

FRIDGE
Procurement Project
Situational Analysis

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TABLE OF CONTENTS

1	CONTEXT	1
1.1	Purpose of the project.....	1
1.2	Motivation for consideration of local content, quality, labour and environment.....	2
1.3	Purpose of this document.....	2
2	ANALYSIS OF THE POLICY PROBLEM.....	3
2.1	Summary of constraints.....	3
2.2	Summary of opportunities	9
3	POLICY, LEGISLATIVE, REGULATORY AND STAKEHOLDER AGREEMENT CONTEXT	11
3.1	Constitution of the Republic of South Africa	12
3.2	Public Sector Procurement Reform in South Africa, Interim Strategies: A 10 point plan (1995).....	12
3.3	Green Paper on Transformation of Public Sector Procurement.....	13
3.4	Public Finance Management Act (1999)	16
3.5	Preferential Procurement Policy Framework Act (2000) and associated regulations (2001)	16
3.6	Targeted Procurement and associated Resource Specifications.....	20
3.7	Supply Chain Management Framework and Policy Guidelines.....	21
3.8	(Pending) Municipal Finance Management Act (Bill B1-2002).....	23
3.9	South Africa's Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment.....	23
3.10	Binding stakeholder agreements	24
4	SOUTH AFRICA'S MULTILATERAL AND BILATERAL OBLIGATIONS ..	26
4.1	Overview of the World Trade Organisation (WTO).....	26
4.2	Specific agreements within the WTO	26
4.3	Potential future obligations.....	27
4.4	Other multilateral obligations (environment and labour).....	28
4.5	Current and future bilateral obligations	28
4.6	Implications.....	29
5	FRAMEWORK FOR UNDERSTANDING AREAS OF INTERVENTION, ROLEPLAYERS AND MECHANISMS	30
5.1	Stages in the procurement process.....	30
5.2	Key themes in the purchaser-supplier relationship.....	32
5.3	Role players and influencers	35
5.4	Potential mechanisms.....	40
6	POTENTIAL SECTORAL IMPACT.....	43
7	CONCLUSION.....	45

1 CONTEXT

1.1 Purpose of the project

As a declaration that emerged from the 1998 Presidential Job Summit, the “*Buy South Africa*” campaign was created to stimulate economic growth and job creation in South Africa through increased demand for South African goods and services that meet criteria related to local content, quality, labour standards and environmental standards.

Subsequent to the Jobs Summit, numerous sectoral procurement commitments have been made by constituencies, both through sectoral empowerment charters and Sector Summits.

Extensive negotiations and research led to the establishment of the ‘Proudly South African’ organisation and campaign in the course of 2001. This campaign has both a consumer and business-to-business/business-to-government dimension. As part of this wider commitment, the Nedlac constituencies have agreed to explore the options for incorporating/addressing this and other local content promotion initiatives, into South African local procurement practices.

Of specific interest to the constituencies is how five groups within the private and public sectors (viz. government, parastatals, large locally owned corporations, large foreign owned corporations, and SMMEs) currently procure goods and services and the alternative ways to incentivise/encourage them to procure more local goods and services within the guidelines of national and international legislation pertaining to procurement.

As stated in the ToR, the project objectives are therefore to:

- Provide an insight into current procurement practices and trends
- Explore the opportunities for and constraints on preferential treatment in terms of local content, quality, environmental and labour standards (as embodied in Proudly SA) as contained in WTO agreements, and local procurement regulations and legislation
- Explore and identify current constraints in terms of processes and abuses, and
- Give recommendations on how to curb abuses and improve the processes overall
- Investigate how Proudly South African and other national initiatives can benefit from a preferential treatment system
- Identify areas where existing and pending regulations, laws, and international agreements should be adjusted to support preferential treatment to support the standards of local content, etc embodied in Proudly SA

1.2 Motivation for consideration of local content, quality, labour and environment

The Nedlac constituencies prioritised this investigation into further consideration of local content, quality, labour and environment, as they are of the view that greater procurement in line with these principles could contribute significantly to South Africa's socio-economic transformation. Some of the reasons for this view are as follows:

- Consideration of local content in relation to supply chain or value matrix development has the potential to generate employment multiplier effects
- Local content provisions can encourage productive investment, and reduce the potential negative consequences of foreign direct investment related to “warehousing” and reduction of local productive capacity
- Ensuring local content tied to empowerment can encourage broadbased and productive empowerment, rather than a layer of “middle-men” or small elite
- Consideration of quality in procurement is seen as key in order to ensure that South African production becomes increasingly competitive. In addition, where public sector procurement in particular is concerned, there is an obligation to ensure that public funds are spend in a sustainable way and in a manner that does not result in health or safety threats or wastage due to poor quality goods and services.
- Consideration of labour and environment standards can help to ensure that economic growth is not achieved at the cost of the rights of workers or future generations, and meeting sustainable development obligations. A drive towards improved labour and environmental standards may also have the added benefit of enhancing export opportunities, as compliance with fair trade requirements is increasingly becoming a significant factor in gaining market access.

Because of these reasons, these four areas also became the pillars on which Proudly South African membership is based.

1.3 Purpose of this document

Kaiser Associates has written this document in order to clearly define the operating environment within which preferential procurement in South Africa works, in order to ensure that the recommendations developed for the implementation of local content, environment, and labour standards within procurement practices, are practical and appropriate to the context within which they must operate.

Therefore Kaiser Associates has included the following sections in this document:

- Analysis of the policy problem, including constraints and opportunities
- Policy, legislative, regulatory and stakeholder agreement context
- South Africa's current and potential future multilateral and bilateral obligations
- Framework for understanding areas of intervention, roleplayers, influences and mechanisms
- Potential sectoral impact of procurement shifts

The research informing this document came from both primary and secondary resources. Several references are made in this document to a separate *Case Studies* document¹ which Kaiser compiled in the course of the project, and which contains case studies across the five types of target organisations: Government, parastatals, large South African companies, multinationals, and SMMEs, as well as some international benchmarks.

2 ANALYSIS OF THE POLICY PROBLEM

2.1 Summary of constraints

The section below provides a summary of the key issues that have emerged as constraining the further consideration of local content, quality, labour and environment in public and private sector procurement. They have been drawn from an assessment of the following:

- Policy, legislative and regulatory environment
- International multilateral and bilateral obligations
- Input from key stakeholders and roleplayers
- South African case studies across government (national, provincial and local), parastatals, large local companies, multinationals operating in SA, as well as small businesses
- Selected comparable international cases

2.1.1 Lack of information on procurement profile

Insufficient information is currently available about the profile of current public and private sector procurement. There is no central record as yet of the pattern of government and parastatal procurement by organisation type, product cluster and country/place of origin.

This will be addressed to some degree in terms of empowerment statistics by the DPSA survey, which will provide a survey from 1994 to 2002 of government

¹ This document can be obtained from Nedlac or the FRIDGE coordinator at the IDC.

procurement, and procurement by suppliers to government, with a specific emphasis on the resultant contribution to BEE. However, there are still likely to be gaps, and there is still no systematic system to capture the most appropriate information on an ongoing basis.

There is also no consolidated understanding of the key areas where there is a realistic opportunity to boost SA production capacity and employment through shifts in domestic procurement, i.e. areas where domestic production has the ability to compete, but where local suppliers currently supply a limited proportion of domestic demand.

2.1.2 Inconsistent and incomplete application of preferential procurement

Existing preferential procurement legislation is not being used to its full effect, and is not being implemented consistently across all organisations within the public sector.

Provisions in terms of the [Preferential Procurement Policy Framework regulations](#) to consider local content (Section 12 (1)) are seldom exercised, and specific goals tied to related RDP socio-economic objectives have been given limited emphasis (12(3)). To some degree, further consideration of local content has been inhibited by confusion around the numerous definitions of “local” (often defined as geographical local of registered enterprise, not source of materials or labour) and the absence of compulsory country of origin labelling. Furthermore, some debates that were reflected in the [Green Paper](#) on Transforming Public Sector Procurement have not been fully carried through into subsequent policy and legislation, including the approach to international competition, the WTO and environmental requirements.

Targeted Procurement, which allows for conditions of contract related to the use of [local resources](#), has not been used to its full effect to encourage use of local content, and has primarily been used in relation to construction and related services, rather than the provision of products.

In practice, some parastatals and government structures are practicing set asides or step-in mechanisms, which fall outside of the current legislative framework. In some cases, they have received exemption from National Treasury, but this may be reviewed as entities are expected to fall in with the [Supply Chain Management Framework Guidelines](#) e.g. Eskom².

In addition, binding multi-stakeholder agreements around procurement, particularly through sector summit and charter processes, have not been fully implemented to date. This may be related to poor buy-in to the agreements, insufficient communication to the sector and its key purchasers, and capacity for implementation and monitoring.

² See Eskom [case study](#)

2.1.3 Changing procurement policy landscape

The significant changes in the procurement policy landscape since 1994, as well as the uncertainty around the shift away from the Tender Board system, seems to have led to some confusion and hesitancy to implement new provisions fully. While government resources have been invested in training procurement officials, it appears that the results of these efforts have been inconsistent (possibly due to turnover of officials in some cases) and where awareness does exist, it is sometimes superficial.

The dti's officials responsible for BEE procurement³ have received feedback from the BEE industry that the PPFMA has done little to create significant shifts to legitimate BEE suppliers; estimates are that only 6% of procurement between 1994 and 2002 has gone to legitimate BEE enterprises. The dti has developed an initial draft of its internal procurement policy which aims to address these issues, which makes some changes from the Preferential Procurement Framework, including increasing the weighting for BEE, and the explicit inclusion of points for local content⁴. They are in discussions with Treasury about proposed amendments to the PPFMA.

As private sector preferential procurement in some cases has followed government leadership, this has also shifted slowly but inconsistently, with an emphasis on BEE ownership and small business development, rather than local content procurement, labour and environment.

2.1.4 Relatively “narrow” empowerment and SMME focus

Broader productive empowerment and employment throughout the supply-chain appears to have had limited attention in procurement, with a strong emphasis on empowerment as ownership and control, and a focus on the narrow definition of “black” in many cases, rather than historically disadvantaged⁵.

This trend may shift with the new [broad-based BEE framework](#) published by the dti providing greater clarity and certainty around empowerment definitions and programmes.

The other target objective of preferential procurement has tended to be small business or enterprise development, particularly in services and “non-core” procurement, such as cleaning, catering and security. In some cases in the private and parastatal sectors, this has partially constituted out-placement of retrenched workers, rather than the creation of new employment opportunities.

³ Mxolisi Buthelezi of the dti

⁴ This document has not yet been approved internally.

⁵ There are some exceptions to this focus, as can be seen in the Wiphold case study

2.1.5 Use of exclusionary technical standards and brands

The case studies have revealed numerous cases of technical specifications or brands in public sector tenders excluding all South African suppliers⁶, and in some cases de facto define another country of origin. This practice runs counter to both local and international best practice.

Some industry players, as well as SABS, believe this may be related to commercial self-interest, rather than a real ignorance about the availability of non-exclusionary standards.

However, SABS also acknowledges that more could be done to keep procurement and purchasing officials up to date on standards and quality developments, as currently purchasing officials need to proactively register with the Standards Notification service.

2.1.6 Lack of awareness by purchasers of competitive local suppliers

Many purchasers appear to be unaware that a quality local supplier exists that can meet their quality, technical and price requirements. This may be for one of the following reasons:

- New local supplier
- Local supplier has only recently become competitive in supplying that product
- Local supplier is small to medium and/or has limited resources to market to and communicate with potential purchasers, and cannot compete with large (international) companies' client "winning and dining" budgets.

2.1.7 Inertia in established supplier relationships

Many purchasers prefer to stay with suppliers that they perceive as reliable and tested, in some cases practicing automatic renewal of contracts, which runs counter to promoting competitiveness. This can be a problem both for procurement change agents within that organisation, and for new suppliers seeking access. Many purchasers are also pressed for time to proactively seek new suppliers, or meet with potential suppliers who request meetings, and will limit the amount of risk they are willing to take with suppliers that do not have an established reputation. This constraint is exacerbated by the lack of visibility outlined in 2.1.6., as greater effort is required to find "reliable" new suppliers.

⁶ This phenomenon is demonstrated most strongly in the Pinnacle/Mustek and Albert Carpet case studies, details of which can be seen in the [Case Studies](#) document

2.1.8 Lack of suppliers' understanding of purchasers' needs and process

The case studies, and input from the Tender Advice Centres, reveal that there are numerous instances where suppliers, particularly small businesses, have unrealistic or ill-informed understanding of the key purchasing criteria and purchasing process for each type of purchaser.

In some cases, there may be a failure to recognise that they cannot realistically (or not ready as yet to) compete in terms of product quality or service levels, or have been slow to transform in terms of BEE. Some may consciously or unconsciously be using the local content argument to compensate as a vehicle to pressurise purchasers.

2.1.9 Mismanagement, corruption and misrepresentation

Both purchasers and suppliers have raised the issues of mismanagement and corruption in various forms as causing significant problems. For purchasers, issues about the behaviour of suppliers include:

- “Fronting”, i.e. misrepresentation of empowerment status
- Misrepresentation of capacity (e.g. applying for tenders for which they have no or insufficient capacity to deliver)
- Mismanagement of subcontractor and joint venture relationships

Suppliers have raised the following issues with respect to purchasers:

- Poor planning resulting in badly constructed contract/tender specifications and unrealistic timeframes (particularly in the public sector)
- Commercial interest in a particular supplier securing the contract (either explicitly in the form of bribes, or less directly in terms of “wining and dining”).

2.1.10 Limited “dedicated capacity” driving local content procurement

Proudly South African is the only organisation for which encouraging quality local, social responsible procurement is “core business”. It currently has limited capacity (human resources and financial) to apply to this area, with specific advocacy campaigns to date having required targeted funding. The majority of resources have been going towards membership development and marketing.

2.1.11 Unfair competition from “dumped” imports

The case studies have raised concerns about insufficient or late redress for unfair competition from illegal or dumped imports. This is particularly problematic in market segments where price is the dominant purchasing criterion, and/or where price-matching options are provided to local suppliers⁷. There may also be wider

⁷ This is the case in the Association of Electrical Cable Manufacturers [case study](#)

issues around abuse of market dominance by other domestic suppliers, but this did not emerge as a dominant theme in the research.

2.1.12 Organisation-type specific obstacles

- **Government and parastatals (national, provincial and local)**

There is a lack of coherence and coordination in the actual procurement practices of public entities. This seems to be related to, among others:

- lack of awareness and understanding by procurement officials,
- insufficient planning and the lack of clarity around the entire procurement cycle process

While the new [Supply Chain Management Framework](#) (link to draft) may improve awareness and planning to some degree, it is unlikely to resolve all of the inconsistencies with the application of significant resources to training and development and provision of clear guidelines.

- **Large local private companies**

Large local companies may have a burden on their purchasing officials who are trying to manage very varied procurement, and may struggle to make the time to find or meet with quality local suppliers. Some large companies may also have difficulty complying with environmental (and in some cases labour) standards.

- **Multinationals**

The control and priorities of parent companies and their affiliated international suppliers may inhibit local content procurement.

In addition, there are cases where investment by multinationals appears to be done with a view to reducing or eliminating local production capacity and only retaining warehousing, repackaging and distribution facilities, which is obviously detrimental to employment, growth and value matrix integration.

- **Small businesses**

The limited resources available to small businesses to make themselves visible to potential purchasers can be a constraint. So too can their supply-side constraints in terms of meeting technical and delivery time requirements (see the following paragraph for wider issues around supply-side development requirements).

2.1.13 Potential bilateral and multilateral obligations⁸

The US has placed government procurement on the agenda of SACU-US Free Trade Agreement negotiations. This is a trend which is emerging in other bilateral agreements. There is also some expectation in terms of the SA-EU Trade Development and Cooperation Agreement that government procurement will be discussed at some point.

While South Africa has no intention to become a signatory to the plurilateral Government Procurement Agreement, a “restrictive” version of WTO Multilateral Agreement on Transparency in Government Procurement might in practice extend beyond transparency to increasing the accessibility of government procurement to international suppliers and restricting government’s ability to use procurement as a tool for socio-economic transformation and industrial development. It is possible that current members of the plurilateral [Government Procurement Agreement](#) may try to work aspects of the plurilateral agenda in the multilateral agreement; countries of the South are expected to counter this tendency by seeking to limit the powers of any such agreement.

Similarly, the potential inclusion of government procurement of services into the General Agreement on Trade in Services might constrain government’s policy options.

The outcome of any of the WTO negotiations is unclear, given the current international political and economic context and limited progress to date in post-Doha negotiations.

2.1.14 Supply-side issues

Over and above these issues, there is the fundamental requirement for sufficient volumes of local production that can or could soon meet quality, cost competitive, labour and environmental requirements.

Supply-side issues need to be addressed in parallel in order for any changes in procurement policy to have a significant redistributive effect. The lack of widespread and comprehensive supply-side programmes with clear objectives and targets has been identified as a significant weakness of past interventions.

2.2 Summary of opportunities

2.2.1 Untapped scope within existing legislative environment

There is scope within existing procurement legislation to integrate quality, local content, labour and environment to a greater degree than has been done to date.

⁸ Please refer to [section 4](#) for further details

This could be done both through transparently recorded contract requirements and technical specifications, and through price preferencing in terms of the Preferential Procurement Policy Framework Act.

2.2.2 Supply Chain Management Framework

The new Supply Chain Management Framework (link to [draft](#)) could provide the following opportunities:

- Improvement of overall procurement planning
- Addressing mismanagement and corruption
- Increasing awareness amongst procurement officials of the specific goals that can be considered in terms of the preferential procurement framework
- Greater central coordination, monitoring and evaluation of procurement trends and purchasing patterns
- Reference to Proudly South African commitments

2.2.3 Micro-economic and industrial policy context

The government's micro-economic policy and strategy direction provides a valuable and relevant framework, within which local content procurement can be considered a useful tool if appropriately positioned

- The **Micro-Economic Reform Strategy** identifies priority sectors which can serve as a starting point for procurement efforts, and clearly defines the need for a coordinated effort to increase employment. It also established enhanced intergovernmental coordination mechanisms, which could be used to improve oversight of procurement's socio-economic impact. It places an obligation on State-Owned Enterprises to contribute to economic development, growth, competitiveness and employment in various ways, which could be extended to their procurement practices.
- The [Integrated Manufacturing Strategy's](#) focus on the development of integrated value matrices creates an opportunity to link quality local content procurement to the process of extending and strengthening value matrices
- The [broad-based BEE strategy](#) creates space to strengthen preferential procurement within both government and regulated sectors and to ensure that BEE does not become hollow, but rather represents real, shared and productive participation in the economy; this process could be used to drive related legislative amendments and wider utilisation of procurement and purchasing as a tool for socio-economic development, where appropriate.

2.2.4 Sectoral stakeholder processes

The various sectoral strategy development processes that are underway, such as sector summits, charters, and dti sector strategy development processes, provide

forums through which agreements on procurement can be reached, in a manner which is integrated into the wider vision for a sector and the programmes to achieve that vision.

2.2.5 “Proudly South African” momentum

The Proudly South African organisation over the past year has developed a membership base of around 1000 members, and has significant visibility amongst consumers (particularly end consumers). This momentum, and the network provided by its membership, could serve as a powerful vehicle to drive increased purchasing of local production, greater competitiveness and thus increased employment.

2.2.6 Direct economic argument for local content supply in some cases

Particularly relevant to large corporates and Multinationals - potential to reduce vulnerability to currency fluctuations and reduce logistics costs and lead times and increase flexibility

For such companies, where contributing to the South Africa's economic development may not be a top priority, there is therefore nevertheless an argument for greater quality local content purchasing in targeted areas (where there is an economic benefit for the purchaser, and where appropriate quality capacity exists locally or can be brought up to the necessary level in the short- to medium term).

2.2.7 Pending streamlining of trade administration

The expected improved efficiencies in administration of anti-dumping may reduce the degree to which local suppliers will need to compete with dumped imports. Furthermore, a more transparent approach to information dissemination around 470.03 applications may assist the local industry to identify areas where they could supply an input or component demand that is currently being met by imports. The 470.03 application is made by local manufacturers who claim that they cannot source an item locally which is being used in a product that will be re-exported, and are therefore enabled to import duty free. Similarly, the 521.00 drawback of duty provision allows for a rebate of duties on re-export of the product.

3 POLICY, LEGISLATIVE, REGULATORY AND STAKEHOLDER AGREEMENT CONTEXT

The section below outlines the relevant provisions of key pieces of legislation and regulations, and provides an indication of their implications for the further consideration of local content, quality, labour and environment in procurement.

3.1 Constitution of the Republic of South Africa

Relevant provisions

Section 217(1) of the Constitution binds national, provincial and local spheres of government, as well as any other institution identified in national legislation, to procuring goods or services in accordance with a system that is “fair, equitable, transparent, competitive and cost effective”.

Section 217(2) adds that such a system should not prevent a procurement policy providing for preference and the protection or advancement of historically disadvantaged individuals or “categories of persons”.

Section 217(3) requires that national legislation must prescribe a framework within which preferential procurement policy may be implemented.

Implications

While further consideration of local content, labour, environment and quality could be accommodated within the Constitutional framework, particularly within a broad-based empowerment orientation, changes to procurement legislation and practice would need to confirm with the principles of fairness, equity, transparency, competitiveness and cost-effectiveness. In essence, therefore, any future changes should NOT:

- Introduce any selection criteria that are not made known from the outset of the tender process
- Restrict access to tenders in a way that is anti-competitive
- Carry a cost to the State out of proportion with its direct and wider socio-economic benefits

3.2 Public Sector Procurement Reform in South Africa, Interim Strategies: [A 10 point plan \(1995\)](#)

Summary

1. *Improving access to tendering information*
2. *Development of tender advice centres*
3. *Broadening the participation base for contracts less than R7500*
4. *Waiving of securities/sureties on construction contracts having a value of less than R100 000*
5. *Unbundling of large projects into smaller contracts*
6. *Promotion of early payment cycles by government*
7. *Development of a preferencing system for small and medium enterprises owned by historically disadvantaged individuals*
8. *Simplification of tender submission requirements*
9. *Appointment of a procurement ombudsman*
10. *Reclassification of building and engineering contracts*

Item 7 (development of a preferencing system) proposed a price preferencing system for tenders of less than R2m for the interim period, with specific points

allocated for disadvantaged persons (10) and women (2) with the balance to cost (88)

Implications

While the interim 10-point plan has been superseded by subsequent legislation, its principles have shaped the transformation of procurement practices since 1995. The emphasis on increasing accessibility to HDI small businesses has been a dominant theme, as has the focus on construction and engineering contracts as fertile ground for empowerment.

3.3 [Green Paper](#) on Transformation of Public Sector Procurement

Key provisions

The Green Paper established “**value for money**” as a core principle in terms of **Section 4.2**, defined as a balance between cost, reliability and performance, thus combining quality as defined by functionality and price.

Section 4.3 recognised the infancy of many of South Africa’s industries and the resultant lack of readiness for **competition with international suppliers**.

“Whilst State regulatory policy should aim to achieve its goals in an international context, it must also take into consideration the support and development of local industry, and the creation of job opportunities. The policy must respond to key issues of national priority such as the upliftment of previously disadvantaged sections of the community, whilst also reflection on issues pertinent to international trading, and how these issues will be managed. Industry must become competitive both on the local and international markets”

Local industry can be protected in a number of ways including:

- *The imposition of restrictive tariffs on all goods of foreign origin*
- *The institution of non-tariff based controls on importation (i.e. Import Control)*
- *The provision of preferences for local supply based on local content*
- *The application of affirmative (targeted) procurement practices.*

Price-based preferences invariably raise the issue of value for money, particularly where the price differences between imported and locally produced goods are significant. Such preferences are, furthermore, often in conflict with international trade agreements.

Contract strategies and the packaging of contracts can also be used to tip the scales in favour of the local industry. The size of contract, early warnings to prospective local suppliers of forthcoming tenders, and technical assistance programmes can all play a part in ensuring that local tenderers have a fair chance of winning contracts.

Targeted procurement practices can be effectively used, particularly on construction projects, to ensure that there is significant local content. The objective can be achieved without resorting to the conventional restrictive trade practices as all tenderers, including foreign tenderers, will be required to deliver in terms of technical and human resource specifications.

The Green Paper included the following specific proposals

- *The current preference system for local content should be continued and extended to professional service contracts*
- *Specific attention should be paid to the selection of contract strategies, the packaging of contracts and the setting of human resource goals in order to maximise local content*
- *The continuation of the preference system should not rule out the adoption of broader policies in the future which may be easier to manage and which can yield increased benefits. One of these policies could be an offset policy.... An offset policy has an inherent bias towards export promotion, which is an indirect but more effective way of supporting local industry.*
- *In order to simplify tender documentation, streamline administrative procedures and focus protective measures, preference systems should be linked to the categorisation of contracts and applied only to specific sub-categories of contracts*
- *Foreign labour should be utilised only in circumstances where the requirements cannot be met by using local labour. Government procurement policy should ensure that this policy is respected by those tenderers who respond to government tenders*
- *The appointment of international specialists should be conditional upon the transfer of skills to their South African successors*
- *Foreign tender participation should be based on, inter alia, value for money and on the promotion of international competitiveness*
- *Foreign tenders should be used for the development and benefit of local industry. Both technology transfer and human resource development should be linked to such tenders in order to ensure that South Africa enjoys the maximum benefit from foreign tenders.*

The Green Paper also contains a discussion of the **implications of WTO agreements** under **Section 4.4**. In particular, it examines the potential costs and benefits of acceding to the plurilateral Agreement on Government Procurement, and calls for further research in this area and an examination of the degree of flexibility in raising the threshold level to which the GPA applies, reclassify South Africa as a developing country in order to enable Special and Differential Treatment (thus allowing for measures to safeguard the balance of payments, promote SMMEs and infant industries and revitalise rural and underdeveloped sub-national regions)

Sections 4.9 and 4.10 respectively deal with the issues of **life cycle costing and quality** (including and the SABS mark scheme and ISO), with a view to seeking means to avoid exclusion of emerging or local enterprises and small businesses.

Specific proposals around contract specific consideration of quality included the following:

- *The full and proper specification of requirements*
- *Improving, reviewing and updating procurement documentation on a regular basis*
- *Taking cognisance of whole life costing in the adjudication of tenders*
- *Utilising techniques such as value engineering when deciding upon procurement strategies*
- *Prequalifying tenders where exceptional quality is required*

- *According preferences to tenderers who offer products which have the SABS mark or Agrément or are manufactured in accordance with quality assurance specifications such as SABS ISO 9000 providing that such measures do not exclude products which may otherwise be acceptable*
- *Requiring tenderers to submit their plans for maintaining and improving quality together with their tenders, or to operation in accordance with Total Quality Management Principles, should such measures be deemed necessary to achieve the desired outcome*
- *Awarding contracts in terms of a quality/price mechanism which evaluates both price and quality of the offer*
- *Accepting tenders only from those firms whose names appear on a quality register*
- *Requiring consignment inspection*

These proposals are qualifying in that their application should be tested against the criterion that they are justifiable, will lead to a quantifiable improvement in quality, will lead quality appropriate to the needs of the end user rather than best possible quality, and will not promote captive markets.

Section 4.16 relates to using procurement as a tool for **stimulation of local economies**. The Green Paper warns against the potentially destructive power of protective approaches, that may damage neighbouring areas in already skewed economies, and lead to market distortions such as price inflation and dumping in neighbouring areas (while allowing local preference for low value contracts). Contract strategies, packaging of contracts and affirmative procurement practices are therefore favoured.

Section 4.18 deals with **labour issues**, in terms of compliance with labour legislation and job creation. The following proposals were put forward:

- *Suppliers, service providers or contractors who abuse labour standards should be disciplined by being deregistered and excluded from participating in public sector procurement for a period of time*
- *Contracts in contractor development programmes should be awarded to emerging contractors only after an independent party has verified that the sum tendered has the potential to meet minimum labour standards*
- *A common wage order applicable to all engineering and construction works projects, which is flexible enough to accommodate payment on the basis of outputs in specific circumstances, should be strived for in order to remove market distortions and enable tenders to tender on an equitable basis*
- *Employment equity should be linked to procurement only in instances where it can be adequately defined, quantified, measured, verified, audited and be implemented in a manner in which companies of different sizes are equitably treated.*

Section 4.27 addresses **environmental issues**, stating that procurement should be used to encourage suppliers to comply with environmental legislation, offer less environmentally damaging products and services, as well as develop products from recycled materials.

Specific proposals included:

Organs of state should:

- *Buy only from vendors who are in compliance with all environmentally-related legislation*
- *Prompt environmental awareness amongst suppliers, service providers and contractors*
- *Favour procurement of less environmentally damaging products*
- *Discriminate in favour of products made from recycled materials*
- *Require that suppliers limit packaging to the minimum necessary to protect the items supplied*
- *Favour products which provide information about their effect on the environment*
- *Develop the environmental awareness of government officials*
- *Develop and maintain a database of vendors in which information relating to their environmental conduct is retained*
- *Develop and promote a code of conduct for vendors*
- *Develop a policy with respect to the use of products containing asbestos*

Implications

While some of the issues addressed in the Green Paper have been taken up in subsequent legislation and regulation, there are some areas which have not been carried forward, and which might provide material for strategic recommendations going forward.

3.4 [Public Finance Management Act \(1999\)](#)

Relevant provisions

The overall principle informing the PFMA of ensuring that all revenue, expenditure, assets and liabilities of national and provincial government are managed efficiently and effectively. **Section 76(4)(c)** empowers the National Treasury to make regulations or issue instructions applicable to all institutions that determine a “*framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.*”

Implications

This provision within the PFMA reinforces the Constitutional framework, while creating scope for the procurement framework to be issued through regulations under the PFMA, rather than through an extension of the Procurement Green Paper into a White Paper and then an Act. It also situates procurement within the wider challenge of efficient and effective financial management.

3.5 [Preferential Procurement Policy Framework Act \(2000\)](#) and associated [regulations \(2001\)](#)

This Act gives effect to section 217(3) of the Constitution by providing a framework for the implementation of preferential procurement.

Key provisions

- 2(1) *An organ of state must determine its preferential procurement policy and implement it within the following framework:*
- (a) *A Preference point system must be followed;*
 - (b) *(i) for contracts with a Rand value above a prescribed amount a maximum of 10 points may be allocated for specific goods as contemplated in paragraph (d) provided that the lowest acceptable tender scores 90 points for price;*
(ii) for contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goods as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;
 - (c) *any other acceptable tenders which are higher in price must score fewer points, on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;*
 - (d) *the specific goals may include—*
 - (i) *contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;*
 - (ii) *implementing the programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;*
 - (e) *any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;*
 - (f) *the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and*
 - (g) *any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.*
- 2) *Any goals contemplated in subsection 1(e) must be measurable, quantifiable and monitored for compliance.*

Regulations published in terms of the Act in 2001⁹

The regulations provide formulae for calculating the 90/10 or 80/20 points.

...

Stipulation of preference point system to be used

7. *An organ of state must, in the tender documents, stipulate the preference point system which will be applied in the adjudication of tenders.*

Evaluation of tenders on functionality and price

- 8.(1) *An organ of state must, in the tender documents, indicate if, in respect of a particular tender invitation, tenders will be evaluated on functionality and price.*
- (2) *The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value equal to, or below, R500 000, not exceed 80 points.*

⁹ Ron Watermeyer, who was a member of the Procurement Task Team that developed the Green Paper and 10-point plan, believes that the regulations are “*ultra vires*” or go beyond the law in terms of which the regulations were made.

(3) *The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value above R500 000, not exceed 90 points.*

...

(5) *The conditions of tender may stipulate that a tenderer must score a specified minimum number of points for functionality to qualify for further adjudication*

...

Duty to plan for invitation of tenders

11. *An organ of state must, prior to making an invitation for tenders-*
- (a) *properly plan for, and, as far as possible, accurately estimate the costs of, the provision of services or goods for which an invitation for tenders is to be made;*
 - (b) *determine the appropriate preference point system to be utilised in the evaluation of the tenders; and*
 - (c) *determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed.*

General conditions

12 (1) *An organ of state may, in the adjudication of tenders, give particular consideration to procuring locally manufactured products. Preferences in this regard may be accommodated within the ambit of the Act's 80/20 or 90/10 point systems. For specific industries (identified by the Department of Trade and Industry), where the award of tenders to local manufacturers are of critical importance, such tenders may be advertised with a specific tendering condition that only locally manufactured products will be considered.*

Should preference points be awarded for local manufacturing and/or content, the award of such points must be clearly specified in the tendering conditions.

...

Specific goals

- 17(1) *The tendering conditions may stipulate that specific goals, as contemplated in section 2(1)(d)(ii) of the Act, be attained.*
- (2) *The stipulation contemplated in sub-regulations (1) must include the method to be used to calculate the points scored for achieving specific goals.*
- (3) *Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in Government Gazette No. 16085 dated 23 November 1994):*
- (a) *The promotion of South African owned enterprises;*
 - (b) *The promotion of export orientated production to create jobs;*
 - (c) *The promotion of SMMEs;*
 - (d) *The creation of new jobs or the intensification of labour absorption;*

- (e) *The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;*
 - (f) *The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;*
 - (g) *The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;*
 - (h) *The promotion of enterprises located in rural areas;*
 - (i) *The empowerment of the work force by standardising the level of skill and knowledge of workers;*
 - (j) *The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and*
 - (k) *The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.*
- (4) *Specific goals must be measurable and quantifiable and organs of state must monitor the execution of the contract for compliance with such goals.*

Implications

The scope provided by the Act and its associated regulations to consider local content (in terms of 12 (1) of the regulations) has not been fully utilised. The dti has exercised its discretionary powers in terms of this clause to temporarily designate the clothing, textiles, leather and footwear sector and one for exclusive local content procurements, subject to further research and investigation into the potential impact of this decision. The Act and regulations reinforce that any future consideration of local content must be transparent and indicated from the outset of the tender process.

The emphasis in application of the Act and associated regulations has primarily been on preference for HDIs, small business development (17(3)(c) of the regulations) or preference at a sub-national level with the objective local economic development (17(3) (e), (f) and (g) of the regulations). The integration with the broad-based empowerment envisioned in the RDP could be enhanced.

Furthermore, the scope to consider functionality along with price seems to have been under-utilised. The obligation to plan more effectively has also not been fully implemented. There is therefore an opportunity to expand the strategic and well-planned use of other specific goals identified in the regulations.

3.6 Targeted Procurement and associated Resource Specifications

Relevant provisions

In terms of TP, contracts are awarded on the basis of both price and developmental considerations, subject to tenderers meeting fundamental tender requirements around technical considerations, previous performance, financial references, qualifications etc. Preference is accorded through direct price preference in tender adjudication in contracts worth less than R2m, in line with the Preferential Procurement Policy Principles (points may be allocated on a 80/20 [up to R500 000] or 90/10 basis [R500 000 - R2m]), and direct participation through contract participation goals in accordance with the TP resource specifications in contracts with a value over R2m.

The six resource specifications that can be factored into TP contracts are as follows:

TP1: Targeting of affirmable business enterprises

TP2: Structured joint ventures (affirmable partners)

TP3: Structured joint ventures (targeted partners) - specific to building and construction contracts

TP4: [Targeting of local resources](#)

TP5: [Engagement of targeted labour](#)

TP6: Targeting of affirmable professional service providers

These resource specifications allow some scope for contractors to decide how they will attain the socio-economic objectives or targets set out in the tender through their bid.

The most relevant resource specification for this project is **TP4, the targeting of local resources**. The system applies this resource specification for construction and engineering projects, rather than the procurement of goods. The focus is on the geographical locality of the enterprises and/or labour (generally within the demarcated municipal area within which the construction or engineering project is taking place), with limited emphasis on the local content of manufactured goods.

Targets and weightings of each of the factors are determined at the tender development stage, and potential contractors are required to put forward a response as to how they plan to meet the targets.

Implications

The TP system provides a useful model of how consideration of socio-economic issues can be integrated into procurement selection and contract execution in a way that is fair, measurable and auditable.

However, implementation experience with TP also highlights the difficulties of implementing such systems effectively, and the potential hidden costs to both government and contractors that may be “unintended consequences” of the system.

3.7 Supply Chain Management Framework and Policy Guidelines

Overview

These regulations were issued in terms of section 76(4)(c) of the Public Finance Management Act, which states that the “National Treasury may make regulations or issue instructions applicable to all institutions to which this Act applies concerning... the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective”. They were published for public comments by 5 December 2002, in terms of section 78 the PFMA. The related policy document went through a consultative process within government, and has gone to Cabinet for final approval. Implementation of the framework is being phased beginning at national level, with some provinces already in the process of implementation. Some of the key objectives of the [draft supply chain management framework](#) are to develop integrated and consistent management of demand, acquisitions, logistics, disposal and supply chain performance, and to “create a common understanding and interpretation of government’s preferential procurement policy objectives”

Within this framework, the principles of the Preferential Procurement Policy Framework Act still apply.

Treasury will continue to issue “practice notices”, in order to provide further guidance to procurement officials within all public sector institutions.

Within this framework, the principles of the [Preferential Procurement Policy Framework Act](#) will still apply

The [Green Paper](#) related to procurement only, while the SCMF is related to the PFMA principles of sound financial management, and thus a more comprehensive response to the challenge. National Treasury will now be compelling accounting officers to plan for their procurement, including cash flow management, which is important in order for National Treasury to improve overall financial management

Once the Municipal Financial Management Bill is in place (currently in Parliament) the SCMF will apply to municipalities.

The draft policy document (in Section 4.1.6) requires accounting officers to ensure that suppliers **comply with all provisions of national labour laws**, and therefore reiterates, in slightly amended form, some of the proposals set out in the Green Paper, as follows:

- *Designate suppliers, service providers or contractors who abuse labour standards, as non-preferred suppliers.*
- *Ensuring that contracts in contractor development programmes be awarded to emerging contractors only after an independent party has verified that the sum tendered has the potential to meet minimum labour standards*
- *Striving for a common wage order applicable to all engineering and construction works projects, which is flexible enough to accommodate payment on the basis of outputs in specific circumstances, in order to remove market distortions and enable tenders to tender on an equitable basis; and*
- *Linking employment equity to procurement contracts only in instances where it can be adequately defined, quantified, measured, verified, audited and be implemented in a manner in which companies of different sizes are equitably treated.*

The draft policy also requires alignment of procurement with economic development objectives of Nepal.

The policy also calls for informed target setting for BEE and SMME participation. The draft policy document provides the following explanation of consideration of other RDP objectives:

The PPPF Act establishes a basis for determining disadvantages by unfair discrimination and provides a range of specific goals that may be pursued. These goals are based on the programmes set out in the RDP White Paper. The PPPF Act further provides that the goals should be measurable, quantifiable, and that monitoring for compliance should be possible.

The preference system is based on the principle that preferences should be implemented solely by means of bid evaluation criteria. As such, it excludes all other forms of preferencing such as set asides and preferencing at the shortlisting stage. In accepting this principle, the Act redefines the concept of value for money in terms of a balance between commercial factors and socio-economic development factors.

In practice, it remains difficult to relate all of the RDP objectives and programmes back to the level of individual contracts. Further analyses is therefore necessary with a prospect of also setting targets within the organisations with whom government concludes contracts, on the basis of which preference points could be considered.

The regulations also set out greater obligations on accounting officers to combat all forms of corruption.

While Proudly South African does not feature in the draft policy document or regulations, National Treasury has indicated that it “embraces the campaign” and that it is in the process of incorporating reference to Proudly South African in the final version¹⁰.

¹⁰ These commitments were made in a briefing to Nedlac in March 2003 and again at the Metals and Engineering procurement workshop on 16 May 2003. However, the nature of the consideration of Proudly South African within the SCMF has not been clarified.

Implications

The SCFM may improve coordination and information-sharing around procurement as a whole, and preferential procurement in particular.

The “practice notes” that will be issued by treasuries could be used as a vehicle to provide greater clarity around planning for and implementing various forms of preferential procurement. The Supply Chain Management Office in National Treasury, and training around the SCFM could also be utilised for this purpose. However, the framework does not provide clarity on all the relevant issues raised in the Green Paper.

3.8 (Pending) Municipal Finance Management Act (Bill B1-2002)

In terms of the current draft of the Bill, municipal accounting officers will be required to ensure that the municipality has and maintains “an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective” (in accordance with Constitutional requirements).

As with the PFMA, the Bill enables Treasury to make regulations or issue instructions a framework for procurement and provisioning that complies with these requirements.

3.9 South Africa’s Economic Transformation: A Strategy for Broad-Based Black Economic Empowerment

The recent publication of the draft [BEE strategy](#) by the dti aims to provide both clarity and certainty around broad-based black economic empowerment. Preferential procurement is seen as one of the key vehicles available to government to drive empowerment.

Relevant sections

3.5.5 Preferential procurement by government

Preferential procurement is an effective instrument to promote BEE in our economy. Government is reviewing its preferential procurement policy in order to enhance its impact on BEE. Clear targets will be set to increase the levels of preference to black-owned and black-empowered enterprises. The final target will be set once research on existing levels of black empowerment procurement has been completed.

In support of increased procurement by black-owned firms (as defined in Appendix B), government will expand its supplier development programmes to ensure that more black enterprises are created and are able to meet the requirements of purchasers in the public sector.

The enabling legislation on BEE will provide that all government departments, state-owned enterprises and public agencies must take into account any code of practice issues in terms of the legislation in determining and implementing their preferential procurement policy.

...

3.5.3.1 Government will use a 'balanced scorecard' to measure progress made in achieving BEE by enterprises and sectors. The use of a common scorecard by different stakeholders provides a basic framework against which to benchmark the BEE process in different enterprises and sectors. The scorecard will measure three core elements of BEE:

- Direct empowerment through ownership and control of enterprises and assets,
- Human resource development and employment equity,
- Indirect empowerment through preferential procurement and enterprise development.

3.5.3.2 The scorecard also allows government departments, state-owned enterprises, and other public agencies, to align their own procurement practices and individual BEE strategies. The scorecard also facilitates the process of setting measurable targets for BEE.

3.5.3.3 The scorecard will be issued as a Code of Good Practice in terms of the forthcoming enabling legislation. The code will allow for a measure of flexibility in order that it can be adapted to the particular circumstances of specific sectors or enterprises, while at the same time bringing a measure of standardisation to the definition and measurement of BEE.

In particular, government will apply BEE criteria, as set out in scorecard (or charter) whenever it:

- Grants a license to engage in a specific regulated economic activity, for example, gambling or mining,
- Grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state,
- Sells an asset or a state-owned enterprise,
- Enters into a public-private partnership,
- Engages in any economic activity.

Implications

The BEE strategy document, and the Act that is expected to be issued in terms of this strategy document, are likely to provide greater impetus to preferential procurement efforts in both the public and private sectors (in particular regulated industries). This is likely to result in amendments to the [Preferential Procurement Policy Framework Act](#) and [regulations](#) to enhance its effectiveness, which could provide an opportunity to raise the profile of local content, quality, labour and environment within the framework.

The black business supplier development programme mentioned in the strategy document was launched by the dti in April 2003, and may assist in developing productive local SMME capacity that meets empowerment criteria.

3.10 Binding stakeholder agreements

Over and above the commitments by business, labour, government and community to the Presidential Jobs Summit Agreement and Proudly South African, the following sectoral agreements have been reached that have a procurement component:

- The [Clothing and Textiles Sector Summit Agreement](#)¹¹, amongst other things, places strong obligations on government to support local producers, increase labelling of country of origin, and binds all constituencies to trying to secure buy-in and participation from retailers.
- The [Information and Communication Technologies Sector Summit Agreement](#)¹² calls for, at the very least a level playing field for local suppliers, and encourages support for the Proudly South African campaign.
- The [Liquid Fuels Charter](#) and [Mining Charter](#) have an emphasis on preferential procurement for historically disadvantaged individuals and enterprise development. The Mining Charter specifies procurement across capital goods, services and consumables, encouraging partnerships to increase capacity, and the compilation and maintenance of a list of suppliers.
- The Construction Industry Development Board has developed targeted procurement guidelines (guidelines [6](#) and [10](#))¹³ to provide industry members with an understanding of the conceptual approach of targeted and preferential procurement, and to provide a clear process to follow, while leaving scope to identify specific goals in relation to each contract.

Implications

This range of sector-level agreements which bind stakeholders to varying degrees to ensure fair or preferential access to local suppliers, promote BEE procurement and build supply chains/value matrices raise the following issues:

- It is possibly to reach agreement at a sectoral level on an approach to using procurement as a tool for sector development, empowerment and job creation
- However, implementation of such agreements can be problematic if the necessary stakeholders and representatives were not involved in the negotiations or had limited buy-in, and if insufficient resources are available to drive implementation and monitor compliance
- To date local content and empowerment objectives have not been fully integrated through these processes, and in some cases have been addressed through totally separate processes
- Industry procurement guidelines may provide a useful tool to provide clarity on preferential/targeted procurement, improve planning and consistency and reduce mismanagement, all of which could be beneficial to building production capacity and employment in that sector

Kaiser Associates has compiled the full text of these policy, legislative and stakeholder documents on a CD-Rom, which is available from the FRIDGE (and Nedlac) secretariats¹⁴.

¹¹ See the case study on the clothing, textiles and footwear sector

¹² See the case study on the ICT sector summit agreement

¹³ See the Targeted Procurement case study

¹⁴ See also the list of [primary](#) and [secondary](#) sources consulted by Kaiser Associates, which is available in spreadsheet format (including hyperlinks to documents available online).

4 SOUTH AFRICA'S MULTILATERAL AND BILATERAL OBLIGATIONS

4.1 Overview of the World Trade Organisation (WTO)

South Africa's membership of the WTO requires overall commitment to the principles of transparency and non-discrimination in trade. However, current WTO obligations in terms of the "single undertaking" or multilateral agreements do not apply to government procurement. South Africa has no intention to become a party to the plurilateral Government Procurement Agreement.

In terms of private sector purchasing, WTO provisions state that standard or technical regulation should not act as a disguised inhibitor of trade, or discriminate between nations; but special and differential treatment for less developed economies can be utilised to make concessions for economic development objectives. There is some international debate around the use of local content requirements tied to FDI, in relation to the Trade Related Investment Measures (TRIMs) agreement.

4.2 Specific agreements within the WTO

4.2.1 Plurilateral Government Procurement Agreement (GPA)

The [GPA](#) is not part of the WTO single undertaking, and WTO therefore decide whether or not they wish to be part of the agreement, with its associated obligations and reciprocal market access for signatories. The GPA contains obligations in relation to "national treatment" or non-discrimination and transparency for procurement over certain thresholds. Countries seeking to accede are required to put forward an offer list of national/federal, regional, local and public entity structures (and therefore have the right to exclude some structures), but existing members may reject the offer list if they feel that an insufficient proportion of procurement would fall under the agreement, and that the offer does not therefore constitute a legitimate effort to accede and thereby open up the procurement market.¹⁵ Once a signatory, other members may lodge a dispute against that country, should they feel that procurement procedures fall outside of the procedures set out by the GPA.

Very few WTO members have acceded to the agreement, and most who have are developed economies (Canada, EU Member states, Hong Kong, China, Iceland, Israel, Japan, Korea, Liechtenstein, Aruba, Norway, Singapore,

¹⁵ See Imboi Choi's paper on "Long and Winding Road to the Government Procurement Agreement: Korea's Accession Experience" for an example for the potential extent of this process.

Switzerland, US). The South African government has no intention to accede, but will continue its observer status.

4.2.2 Trade Related Investment Measures (TRIMs) (relevant to MNCs/FDI)

The [TRIM](#) agreement has obligations around notifiable investment measures that prohibit mandatory local content requirements or offsetting imports with imports of domestic products

There is some legal ambiguity about how this impacts on government procurement; notwithstanding TRIMs, offset/industrial participation-type programmes continue to be standard practice in many countries

The majority of recent disputes under TRIMs have been initiated by the US and EU, with a dominance of automotive sector cases, and primarily against India and the Philippines.

Numerous tensions exist between North and South on the direction of Doha TRIMs review. For example, In May 2002, India and Brazil called for substantial modification of the TRIM agreement to allow indefinite maintenance of local content requirements. Pakistan, supported by Colombia, Cuba and the Philippines is arguing that local content requirements have brought down prices in the domestic sector and helped local manufacturers to be more competitive

4.2.3 Agreement on Technical Barriers to Trade

In terms of this [agreement](#), a standard or technical regulation should not act as a disguised inhibitor of international trade, or discriminate between nations. South Africa has established a WTO standards notification point in SABS in order to comply with its obligations in terms of this agreement

4.3 Potential future obligations

4.3.1 Potential extension of General Agreement on Trade in Services to include government procurement

Extension of the scope of GATS to include government procurement of services has been placed on the agenda as a discussion area of the Committee on Trade in Services. In terms of the timeframes set out for these discussions, a report is expected at the Ministerial meeting in Mexico in September 2003. However, talks have not made significant progress to date, and any decision in Cancun on this issue is therefore unlikely.

4.3.2 Potential multilateral agreement on Transparency in Government Procurement

The Doha Ministerial Meeting agreed that any such agreement would not inhibit countries from exercising preference for domestic suppliers. The role of the EU in these negotiations may shift because of the decision by the European Court of Justice (Case C-513/99, Helsinki Concordia Bus Finland) allowing consideration in procurement decision-making of the "public interest" and socio-economic issues beyond the direct benefit to the purchaser (such as labour and environmental standards), accompanied by increasing pressure from EU labour and other civil society groups¹⁶.

The future of WTO negotiations is highly uncertain, as limited progress has been made since the Doha Ministerial meeting. Many experts are of the view that little progress will be made in Cancun, Mexico in September 2003.

4.4 Other multilateral obligations (environment and labour)

Labour standards do not currently fall within the domain of the WTO. While numerous debates have taken place around the merits and dangers of the inclusion of labour standards in the trade regime, little agreement has been reached. The current approach is for discussions with other multilateral institutions, in particular the International Labour Organisation (ILO), about their potential role, and the potential implications for enforcement and dispute resolution mechanisms. Depending on the outcome of these discussions, there may be some multilateral obligations around labour standards and procurement.

Similarly, multilateral environmental agreements (MEAs) may in the future contain some obligations in relation to core environmental standards. The current international environment in this regard is not clear, given the lack of clarity around how WTO provisions and MEAs interact.

4.5 Current and future bilateral obligations

The SAEU Trade Development and Cooperation agreement foresees cooperation to ensure that procurement contracts are governed by a system which is fair, equitable and transparent. Internationally, trade agreements increasingly include a public procurement component. For example, the EU has negotiated national treatment in government procurement into its agreement with Mexico and is seeking agreements with Chile and Mercosur.

¹⁶ See Coalition for Green and Social Procurement Statement "Whose money is it anyway? European Court Decision confirms EU public procurement rules must reflect public interest", <http://www.epso.org/projects/procure/CoalPR.pdf>

Within the SACU - USA FTA agreement that is currently under negotiation, the US has made its intention clear to include government procurement in the negotiations.

4.6 Implications

In conclusion, while the WTO itself is not likely to pose significant direct restrictions on government procurement in the short to medium term, bilateral trade agreements and/or perceived "international best practice" might increasingly apply pressure to open up government procurement.

Kaiser Associates has compiled the full text of these agreements on a CD-Rom, which is available from the FRIDGE and Nedlac secretariats¹⁷.

¹⁷ See also the lists of [primary](#) and [secondary](#) sources consulted by Kaiser Associates, which is available from the FRIDGE secretariat in spreadsheet format.

5 FRAMEWORK FOR UNDERSTANDING AREAS OF INTERVENTION, ROLEPLAYERS AND MECHANISMS

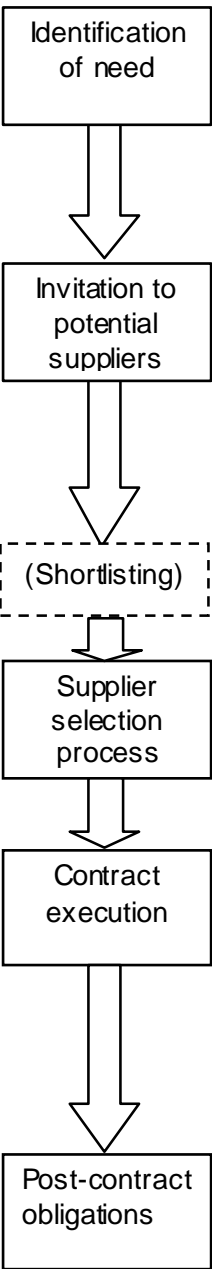
In formulating a framework for the development of strategic options for preferential procurement in South Africa, it is necessary to answer the following basic questions, given the constraints and opportunities identified in the previous section:

- At what stages of the procurement process can consideration be given to socio-economic goals?
- What are the fundamental issues in the purchaser-supplier relationship, and what issues are specific to the organisation type?
- What potential roles are there in transforming procurement?
- Who are the roleplayers operating within the system, and what influences them?
- What are the mechanisms available for effecting change within the current system?

Because of the complexity of the challenge, each of these questions is addressed in turn. The relationship between them can then be drawn together more concretely through the strategic recommendations.

5.1 Stages in the procurement process

Most purchasing decisions go through a relatively standard process which is set out in the diagram below. Depending on the nature of the organisation, the steps in the process may be more or less formalised, and may be dealt with by different people or sub-structures. At each point in the process, different mechanisms may be used to consider issues which will influence the socio-economic impact of the purchasing process. These mechanisms may be categorised as reservation (R), i.e. restriction to a targeted group of potential suppliers; preferencing (P) or indirect (I) consideration.

STAGES IN PROCESS	EXAMPLES OF MECHANISMS
 <p>Identification of need</p>	<ul style="list-style-type: none"> • Inclusion/exclusion of factors in definition of “need” e.g. output/product vs. process requirements and setting of targets (I) • Selection of technical specifications (I) • Pre-qualification criteria (R/I) • Identification of deadlines for submission (I) • Deadlines for delivery (I)
<p>Invitation to potential suppliers</p>	<ul style="list-style-type: none"> • Exclusive invitation to small group to submit tenders - formal or informal “set asides” (R) • Selection from within (possibly pre-qualified) database (P) • Selection of media in “open tender” process (I) (Government Gazette, national newspapers, regional/local papers, internet advertising)
<p>(Shortlisting)</p>	<ul style="list-style-type: none"> • Choice of shortlisting criteria (P/I) • Method of application of shortlisting criteria (P)
<p>Supplier selection process</p>	<ul style="list-style-type: none"> • Choice of criteria for selection (I/P) • Absolute “cut-offs” (R) • Allocation of points and weighting of criteria (P) • Step-in clause/price matching/offering back (R)
<p>Contract execution</p>	<ul style="list-style-type: none"> • Minimum requirements/targets in execution of contract (I) e.g. <ul style="list-style-type: none"> - sub-contracting/JVs/partnerships/mentoring with target groups - quality, labour and environmental standards - use of local content/labour - employment-friendly technologies
<p>Post-contract obligations</p>	<ul style="list-style-type: none"> • Built into conditions of contract, requirements around changes in operations, future investments (I) e.g. industrial participation

From this framework it is clear that consideration of a socio-economic issue within procurement does not always require “discriminatory” preference. Differing degrees of competitiveness, fairness, transparency and equity can be achieved by each of these mechanisms, depending on the specific approach and its application. The degree of transparency is improved by defining any

conditions or preference from the outset of the contract/tender planning process, and making these known to any potential suppliers.

Over and above contract-specific approaches, wider supply-side initiatives can be taken (by either the purchaser or other support structures) to develop capacity that complies with those requirements or contributes to reaching targets (such as BEE, women's empowerment, small business development, local content and/or local economic development, quality, labour and environment)

5.2 Key themes in the purchaser-supplier relationship

In order to fully understand the dynamics of preferential procurement in South Africa, it is crucial to examine the purchaser-supplier relationship and extract any common themes therein from which to identify potential areas of intervention.

Various **crosscutting themes** have emerged around relevant obstacles and opportunities common to both purchasers and suppliers, including:

5.2.1 Information

In terms of information, the primary obstacle is around the lack of available information and therefore knowledge on both the purchaser side, about suppliers, and on the supplier side about procurement opportunities.

5.2.2 Understanding & perceptions

On the purchasing side, there is limited understanding of the capacity of local suppliers, and therefore a perception that local suppliers inherently produce goods of lower quality than imported product. Also there is a not a full understanding of the strategic scope within procurement systems, and the fact that it can be used for economic development means a range of procurement-related objectives.

From the supply side, suppliers are often uninformed or misinformed about the purchaser's systems and technical requirements around quality and service.

5.2.3 Inertia

Although evident on both sides of the relationship, inertia is greater on the purchasing side where established relationships with suppliers, lead to an unwillingness to source and build new supplier relationships.

With suppliers, the inertia of sourcing new purchasers also exists, but it is less widespread as often this is supported by sales and marketing functions within an organisation.

5.2.4 Procurement technicalities

A primary weakness on the purchasing side is the way in which requests for proposals or quotations are prepared. Often there is insufficient planning

and time for suppliers in which to respond, and the technical specifications may also be prejudiced or inappropriate to the request. This points at a lack of awareness and training on the part of people responsible for the drafting of the documentation, who may be quite far removed from the actual end user.

From the supply side, there may be an inability to meet the requirements of the tender or RFQ within the allotted time. This is particularly true with SMMEs.¹⁸

5.2.5 Abuse

Abuse is present in the form of inappropriate relationships between suppliers and purchasers, particularly in the public sector, wherein “wining and dining” is a form of corruption that does take place with varying degrees of regularity. From the small supplier side, this practice in the private sector, although not considered corrupt, makes it difficult for small companies to compete with larger ones, as they may not have the same account management resources as a larger organisation.

5.2.6 Capacity & competitiveness

Purchasers are driven by a desire to improve cost-competitiveness and quality through their supply chain management, and suppliers are equally driven by delivering quality and cost competitively and show that using their products and/or services can add value to the purchaser’s supply chain.

The table below outlines some of the constraints and opportunities of specific organisation types as both purchasers and suppliers.

¹⁸ Several Tender Advice Centres (TACs) interviewed reported SMMEs coming to them for assistance the day before a tender closes as being a common practice.

As purchasers	Constraints	Opportunities
Public sector and parastatal	<ol style="list-style-type: none"> 1. Incomplete understanding and implementation of complex procurement systems 2. Lack of consistent application of procurement policy within and between organisation 3. Priority focus on empowerment of HDIs, so must make sure local content procurement is complementary or value adding, rather than competing for these dedicated resources 	<ol style="list-style-type: none"> 1. Centralised legislation with wide influence on whole public sector 2. Priority focus on empowerment of HDIs, so if can extend definition, there is already a defined network for implementation
Large local company	Lack of time and resources to meet with, and/or seek new suppliers	Leadership driven changes leading to rapid implementation
Multinational	Relationships with parent companies (decision-makers) and international suppliers	Improving competitiveness by reducing vulnerability to currency fluctuations and limiting logistics costs of global supply chain
Small business	Limited resources to seek and assess new suppliers	Leverage local capacity for flexibility/competitive advantage
As suppliers	Constraints	Opportunities
Large local companies	Lack of resources to match or challenge prices of international suppliers that undercut prices to gain market entry	Drive to position South African suppliers in priority sectors as globally competitive suppliers
Small business	<ol style="list-style-type: none"> 1. Limited resources to seek and assess new suppliers 2. Challenges in meeting technical, quality and delivery time requirements 	Desire for increased exposure and growth
BEE/ HDI	Specific capacity constraints and issues of redress	Potential to integrate supply chain / local content into empowerment definition

5.3 Role players and influencers

In examining the role players and influencers within South Africa with regards to preferential procurement, it is possible to split them into essentially five groups as shown below, each with its own set of goals with which local content procurement need to coincide in order to be addressed, or given priority.

It is therefore also necessary to also identify the likely key messages for securing buy-in with each role player, in order for them to either bring local content procurement onto the agenda, or push it further up an agenda if it is already a peripheral part of a role player's viewpoint.

5.3.1 Multi-stakeholder structures

- Proudly South African
- Nedlac
- Industry Development Boards/Councils/Clusters/Sector Summit structures

Multi-stakeholder structures play a dual role as both “enabler/linkage” between various constituencies, including consumers, and as an advocate/lobby for preferential procurement.

Whilst some other stakeholder structures may touch on procurement issues, ‘Proudly South African’ is the only stakeholder for whom preferential procurement to encourage a greater awareness and use of local content, quality environmental, and labour standards in making procurement decision is “core” business, and does not therefore require further incentive to address the issue.¹⁹ However, stakeholders will need to be convinced of the value of contributing additional resources to strengthen the capacity of multi-stakeholder structures such as Proudly South African that might have, implementation, coordination, as well as monitoring and evaluation or oversight functions.

5.3.2 Government

- National Treasury
- Department of Trade and Industry (the dti)
- Department of Public Works
- Department of Public Service and Administration
- Provincial Government
- Local Government Structures
- Government-funded support structures (Ntsika, TACs)

Government plays various roles within the preferential procurement environment, primarily as legislator/regulator and as a large contract purchaser. This regulation impacts primarily on the public sector, parastatals and regulated industries.

¹⁹ See Proudly South African – AECM case study in the [Case Studies](#) document

Over and above its legislative role, government's role as enabler of development for HDI businesses and SMMEs for example, can be seen in the support structures with which it is involved, such as the Tender Advice Centres (TACs).

Key messages for securing buy-in

As national Government is already involved in setting a national procurement agenda, the challenge is to strengthen the emphasis on local content as one of the key vehicles for socio-economic development. There are various ways of approaching Government on this issue, in line with the various roles it plays as described above.

As a legislator/regulator, the case can be made for local content procurement as a tangible way of implementing RDP objectives around employment creation, regional and local economic development and empowerment of the workforce. It also ties closely to the principles of creating employment, supporting increased competitiveness, and integrating value matrices, which all feature strongly in Government's Integrated Manufacturing Strategy.

In addressing Government as a purchaser, it is critical to ensure that further consideration of local content, quality, labour and environment in tenders is not done in a way that compromises the requirement for procurement to be fair, equitable, transparent, competitive, and cost effective²⁰. In fact, there may be products where local producers can give better value for money, particularly in terms of the whole-of-life cost of a purchasing decision.

For provincial and local government structures in particular, as enablers supporting regional and local economic development, Government could be open to using local content standards in procurement decisions to support these goals. In fact, it has the mandate within the regulations pertaining to the Preferential Procurement Policy Framework Act to set local content preference within priority sectors, a mandate which it has only recently started using on a test case basis within the clothing and textiles industry.²¹

Finally, one can appeal to Government as the "conscience" for the economy, and argue that not only is local content procurement compatible with Government's roles as legislator, purchaser, and enabler, but that in order to ensure successful implementation throughout South Africa, it must start with being adopted in a widespread and integrated way by Government.

²⁰ See Targeted Procurement for Construction & Engineering Projects case study in [Case Studies](#) document

²¹ See Clothing, Textiles and Footwear Sector Overview in *Case studies* document

5.3.3 Parastatals

As an extension of Government, parastatals play a critical role, primarily as a purchaser of, in many cases, large contracts for both products and services. This purchasing power also places it in the role of enabler for economic development within South Africa, over and above the enabling role that can be played by the effective provision of various utilities and services.

Likely key messages for securing buy-in

As with Government, in approaching parastatals as a purchaser, it is important to underline that supporting local content in its procurement practices, does not need to negatively effect purchasing procedures, does not need to dilute their empowerment efforts, and can be built into the current processes quite easily. Again, parastatals are also concerned with value for money in purchasing, and the affordability of local products and services, without a significant, if any, compromise on quality is a sentiment to which parastatals should be open.

As an enabler, parastatals also play a role in building the economy's competitiveness and integrating value matrices, which should be extended to its purchasing practices, and is something which local content procurement can indeed support. Lastly, as parastatals are Government owned to varying degrees, they are also heavily involved in implementing Government's socio-economic priorities, and local content procurement can easily be seen as a key tool in their realisation.²²

5.3.4 Organised Business

- National Business Structures
- BEE Structures
- Corporate Small Business Development Forum (CSDF)
- Industry Associations

Organised Business plays a key role in acting as an advocate/lobby for the constituency overall. The fact that it represents both sides of the purchasing equation makes the lobbying a delicate balancing act.

Likely key messages for securing buy-in

In order to get Organised Business behind local content procurement, it is necessary to incorporate local content into wider issues of economic development currently being addressed through Organised Business structures. These issues include BEE, and specifically the current trend towards revising the definition of BEE beyond the question of ownership, as well as issues such as employment creation, and increased competitiveness.

²² See Eskom case study in [Case Studies](#) document for further details

Additionally, the more one can incorporate local content standards into existing systems of procurement, the more receptive businesses are likely to be to adopting these standards.

5.3.5 Individual/groups of businesses as purchasers and suppliers

Individual businesses play the dual role of purchaser and supplier, as well as, particularly for large South African companies, acting as a leader or model for the private sector overall. Businesses also act as lobby/advocate and may, depending on the level of regulation and the strength of its role as private sector leader, have close relationships with Government.

Likely key messages for securing buy-in

When examining the manner in which individual businesses feel towards preferential procurement, it is most appropriate to look them according to three different types: large South African companies, multinationals, and small businesses.

Large South African companies as purchasers are concerned with maintaining enhanced efficiencies and competitiveness throughout their supply chains, and therefore are most likely to be interested in incorporating local content, quality, labour and environment considerations into their procurement processes if doing so can be directly linked to these types of gains. However, South African corporates also demonstrate that supporting South African businesses can be part of their corporate social responsibility mandate.²³ Lastly, depending on the nature of the business, large South African companies may further examine local content procurement as being in alignment with commitments made to Government (either formal or informal) regarding the provision of support for government development priorities²⁴.

Multinationals, like large local companies, are most likely to consider local content, quality, labour and environment within their procurement practices if it will contribute directly to enhanced efficiency and increased competitiveness.²⁵ However, there may also be further scope for adding in local content and social responsibility requirements into FDI/industrial participation arrangements.²⁶

With **small business**, there is a greater propensity for supporting local content as a purchaser, where relatively cost-competitive capacity exists locally, due to the relatively small size of orders, which can more easily and flexibly be provided by local suppliers, and makes supplier management much more manageable. As often there is not a dedicated purchasing person, this ease of management is a

²³ See Sun International – SACTWU case study in the [Case Studies](#) document

²⁴ See Anglo American's Zimele initiative and Sasol Oil case studies in the *Case Studies* document

²⁵ See Toyota SA case study

²⁶ See SAAB & BAE SYSTEMS - SANIP case study

key reason for using local suppliers. Also, when there is a leader who is committed to assisting the growth of the South African economy through job creation and supporting local businesses, it is easier to make sure this sentiment permeates the organisation if it is smaller.

As a supplier, small business wants to support local content as being a main point of differentiation in the marketplace, and assisting with increased exposure. For these suppliers, local content is a means by which they hope to grow local and even international market share.²⁷

5.3.6 Organised Labour

- National Structures
- Individual Unions
- Shop stewards and shopfloor forums

Labour plays roles as part of the production process on the supply side, in terms of advocacy and lobbying, and as an investor.

Likely key messages for securing buy-in

Labour as an advocate will be most open to backing the increase of local content standards in procurement if it is tied to increased employment opportunities, protects existing capacity and supports enhanced labour conditions and human resource development (HRD).

As a producer, Labour can contribute to the quality and competitiveness of the economy and thus contribute to job creation. Labour can also play a role in shifting the mindsets of procurement officials within organisations to consider quality, local content and broad-based empowerment when making procurement decisions.²⁸

Lastly, as an investor, Labour is concerned with making ethical investment decisions, which support the overall development of the economy as well as its goals of increased employment, better labour conditions, and increased HRD, and local content procurement can be integrated into this framework.

5.3.7 Civil society structures and consumers

Civil society structures and consumers may also play a role in creating “demand pull” along the supply chain, thus encouraging large purchasers to take their purchasing criteria into consideration where such purchasing has a cumulative effect e.g. where total local content information is desired, environmental product life-cycle analysis is required, or labour conditions need to be tracked throughout the value chain.

²⁷ See SMME business case studies in [Case Studies](#) document

²⁸ See Sun International – SACTWU case study in [Case Studies](#) document

Once it has been established who is capable of affecting change within the preferential procurement environment, in what capacity they are likely to accept the incorporation of local content procurement, and have a full picture of the dynamics within the system, it is necessary to examine what tools are available to these role players in order to make a change.

5.4 Potential mechanisms

Kaiser Associates, through its research within South Africa and internationally, has identified the following potential mechanisms for implementing changes toward the incorporation of local content procurement across both the private and public sectors.

5.4.1 Information gathering and management

In order to be able to let suppliers and purchasers know about purchasing opportunities and requirements of contracts or tenders, it will be necessary to develop an efficient way in which to collect and manage that information, from both the purchase and supply side.²⁹

5.4.2 Policy, strategy and regulation

In both the public sector and the regulated parts of the private sector, policy, strategy and regulation can be an effective means with which to affect change. Specifically for local content, this means extending the use of the regulations pertaining to the Preferential Procurement Policy Framework Act, which allows Government to give preference for priority sectors, as well as incorporating the principle of preference for local content into the Supply Chain Management Framework currently being rolled out.

5.4.3 Guidelines and tools

Given that both from a purchaser and supplier side there has been evidence that training is needed to improve the procurement process, guidelines and tools can be an effective way in which to arm procurement people with the necessary understanding of preferential procurement, particularly if they are packaged in the form of a procurement handbook.³⁰

5.4.4 Agreements (sectoral/other)

Agreements between stakeholders can make a powerful statement to the public about the parties' mutual commitment to supporting local content procurement, but in order to be effective, it needs to be tied to concrete

²⁹ See National Minority Supplier Development Council case study in [Case Studies](#) document

³⁰ See Green Purchasing in Europe's Public Sector case study in [Case Studies](#) document for more details

and measurable milestones, and specific down to the individual product itself.³¹

5.4.5 Training and human resource development

A strategic approach to local content standards in procurement is required, and therefore purchasing staff need to be trained about the motivation behind it, as well as its impact, and finally about how and when to use it. Additionally, if there is any kind of centralised management of information system (eg databases) that is developed, personnel should be trained on the ways in which to use it most effectively when filling contracts or tenders.

5.4.6 Advocacy and lobbying

Particularly within South Africa, where there is a highly developed stakeholder network, and a dedicated organisation to raising issues of national importance for discussion amongst stakeholders in the form of Nedlac, advocacy and lobbying will be critical tools in achieving the adoption of preferential procurement preferences for local content.

5.4.7 Information dissemination and awareness-raising

Fundamental to the ability of roleplayers to affect change, is the access to information about what to change, why to change, and how to change. Therefore in order to implement local content procurement effectively, the first critical tool is information and making all stakeholders aware of the importance of supporting local businesses in their purchasing.

5.4.8 Coordination and networking

Coordination and networking are critical tools for encouraging a greater examination of local content in procurement decisions, both within the public sector, particularly across Government departments, as well as within the private sector, where networking is often a key source for referrals of suppliers.

5.4.9 Championing/drive by leadership

Championing and endorsement from the top will be critical tools in effectively implementing a change towards giving preference for local content, both within the private sector where CEO level endorsements have been key in driving the message through an organisation³², as well as in the public sector, where Government plays a role as 'national conscience' and guides the direction of economic development.

³¹ See ICT Sector Summit Agreement on Procurement and Sun International SACTWU case studies in the [Case Studies](#) document

³² See Sasol Oil case study in *Case Studies* document

5.4.10 End consumer pressure

End consumers can act as a vital mechanism for change in driving demand for local content, and putting local content procurement on the national agenda across the public and private sectors.

5.4.11 Civil society action

Equally powerful is a statement through civil society action, expressing the need for change within an existing system through mass demonstrations by Labour or by a combination of labour, end consumers, and other stakeholders.

5.4.12 Monitoring & evaluation

Finally, monitoring and evaluation are key mechanisms, which can affect change and act within the existing system quite easily, and are compatible with the objectives of transparency, and accountability seen as critical within the public sector in particular.

6 POTENTIAL SECTORAL IMPACT

The absence of coherent and reliable information on current sectoral procurement patterns and change trends makes it extremely difficult to determine with any certainty where the greatest opportunities are for a shift in procurement, and what the potential impact of that might be.

However, the analysis conducted below, based on data provided by the IDC, provides some indications of high-level trends. These trends include the following:

- Local production is increasing, but this production is increasingly export-oriented
- Import penetration is increasing in most sectors
- Sectors where domestic demand is increasing, and imports are increasing at far greater rate than production include chemicals, professional equipment and transport
- Sectors where exports are growing and production is not increasing significantly include food, clothing, textiles and petroleum, indicating a diversion of production rather than growth
- There is therefore a trend of decreasing domestic demand being met by local production

Code	Sector	Production (R Million)				Exports to world (R Million)				Imports from world (R Million)			
		1998	1999	2000	2001	1998	1999	2000	2001	1998	1999	2000	2001
1	Processing of food	4,386.6	42,954.7	42,953.6	45,418.9	6,715	6,665	7,582	9,219	5,524	5,310	5,859	6,810
2	Beverages	15,606.8	15,371.6	14,133.4	14,821.1	1,662	1,935	2,641	3,410	1,044	1,012	836	942
3	Textiles	8,338.8	8,138.5	8,336.1	8,593.9	1,410	1,618	1,818	2,107	3,009	2,922	3,255	3,468
4	Clothing, excl. footwear	8,622.5	8,707.9	8,157.5	7,778.9	1,083	1,374	1,862	2,053	1,397	1,489	1,876	1,981
5	Leather and leather products	1,963.6	2,183.1	2,325.3	2,039.8	798	929	1,223	1,080	663	686	833	867
6	Furniture	1,999.6	1,845.3	1,748.6	1,498.1	91	116	122	111	969	1,102	1,420	1,665
7	Wood and wood products	6,958.9	6,759.7	7,087.3	7,164.0	1,384	1,756	2,152	2,522	917	924	1,201	1,268
8	Paper and paper products	15,018.3	15,687.6	16,830.3	16,537.3	4,200	4,815	6,476	6,520	2,407	2,498	2,669	2,887
9	Printing and publishing	8,719.8	8,668.6	8,177.5	7,900.4	245	244	370	421	2,298	2,150	2,331	2,350
10	Petroleum and petroleum products	14,548.5	15,437.4	15,171.4	15,176.2	2,506	4,193	8,995	10,337	1,883	1,887	2,260	4,029
11	Industrial chemicals	15,295.8	16,571.6	17,614.4	18,320.8	6,999	7,965	9,523	11,574	8,031	8,281	10,163	11,302
12	Other chemical products	19,274.4	19,311.8	19,039.1	19,696.7	3,513	3,951	5,157	5,516	9,660	10,681	12,264	14,305
13	Rubber products	3,431.8	3,373.0	3,587.8	3,608.4	748	954	1,123	1,248	1,480	1,556	1,685	2,044
14	Plastic products	7,701.7	7,334.2	7,694.4	8,249.4	674	769	924	1,044	1,702	1,874	2,187	2,607
15	Glass and glass products	1,961.6	1,894.8	1,936.1	2,165.3	303	362	439	462	702	591	658	696
16	Non-metallic mineral products, nec.	7,487.4	6,752.9	7,189.6	7,254.3	814	947	1,021	1,286	1,589	1,870	2,308	2,600
17	Basic iron and steel products	20,858.3	20,822.5	24,971.6	24,440.0	13,896	14,737	19,355	18,464	2,132	2,070	2,290	2,708
18	Non-ferrous metal products	10,174.1	10,790.7	11,504.6	12,105.3	8,959	8,186	9,341	8,990	2,907	2,708	4,136	3,529
19	Metal products, excl. machinery	21,616.4	19,712.2	20,564.0	22,088.8	2,036	2,477	3,020	3,217	3,196	3,166	3,256	3,953
20	Non-electrical machinery	1,638.5	15,692.0	16,031.2	17,548.8	7,413	9,390	12,266	17,618	30,446	27,098	30,576	35,797
21	Electrical machinery	9,642.4	9,436.7	10,004.9	10,066.9	1,474	1,900	2,529	2,712	5,264	5,138	5,856	6,618
22	Radio, television and communication apparatus	3,551.7	3,749.1	3,657.0	3,256.2	1,188	1,381	1,833	2,337	15,383	12,257	15,413	15,516
23	Professional equipment, etc.	973.3	958.0	995.1	1,100.1	810	845	969	1,191	5,236	5,322	6,268	7,519
24	Motor vehicles, parts and accessories	2,8168.8	33,288.8	39,452.9	44,015.2	6,604	10,528	13,117	18,399	16,018	18,488	25,343	31,679
25	Other transport equipment	2,981.3	2,142.4	2,178.3	2,229.8	1,963	2,208	2,912	2,518	4,605	5,800	6,890	9,104
26	Furniture	4,768.5	4,733.5	4,560.3	4,541.8	2,461	2,467	2,784	3,221	447	646	731	965
27	Other manufacturing	9,120.7	8,774.6	9,085.4	9,010.8	2,411	3,044	4,405	5,170	2,846	2,993	3,066	2,899
81	Agriculture	4,3839.7	46,059.0	49,428.7	48,456.2	6,286	7,278	6,885	8,694	3,086	2,831	3,299	3,024
	TOTAL	351,446	357,122	374,177	384,919	88,641	102,772	130,841	151,364	134,657	132,951	159,294	183,143

Code	Sector	Net domestic demand (Rmn) 2001	% change domestic demand (CAGR) 1998 - 2001	% production exported 2001	% change production exported (CAGR) 1998-2001	% domestic demand locally supplied 2001	% change domestic demand locally supplied (CAGR) 1998-2001
1	Processed food	4 3009	0.65%	20.30%	9.46%	84.17%	-1.08%
2	Beverages	1 2353	-6.24%	23.00%	29.26%	92.38%	-0.24%
3	Textiles	9 956	0.06%	24.51%	13.18%	65.16%	-2.23%
4	Clothing, excl. footwear	7 707	-4.81%	26.39%	28.08%	74.30%	-4.15%
5	Leather and leather products	1 846	0.29%	51.99%	8.65%	53.04%	-5.97%
6	Footwear	2 990	1.48%	7.75%	19.25%	44.33%	-12.54%
7	Wood and wood products	5 910	0.10%	35.20%	17.40%	78.54%	-2.39%
8	Paper and paper products	12 904	-0.81%	39.43%	12.12%	77.63%	-1.73%
9	Printing and publishing	9 738	-3.13%	5.40%	24.31%	75.77%	-1.43%
10	Petroleum and petroleum products	8 868	-13.97%	68.12%	58.15%	54.56%	-14.23%
11	Industrial chemicals	18 049	3.40%	63.17%	11.35%	37.38%	-9.73%
12	Other chemical products	28 486	3.87%	28.00%	15.39%	49.78%	-7.06%
13	Rubber products	4 404	1.89%	34.59%	16.63%	53.59%	-5.96%
14	Plastic products	9 812	3.96%	12.66%	13.26%	73.43%	-3.02%
15	Glass and glass products	2 370	0.13%	22.74%	13.73%	70.61%	0.17%
16	Non-metallic mineral products nec	8 569	1.22%	17.72%	17.70%	69.65%	-4.81%
17	Basic iron and steel products	8 684	-1.53%	75.55%	4.28%	68.82%	-3.49%
18	Non-ferrous metal products	6 644	18.21%	74.27%	-5.52%	46.89%	15.78%
19	Metal products, excl. machinery	22 824	0.07%	14.57%	15.64%	82.68%	-1.29%
20	Non-electrical machinery	35 728	-3.43%	100.39%	31.11%	-0.19%	-120.28%
21	Electrical machinery	13 973	1.32%	26.94%	20.80%	52.64%	-4.70%
22	Radio, television and communication apparatus	16 435	-2.53%	71.77%	28.98%	5.59%	-25.12%
23	Professional equipment etc.	7 427	11.21%	108.29%	9.19%	-1.23%	-174.00%
24	Motor vehicles, parts and accessories	57 385	15.15%	41.60%	21.06%	44.80%	-7.92%
25	Other transport equipment	8 814	20.54%	113.05%	11.25%	-3.30%	-172.93%
26	Furniture	2 286	-6.02%	70.92%	11.17%	57.78%	-11.64%
27	Other manufacturing	6 740	-10.99%	57.37%	29.47%	56.99%	-6.72%
81	Agriculture	4 2786	1.73%	17.94%	7.76%	92.93%	0.19%
	TOTAL	41 6699	1.59%	39.32%	15.96%	56.05%	-5.36%

Over and above the statistical analysis, some issues have emerged from the case studies, such as:

- In the **clothing, textiles and footwear** sector, South African suppliers may be able to find further market niches in which they could increase market share, but not in the low-cost end of the market. Accessing private sector procurement and securing buy-in from retailers is key to this, as government procurement does not constitute a large portion of the market. There is little scope for growth in the wool and mohair sub-sector through local procurement, which is a small, luxury-end market segment and already primarily supplied domestically)
- Further scope exists for the localisation of the **automotive** supply chain, particularly in high bulk, and low-to-medium technology components, for both domestic consumption and export of components and assembled vehicles.
- In the **Information and Communication Technologies** sector, the industry believes there is greater scope for local procurement if exclusionary technical specifications are eliminated, in specific areas of hardware, software and related services. However, with respect to hardware, the integration of supply chains and greater local manufacturing, rather than just local assembly of imported components, would be required to increase the employment impact of increased procurement in this area.
- In the **metals and engineering** sector, numerous opportunities exist for further procurement from competitive local suppliers, including electrical cable, electrical switchboards, rail signalling systems and rolling stock. Hurdles to this include the purchasing patterns of major national government,

municipal and parastatal purchasers, as well as the materials shortage created by the issuing of export licenses for scrap metal.

- There are significant obstacles to further local content procurement in the **pharmaceutical sector**, given the global market structure, dominance of multinationals and need for economies of scale. However, niche opportunities may exist, particularly in the generics segment and in packaging.

7 CONCLUSION

This situational analysis has been used as the foundation for developing strategic recommendations. As a result of the analysis contained in this document, the following key areas of intervention have been identified:

1. *Fundamental Requirements*

- Identify a driver/champion to coordinate the implementation of procurement activities, in particular to drive implementation of the findings of this study, as well as monitor and evaluate progress of local content procurement
- Improve gathering and dissemination of information on government and private sector procurement patterns in terms of supplier size and ownership, use of local content and sectoral demand by product cluster
- Improve linkages and integration with existing targeted/preferential procurement processes, including within BEE and small business development structures, as well as the new Supply Chain Management framework

2. *Policy, legislation, and binding agreements*

- Effectively implement relevant provisions within existing legislation and stakeholder agreements, in particular the use of local content and RDP objectives in terms of the Preferential Procurement Policy Framework regulations, Targeted Procurement resource specifications around the use of local resources, as well as the procurement aspects of multi-stakeholder sectoral agreements
- Develop legislative and regulatory amendments and further (sectoral) stakeholder agreements, possibly including amendment of the PPPFA, incorporation of Proudly South African and/or local content principles into the Supply Chain Management Framework and compulsory country of origin labelling

3. *Trade and Foreign Investment*

- Ensure future multilateral and bilateral trade negotiations retain sufficient scope to use procurement as a tool for socio-economic development, including negotiations on the potential WTO agreement on Transparency in Government Procurement and the US-SACU bilateral trade agreement

- Create greater linkages with FDI activities, in particular the Industrial Participation Programme, as well as programmes with other existing and potential investors below the IPP threshold
4. *Supplier Development*
- Expand prioritised and strategic supplier development and education programmes in line with sector strategies, including government-led training workshops and mentoring programmes and extension of purchasers' internal supplier development programmes
5. *Addressing Purchaser Issues*
- Increase awareness of available targeted suppliers through networking and referral, database development, and accreditation
 - Encourage a "dynamic" approach to procurement by teaching companies the value of preferential procurement and following the examples of leading South African companies in this field
6. *Ensuring a level playing field and ethical practices*
- Eliminate exclusionary technical specification and brands in procurement decision-making through training and making generic specifications widely and easily accessible to procurement professionals
 - Prevent and redress procurement-related misrepresentation, abuse, and corruption by demanding more transparency and accountability in procurement practices and aligning responsible preferential procurement with other sound corporate governance principles

More detail on the strategic options, available mechanisms, role players and estimated timings of both roll out and impact of these areas of intervention are set out in the [Strategic Recommendations](#) document.