PART C: THE SOUTH AFRICAN SQAM INFRASTRUCTURE MEETING THE NEEDS OF THE COUNTRY IN A REGIONAL AND INTERNATIONAL CONTEXT

6 System wide issues

6.1 Interdependence of various SQAM responsibilities, Acts and implementation of technical regulations

There are a series of Terms of Reference for this Review which are closely related and interdependent. The recommendations for these are also interdependent if the outcomes of this Review are to be effective in achieving a modern SQAM infrastructure.

In particular, the following background issues need to be summarised before a series of inter-related and fundamental recommendations are made by the Review:

- The Standards Act requires amendment to reflect changes in the roles of the SABS, including those roles already performed by other bodies, and others that might in future be dealt with by other means.
- There is a critical need for an overall and continuing review and co-ordination of technical regulations in South Africa.
- There is confusion between the Standards writing functions of the SABS and its roles in implementing compulsory specifications.
- There is potential confusion between the significance of commercial certification marks and any future regulatory marks which may be adopted in South Africa.

While each of these issues is explored separately in relevant sections of this report and specific recommendations proposed, the recommendations below form an integrated summary, in sequence, of related recommendations which, if adopted, would clarify future roles and responsibilities in an integrated fashion that would best serve South Africa's needs.

<u>Recommendation 1:</u> The Standards Act be amended to enable preparation and co-ordination of South African National Standards by the SABS.

This Recommendation leads to complementary recommendations on the separation of commercial activities, the opening of compulsory specifications, implementing a compulsory regulatory mark, amendments to the Standards Act and best institutional arrangement and positioning for SABS. More detailed suggestions for amendments to the existing Act are also discussed in Table 12 of this report.

The existing Standards Act provides SABS with a series of responsibilities which are either superseded (eg. accreditation) or confuses its roles with other players, including the roles of various Ministries in administering, or potentially administering, technical regulatory requirements. The current Standards Act also empowers SABS to control the use of certification marks (Section 21.4(a)), and to determine when certification marks shall apply to a standard (Section 19.(1)(a)).

By restricting a new Standards Act to standards development only, there will be clear identification of the primary national role of the SABS and, in conjunction with other recommendations, this will minimise the perceived conflicts of interest inherent in SABS being the standards developer, regulator of compliance with a number of its standards and controller of all forms of certification marks related to relevant standards.

As discussed in detail in Section 7 of this Report, there are different terminology used when describing technical regulations operating in South Africa. The group of technical regulations administered under the current Standards Act are defined as *"compulsory specifications"*. While other technical regulations are also mandatory, they do not use that descriptor. SABS administers all 56 of the *"compulsory specifications"* currently covered by the Standards Act.

The Review has found that, generally speaking, SABS has operated effectively as the regulator (on behalf of the Minister of Trade and Industry) of compulsory specifications. There have been some criticisms, however, of its sole provider status for conformity assessments associated with compulsory specifications and its fee levying. It has also been suggested to the Review that the Department of Trade and Industry and other Ministries would want to continue to access SABS as the implementing body for future compulsory specifications.

This need, together with a need for consistency in adoption and implementation of technical regulations generally in South Africa, has led the Review to a series of complementary recommendations.

To split the technical regulations (compulsory specifications) administration role of SABS from its standards development role and to ensure comprehensive review of technical regulations' utility and implementation in South Africa, the following Recommendations are made:

<u>Recommendation 2:</u> A new Act, the "Technical Regulations[6] Act", be created to administer technical regulations on behalf of the Minister for Trade and Industry.

This Act would transfer the administrative elements from the current Standards Act relevant to compulsory specifications but would not include those elements of the current Standards Act which deal with control of certification marks. Such control would be vested in an Office of Regulatory Reform as proposed in Recommendation 3 and 8 of this Report.

If the Act is administered under a single Ministry (such as Trade & Industry, as is currently the case for compulsory specifications under the Standards Act), an Office of Regulatory Reform in a separate arm of government should provide an independent arbiter of the needs for specific regulations and their effective implementation. This would preserve, also, the interests of other Ministries whose areas of responsibility are being coordinated on their behalf under a centralised system. The new Act should not prevent any Ministry from accepting responsibility in its own right to administer technical regulations. However, any such technical regulations administered outside the proposed "Compulsory Specifications Act" should be subject to the same evaluation by the Office of Regulatory Reform as would apply to regulations administered under the new Act.)

If the SABS continued to be the regulatory body for administration of compulsory specifications under this new Act, and if SABS testing and certification services are transferred to a corporatised subsidiary of SABS, then there would be a need for clearer structural separation in the SABS of its standards development activities, its regulatory services and its commercial testing and certification services.

Allied to such restructuring is the need for an even playing field for all accredited conformity assessment bodies to be able to demonstrate compliance with both compulsory specifications and technical regulations in general. This leads to Recommendation 46 in Section 12.7.3 of the Report.

To ensure consistency of adoption, effective implementation and review of existing technical regulations, the Review has the following Recommendation:

[6] The word "technical regulations" is used rather than the word "compulsory specifications", since the word "compulsory specifications" is not internationally used. In the recommendation the "technical regulations" refer not to all technical regulations, but those currently administered by the SABS on behalf of the DTI, as specified in the Standards Act.

<u>Recommendation 3:</u> A new Act, the "Regulatory Reform Act", be created to provide an ongoing review of needs for technical regulations; establish compliance of existing regulations with best regulatory practice principles; promulgate requirements for regulatory (mandatory) marks; and control use of such marks, and oversight proper use of voluntary accreditation and conformity assessment marks in general.

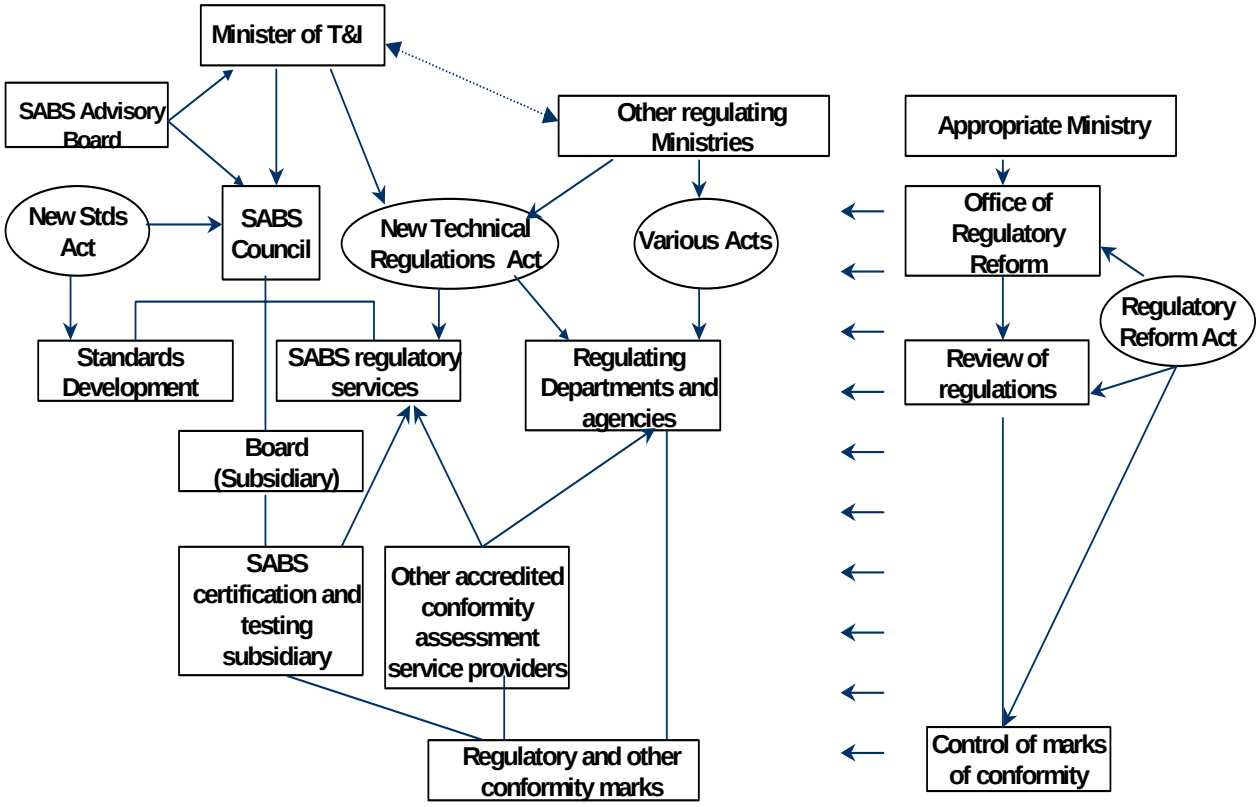
The new Act should specify any controls and sanctions, including penalties, on use (and abuse) of conformity assessment marks in general in South Africa. (This could include any penalties associated with improper use of accreditation).

The new Act should establish an Office of Regulatory Reform. The proposed activities and responsibilities of this Office are described in Section 7.1.3 of this Report and confirmed in Recommendation 8. (Note: The Office of Regulatory Reform would not be responsible under this new Act for administration of compulsory specifications. This would ensure appropriate separation between implementation of technical regulations and independent review of the needs for , and appropriate implementation of, such technical regulations. Therefore, the positioning of the Office would need to be separate from any Ministry or government agencies responsible for coordination of compulsory specifications or other technical regulations covered under the Act.

These recommendations have complementary recommendations in regard to the system of formulating technical regulations, separation of commercial activities of standards bodies, opening of compulsory specifications, amendments to the Standards Act, need for an Accreditation Act, and the positioning of the SABS.

Figure 5 on the following page outlines the relationships between the new series of Acts and the responsibilities of implementing bodies.

Figure 5: Relationship between the proposed amended Standards Act, the Compulsory Specifications Act and the Regulatory Reform Act



6.2 System for formulating and coordinating long term strategic policy of SQAM institutions

In South Africa, long term SQAM strategy is formulated by the various official institutions on an individual basis, as appropriate for their individual requirements. There is no formal mechanism or process in place whereby this is consolidated in a "whole of SQAM' strategy and policy. The DTI does however, play a meaningful role, on an informal basis, to coordinate such strategies by acting as a gatherer and disseminator of information.

The lack of a formal process or mechanism for the co-ordination and formulation of long term policy is a weakness of the current system, with the following of specific importance:

- The absence of such a process and mechanism results in an uncoordinated and non-uniform interface with stakeholders, both locally and internationally. The industry survey conducted as part of the review revealed that more than 80% of participants believe that there will be benefit in a more coordinated approach from SQAM institutions. It must, however, be recognised that most policies and strategies will always be institution specific. For co-ordination, the challenge is to identify issues that are comprehensive and SQAM system-wide, which may need joint inputs for development of national policies and strategies.

- The role of the DTI is positive, but informal and reliant on the efforts of individuals. This means that there is always the risk that such activities could cease to exist as individuals leave the Department.

- The lack of cross-representation on governing bodies between the various official SQAM organisations is seen to be a major shortcoming in achieving a coordinated approach.

Although stakeholders are in agreement that there would be benefit in the establishment of some sort of central coordinating mechanism, there is consensus that there is no value or need for a permanent coordinating (or governing) body. This view is supported internationally, where few countries surveyed as part of this review have active formal mechanisms for "whole of SQAM" co-ordination of strategic policy.

The centralised structure of some SQAMs, such as in Brazil, provides internal opportunities for co-ordination of strategic policy across different SQAM institutions. It is not clear, however, that this is the current case, although recent structural changes in INMETRO, to have a horizontal Directorate deal with international affairs across all of the INMETRO's SQAM activities, could

provide such an opportunity. The effectiveness of such a highly centralised governing structure in creating a cohesive approach is questioned in a South African context.

In Australia, a high level Standards and Conformance Advisory Council, established after the Kean Inquiry of 1995, has not fulfilled the role of setting longer term strategic priorities for the Australian SQAM. Its representation lacked any direct input from SQAM institutions and it has only met once since 1995.

It is concluded that there is a need for some degree of co-ordination and joint strategy formulation between organisations within the SQAM arena, but that the SQAM activities are to a large degree distinct and performed by independent organisations. The establishment of a single governing body for SQAM is not considered to be beneficial, and there is evidence that highly centralised infrastructures are less effective. In many countries, such as Australia, cross-representation on the Governing bodies of SQAM institutions has proven to be a most effective way of achieving co-ordination and cross-institution sharing of some strategic issues

The role and responsibility of government in coordinating long-term strategy formulation, in conjunction with SQAM institutions and stakeholders, as part of government policy formulation, is accepted world-wide, and to have a single government department responsible for SQAM is considered good practice. Government then implements SQAM related policy via targeted funding based on specific objectives. Without appropriate inputs and advice from all relevant stakeholders, Government can not formulate appropriately policy, and therefore not optimise fund allocation. There is therefore a need for an advisory forum, containing representation from all stakeholders, that can provide coordinated and representative advice to government on a broad range of SQAM issues.

Three ways of achieving the desired degree of co-ordination are recommended (Recommendations 4, 5 and 6) for the South African context.

<u>Recommendation 4:</u> Cross-representation on the governing bodies of the DTI recognised SQAM institutions be increased.

Such representation should be formal, and in a decision making capacity. The following summarises current cross-representation and specific areas where cross-representation should be increased.

Table 5: Proposed cross-representation on governing bodies of the DTI recognised SQAM institutions

SQAM Institution	Current representation of SQAM institutions	Proposed changes to representation
The SABS	No Government representation No representation of any SQAM institutions	Government should be represented on the SABS Council The NML should be represented on the SABS Council SANAS should be represented on the SABS Council
SANAS	Constitution provides for Government representation No dedicated representation of any SQAM institutions	Government should take up its position on the SANAS Board The NML should be represented on the SANAS Board The SABS (Standards) should be represented on the SANAS Board
NML	DTI represented on the CSIR Board No representation of any SQAM institutions	DTI represented on the proposed NML Management Board. SANAS and the SABS (Standards) represented on the proposed NML Management Board
Quality and business excellence	Current representation on either SAQI or SAEF irrelevant as they are essentially private sector organisations.	No official organisations or governing bodies are proposed.

The proposed increase in representation should obviously not distract from the need to have other stakeholders groups represented on the governing bodies of such institutions. The focus here is specifically the strengthening of cross-representation of the official institutions, in order for such institutions to meet the needs of a broad range of stakeholders in a more effective and coordinated manner. The Government is best positioned to drive the process that will ensure that such representation is achieved.

Recommendation 5: A stakeholder based SQAM Advisory Forum be established to advise Government on national SQAM policy and strategies relevant to SQAM activities, and to review submissions and prioritise funding support for development programs arising from a proposed national strategy for quality.

It is recognised that the establishment of advisory bodies is complex, and in many cases, such as in Australia, has proven to be ineffective. The National Forum for Conformity Assessment and Quality in the UK, which has over the last ten years proven to have a positive impact, provides insight into how such a body could function. The key to the success of this organisation

is the fact that it is an independent consultative forum, with no alliance to any specific organisation, yet has an extensive and open membership to anybody interested in conformity assessment and quality. It has no formal coordinating responsibilities for aspects of the UK infrastructure, but has proven to be a successful medium for participants to reach consensus on specific issues, and therefore, provides valuable guidance to government.

The present positioning of the National Forum for Conformity Assessment and Quality in the UK is within BSI. This positioning has however proved to be problematic and is being re-considered. It is therefore recommended that such a forum within South Africa be completely independent from any institution or organisation.

The Terms of Reference for the proposed forum should include, but not be limited to the following:

- To debate national, regional and international SQAM issues among interested parties and contribute to the development of policy development by the South African Government.
- To debate specific issues related to the various individual SQAM organisations thereby contributing to their individual strategic development, as well in achieving alignment with national strategic objectives.
- To disseminate information within South Africa about national, regional and international SQAM developments.
- To identify and advise government on specific programs that need to be funded and initiated by Government and/or other organisations. In specific cases the forum could play an active role in assisting with overseeing the delivery of such programs. This is especially relevant in the area of quality where the are no official organisations responsible.

Recommendation 6: The Standards and Environment Directorate of the DTI be the primary South African Government Department responsible for SQAM, and be resourced with the necessary staff, funding and Government commitment to undertake all duties and obligations related to SQAM, including any additional activities arising from adoption of recommendations in this Review.

The positive role of the Standards and Environment Directorate in the South African DTI is recognised and should be maintained. Specific recommendations regarding the resourcing of this Department are made elsewhere in this report and the following delineation of responsibilities is recommended :

- The Standards and Environment Department will be “responsible for” SQAM in the sense that they will be the interface between government agencies and the SQAM institutions, namely the SABS, SANAS and the NML.

- If trade metrology functions are re-distributed as recommended later in the report, the DTI will become responsible for the policy, inspection and sanctions aspects.

6.3 Central register of accredited conformity assessment bodies, certified or registered companies and certified products

Most of the countries surveyed as part of this review have publicly available registers of accredited conformity assessment bodies, and most of these are managed directly by their accreditation bodies. Lists of certified companies and products, however, are not maintained centrally in all countries. Some of these lists are maintained by individual certification bodies, and in some economies full lists are maintained as a commercial activity by organisations outside the accreditation body. For example, Standards Australia manages a register of certified organisations on behalf of the Joint Accreditation System of Australia and New Zealand and The Stationery Office in the United Kingdom publishes a register of certified organisations.

At present there is no central register of such a nature in South Africa, and industry indicated that it would benefit from such a register. SANAS publishes a list of accredited certifiers, laboratories, inspection bodies and proficiency testing providers. This information is available on the Internet (SANAS web-site). The SABS publishes both a list of the SABS certified products as well as a list of the SABS ISO 9000 certified companies. These lists are web-based and paid for from revenue generated by advertisements. It is interesting to note that the SABS is reporting a large number of enquiries regarding certified products. These enquiries are primarily from large procurement organisations. Other certification bodies also maintain lists of certified companies.

Internationally, most accreditation bodies maintain both hard copy and web-based registers, although some are moving to replace hard copies entirely. It is however recognised that in developing countries such as South Africa, where access to the internet is not widely available, there is a need for such a register in both electronic and hard copy format.

Some accreditation bodies have had government funding (eg UKAS) for development of web-site directories. Many provide their information free of charge, essentially as a service to their accredited organisations. Others sell their hard copies. One body (Singapore Accreditation Council) funds its hard copy directory through advertising fees, from companies promoting their services within the published directory.

It is concluded that such registers exist in South Africa, albeit in a fragmented manner. It is also concluded that there is a need not necessarily for a central register, but rather for a central point (web-site) of enquiry. Hard-copy registers can then be produced from such a web-site.

Recommendation 7: A central register (web-site and hardcopy) of accredited conformity assessment bodies, certified or registered companies, and certified products be established by the South African Government.

The only organisation that could be in a position to manage such a central enquiry point (web-site) would be SANAS. The option of having a central web-site at SANAS, with search facilities into the web-sites of accredited certification bodies, at their discretion, is recommended. The ability for generation of hard-copy registers should be a feature of such a web-site. The funding for the establishment thereof should be provided by Government. The funding required for the maintenance of such a register should be a combination of Government funding and revenues generated through advertisements. It will be the joint responsibility of SANAS and Government , in consultation with other stakeholders to develop a business plan for the establishment and maintenance of such a facility. Such a plan must clearly outline the objectives, technical requirements, revenue and cost streams, roles, responsibilities etc. of the initiative.

Both SANAS and the DTI should act as reference points for enquiries.

Internationally such a register could be a marketing tool for Government when promoting foreign trade with South Africa. The domestic, regional (SADC) and international distribution of such a register in hard-copy format should be aggressively pursued by the DTI.

The South African experience that there is a need for a register not only of certified companies, but also of certified products, should be considered.