywhere, to promote responsible operations in terms of seaworthiness, safety and pollution prevention; enforcing training standards and competency of seafarers; managing the national capability to respond to marine pollution incidents and other maritime emergencies; operating the Maritime Rescue Co-ordination Centre to coordinate maritime assistance services and to detect, and coordinate the location and rescue of people in maritime distress situations throughout the internationally agreed South African Search and Rescue Region; overseeing the provision of maritime distress and safety communications services to discharge South Africa’s responsibilities under the Global Maritime Distress and Safety System; administering South Africa’s voluntary ship reporting system (SAFREP) for identifying and tracking ships at sea for safety purposes and to provide a ships' database for responding to marine emergencies; investigating maritime casualties; and delivering related services including: public awareness and education in marine safety and pollution prevention; administration of South Africa’s ship registration system; and publication of, and access to, ship safety and environmental standards, SAMSA delivers four main outputs consistent with its mandate and responsibilities: safety and environment protection standards for responsible maritime transport operations; an infrastructure for monitoring and enforcing compliance with safety and environment protection standards; the capability to respond to marine pollution incidents and other maritime emergencies; and the capability to detect, locate and rescue people in maritime distress situations.

- **The South African National Accreditation System (SANAS):** SANAS was established in terms of Section 21 of the Companies Act, 61 of 1973. On 1 May 2007 it became a public entity with the promulgation of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act (Act 19 of 2006). It is directed and legally represented by a Board of Directors whose members are appointed by the Minister of
Trade and Industry. SANAS operates in accordance with the requirements, criteria, rules and regulations laid down in the following documents: the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act 19 of 2006); the requirements of the international standard ISO/IEC 17011:2004, General requirements for bodies providing assessments and accreditation of conformity assessment bodies; and the requirements as stipulated in the various Memorandums of Agreement with the international bodies and the national regulatory bodies. SANAS make decisions concerning the granting and continuation of accreditation and Good Laboratory Practices compliance.

- **The South African Qualifications Authority (SAQA):** SAQA was formed in 2008 under the provisions of the National Qualification Forum Act (No. 67 of 2008). It must advise the Minister of Higher Education and Training on National Qualifications Forum matters in terms of the Act. SAQA must also perform its functions subject to the Act and oversee the implementation of the NQF and ensure the achievement of its objectives. In terms of the Act, the Quality Councils, must amongst others, do the following in order to achieve the objectives of the NQF: perform their functions subject to the NQF Act 67 of 2008 and the law by which the QC is established; ensure the development of qualifications or part qualifications as are necessary for their sectors, which may include appropriate measures for the assessment of learning achievement; and recommend qualifications or part qualifications to SAQA for registration.

- **UMALUSI Council for Quality Assurance in General and Further Education and Training:** Umalusi is a statutory Council mandated by the Minister of Basic Education to quality assure general and further education and training.
● **The Eastern Cape Appropriate Technology Unit (ECATU):** ECATU was established as a Schedule 3 Public Entity and reports to the Office of the Premier of the Eastern Cape. The organization is charged with the planning and implementation of programmes/projects using appropriate technologies and sustainable poverty eradication methodologies in rural and poor communities.

● **The Gauteng Film Commission (GFC):** GFC develops, promotes and coordinates the film and television production industry in South Africa’s wealthiest province. An agency of the Gauteng Provincial Government, it is tasked with positioning the province as a world-class destination for film-making as well as attracting local and international investments in the film and television industry.

● **The Khayelitsha Community Trust (KTC):** KCT is a Non-Profit Organisation (NPO), dedicated to the upliftment and empowerment of Khayelitsha. It was established by the City of Cape Town in 2003.

● **The Kouga Cultural Centre:** The Centre is an economic development project of the Kouga Municipality, in the Eastern Cape. The Kouga Cultural Centre’s objective is to provide the community and tourists with an opportunity to experience and participate in the diverse cultures of the Kouga Region.

● **The Moses Kotane Institute (MKI):** MKI is an entity of the KwaZulu-Natal Department of Economic Development and Tourism to enhance economic development through promoting science, engineering, technology and mathematics skills among the young. This “skill enhancement” is not only for the current and future workforce, but also encompasses all levels of government officials.
- **The State Diamond Trader**: The Trader’s main business is to buy and sell rough diamonds in order to promote equitable access to and beneficiation of diamond resources. The main aim of the State Diamond Trader is to address distortions in the diamond industry and correct historical market failures to develop and grow South Africa’s diamond cutting and polishing industry.