

## **12 Accreditation – The South African National Accreditation System (SANAS)**

### **12.1 Overview of accreditation**

Accreditation in a SQAM context is the formal process by which an authoritative body independently assesses the competence of conformity assessment bodies to perform their functions. Such conformity assessment bodies include laboratories, product and management system certification bodies, inspection bodies and personnel certification bodies amongst others. Prior to the 1980s the activity of accreditation was virtually unknown internationally except for laboratory accreditation bodies which had existed as national entities in a few economies. With the advent of the GATT Standards Code and its successor, the WTO TBT Agreement, and the comprehensive emergence of ISO 9000, there was a dramatic increase in the need for some independent assessment and recognition of the competence of both laboratories and ISO 9000 and related certification bodies. This led to the expansion of accreditation functions beyond laboratory accreditation during the 1980s which has now resulted in a comprehensive international network of national accreditation bodies.

In some economies separate accreditation bodies were established for laboratories and other forms of accreditation of conformity assessment bodies. As a market access tool and a process for reducing technical barriers to trade, it was clear that accreditation provided opportunities for acceptance of test and certification certificates across national boundaries. To make this credible it was also clear that the national accreditation bodies themselves needed to demonstrate their own competence to their international counterparts, if they were to have their support to promote equivalence of confidence in their respective economies. This need in turn led to development of networks of Mutual Recognition Agreements (MRAs) amongst national accreditation bodies, based on peer assessment of their competence and compliance with international codes of best practice for accreditation bodies. The forums that facilitated and now manage the MRA processes at a global level are the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF).

For the South African SQAM Review there were a number of specific Terms of Reference relevant to accreditation in South Africa and the national body responsible, SANAS. They were:

- How accreditation supports regional and international trade agreements.
- The positioning and legal identity of accreditation bodies internationally compared to South Africa.
- The levels of government funding for accreditation compared to international counterparts.
- The use of accreditation to underpin the possible opening up of conformity assessment activities for demonstrating compliance with South Africa's compulsory specifications. and
- The implications of the current Standards Act on accreditation and the need or otherwise for an Accreditation Act in South Africa, particularly to control unethical trade practices in the conformity assessment field.

The international study of accreditation practices in four primary economies and in a group of other major economies has helped shape the Review's recommendations on the above terms of reference, taking into account the specific accreditation needs of South Africa and the current state of development of the national body, SANAS.

### **12.1.1 The South African situation**

The South African National Accreditation System (SANAS) is the National Accreditation Body for South Africa. It is responsible for the accreditation of certification bodies to codes of practice such as ISO/IEC Guides 62 and 65 (and the IAF interpretation thereof), laboratories (testing and calibration) to ISO/IEC Guide 25 (and ISO/IEC 17025), and inspection bodies to ISO/IEC 17020. SANAS also accredits bodies for compliance with other codes of practice such as the OECD Principles of Good Laboratory Practice. The management system of SANAS in turn complies with the requirements of ISO/IEC Guides 58 and 61 and also ISO 17010. SANAS serves, belongs to, and is guided by South African industry, and also provides a service to various government State Departments.

SANAS was created through the separation of the accreditation function from the NML. In 1996 it also incorporated the accreditation of testing laboratories previously done by the SABS. The current Standards Act, however, continues to refer to SABS' now superseded role in laboratory accreditation. A remnant of SABS accreditation activity still remains in the recognition of trade metrology verification laboratories. Similarly, the CSIR Act (Act 46 of 1988) still enables the CSIR to accredit laboratories.

**Recommendation 36:** All references to the accreditation functions of the SABS (apart from any potential accreditation function for standards development organisations) be removed from the Standards Act. The current accreditation activities of SABS be transferred as soon as possible to SANAS as the Government endorsed national accreditation authority.

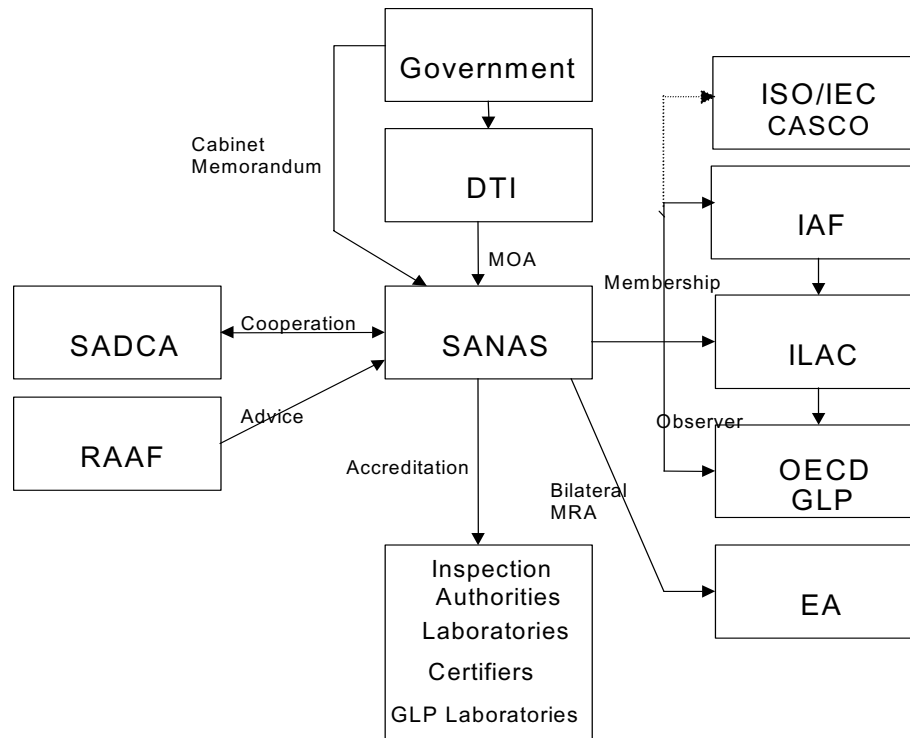
**Recommendation 37:** The CSIR Act (Act 46 of 1988) be amended to remove CSIR's authority to accredit laboratories.

The objectives of SANAS are as follows:

- To initiate, negotiate, conclude and maintain all MRAs on behalf of all divisions of SANAS.
- To pursue international acceptance of the activities of SANAS, and those bodies accredited by SANAS.
- To investigate methods of reducing the cost of international trade through accreditation.
- To promote SANAS as the national Accreditation Body of South Africa.
- To ensure consistency amongst accreditation bodies internationally and consistency of certification and inspection bodies, as well as laboratories both locally and internationally.
- To promote the SANAS logo both locally and internationally.

The South African accreditation landscape is depicted on the following page.

**Figure 16: The South African accreditation landscape**



### 12.1.2 The regional situation

SADCA is a formal co-operation activity in the SADC region between accreditation organisations, with all SADC members represented. Only South Africa and Mauritius have established accreditation activities at this time. Up until a few years ago accreditation was foreign to the region. SANAS is currently the regional co-ordinator of SADCA.

If the SADC trade protocol is signed South Africa will have a trade bloc within seven years. Accreditation can be used to minimise TBTs both inter and intra regionally and is therefore essential for the smooth functioning of the SADC protocol. Factors include particular issues for accreditation bodies arising from the Southern African Trade Protocol, including strategies to service needs from both the regulatory and voluntary sectors. The potential growing use of accreditation by regulators provides opportunities and challenges for SANAS in the development and maintenance of multilateral mutual recognition arrangements. Opportunities are also emerging to overcome negative perceptions about competence in the region through the use of accreditation.

SANAS has a current focus on helping member countries in SADC, but has also been involved in IAF/UNIDO activities in Kenya.

SANAS' involvement in SADCA is considered to be a strength. In the context of government funding support for SANAS, the South African Government's support for SADC and the underpinning role of SADCA, should translate into specific funding support for SANAS involvement and continuing regional leadership.

### 12.1.3 The international situation

SANAS represents South Africa in matters related to accreditation and in the broader area of international acceptance of conformity assessment. In its relatively short life it has achieved a very high level of international recognition for its activities, including formal recognitions in MRAs.

South Africa, through SANAS, is a member of IAF, where it is part of the Board, and has observer status on the OECD GLP Working Group. It now provides the Chair of ILAC and will host the 2004 General Assembly and Conference. It also sits on the Board of Directors of the IAF.

SANAS has a bilateral Mutual Recognition Agreement (MRA) with EA and has been accepted by APLAC on a similar basis. NCS, a SANAS predecessor, was the first organisation outside of Europe that had a bilateral agreement with EA.

On 2 November 2000 SANAS became one of 35 inaugural signatories to the global multilateral MRA of the International Laboratory Accreditation Cooperation (ILAC). This should enhance the acceptance internationally of SANAS accredited laboratories and should thus support market access for products and services accompanied by accredited test data.

The DTI funds SANAS' participation in international forums, but it is understood that no funding is currently provided for SANAS to participate in Government to Government trade negotiations.

Key international developments in accreditation are:

- **Trade and Multilateral Agreements:** There is increased international acceptance of the need for international recognition of accreditation as an underpinning for trade agreements.
- **Cross-border accreditation activities:** Accreditors historically operated within national borders, but with the advent of certification companies operating globally, who wish to have

central accreditation of their whole networks, cross-border accreditation is increasingly occurring. This may have ramifications for the domestic accreditor's national profile, but it is recognised that this does provide opportunities for sub-contracting and co-operative arrangements between accreditors. It places pressure on accreditors in developing nations to obtain international recognition and reputation in order to collaborate or compete with international counterparts

- **Diminishing access to voluntary technical expertise:** In many countries a feature of the accreditation process is the voluntary inputs of its technical committee members and assessors. There is an increasing reluctance amongst employers to release technical staff for assessments. The implication is that accreditors have to increasingly remunerate committee members and assessors. The financial implications to both the accreditors and the organisations being accredited (the increased costs will be passed on to them) are obvious.
- **Continuous market changes:** The continuous emergence of new and demise of some existing markets is a challenge faced by all accreditation organisations throughout the world. The situation in South Africa is no different, and the effects on accreditation demand from shrinkage in capacity in some sectors is a strategic issue for SANAS. Shifts in emphasis from raw materials to manufacturing and service sectors needs tracking by SANAS for its various forms of accreditation.

## **12.2 Positioning, recognition and governance of accreditation service providers**

### **12.2.1 The South African situation**

SANAS is a Section 21 (not for gain) private company answerable to its stakeholders. SANAS is recognised by government through a Cabinet Memorandum supplemented by a Memorandum of Agreement (MOA) to this effect having been signed in December 1997 between SANAS and the Department of Trade and Industry.

SANAS relationship with government and the levels of formality that relationship should take are issues for the future corporate status and governance of SANAS. The use of SANAS accreditation by regulatory bodies is increasingly occurring, with SANAS accreditation being cited in existing regulations of the Department of Labour and the South African Telecommunications Regulatory Authority. Also recognised is a need for more direct interaction at a political level in SANAS ' relationships. SANAS sees a need for defining the scope of international recognition that it needs to service its domestic stakeholders and also needs to identify the scope it seeks in terms of recognition as the "National" accreditation body.

SANAS is governed by its Board of Directors, drawn from stakeholder groups as follows:

- Four Directors elected from amongst the laboratory members.
- Two Directors elected from amongst the certification body members.
- One Director elected by accredited inspection bodies.
- Two Directors from the Representative Accreditation Advisory Forum (RAAF). The RAAF puts forward nominations, from which the Minister of Trade and Industry can make up to two appointments. The new constitution of SANAS now also provides for the Minister of Trade and Industry to directly appoint a Board member. This now allows for direct representation by a government official on the Board.
- The CEO of SANAS is also a full member of the Board of Directors. and
- The Board can, in addition, co-opt four additional members.

The RAAF is the advisory forum to SANAS consisting of 50 associations representing stakeholder interests. Including the SANAS CEO, the Board currently (August 2000) has 10 members in total.

## 12.2.2 The international situation

The following table summarises the current positioning and legal identity of prominent accreditation organisations throughout the world.

**Table 20: Positioning and Legal Identities of Accreditation Bodies**

Country	Accreditation Body	Positioning and Legal Identity
Australia	NATA (laboratories and inspection bodies)  JAS-ANZ (certification bodies, inspection bodies, personnel certification bodies)	NATA is a private not-for-profit organisation operating as a company limited by guarantee under the Corporations Law.  JAS-ANZ is an international body established under the International Organisations (Privileges and Immunities) Act 1996. Its ability to act on behalf of two governments was established by treaty.
Brazil	DQAL – INMETRO	The Directorate for Accreditation and Quality (DQUAL) of INMETRO operates the accreditation program in Brazil.
Malaysia	DSM	Accreditation activities in Malaysia are undertaken by the Accreditation Division of the Department of Standards, Malaysia (DSM). DSM is a government department within the Ministry of Sciences, Technology and the Environment. It was established by the Standards of Malaysia Act (1996).
United Kingdom	UKAS	UKAS is a non-profit distributing company limited by guarantee.
USA	A2LA (laboratories and inspection bodies)  NVLAP (laboratories)  RAB (certification bodies and personnel certification)	A2LA is not-for-profit scientific institution.  NVLAP is a government agency within the National Institute of Standards and Technology (NIST) which is a government institute of the US Department of Commerce.  RAB is a not-for-profit private corporation.
Sweden	SWEDAC	SWEDAC is a government statutory authority responsible to the Ministry for Foreign Affairs.
Netherlands	RvA	RvA is a not-for-profit foundation
Germany	DAR	DAR is an umbrella council operating within a federal institute (BAM) coordinating and representing multiple accreditation bodies in the public and private sectors.

### 12.2.3 Conclusions

#### a) Feasibility of drafting an Accreditation Act

A clear distinction needs to be made between SANAS acting as a regulator in its own right (as SABS does), or the use of SANAS by regulators for their own approval purposes. One model is that the activity of accreditation should be undertaken by SANAS, while the regulatory approval flowing from such accreditation, and any other supplementary requirements, be made by the regulator responsible. This is the usual international practice where the accreditation body rarely acts as the regulator. Some discussion of the need for an Accreditation Act in South Africa and a specific recommendation from the Review follows below.

In this context a critical issue is the strength of the Government's recognition of SANAS' national accreditation role. In terms of SANAS recognition by the *whole* of Government, an important consideration is whether the current MOA between DTI and SANAS mutually commits both parties to act on behalf of the whole of government, or only on behalf of activities within the responsibility of the DTI. Another issue of relevance to the MOA is the ongoing commitment of government to provide funding support for agreed national interest activities beyond the 2001-2002 financial year.

Internationally it is common practice for accreditation bodies to be non-profit private sector entities, as is the case with SANAS. There are numerous advantages to such a legal identity, with the more prominent ones being:

- Increased credibility as an independent (from Government) and objective accreditor.
- Increased business orientation and entrepreneurial focus, especially for a developing accreditation system such as in South Africa.
- MOAs with Government can be used successfully to achieve Government recognition.

It can also be argued that SANAS would not have achieved its current levels of market penetration as a statutory organisation, as opposed to a more business driven and entrepreneurial private company.

The new constitution of SANAS now also provides for the Minister of Trade and Industry to directly appoint a Board member. This now allows for direct representation by a government official on the Board, and is seen as a positive development.

In terms of the need or otherwise for an Accreditation Act the following issues are raised. Would such an Act be designed to allow SANAS to act as a regulatory body in its own right? If so, this raises a number of issues regarding demarcation with the regulatory responsibilities of

Government authorities. It may also require SANAS to engage and deploy additional personnel for policing and sanction activities, court appearances etc. It would also project an image of SANAS in the broader community as a policing rather than accrediting body which would hinder adoption of its services in the voluntary sector.

Would SANAS be able to act on behalf of regulators under its current corporate status as a Section 21 Company? In the international study conducted as part of this review, there were numerous examples of similar bodies being successfully used by regulators, without the need for the accreditation body to be part of government or empowered by legislation. This included use of such private sector accreditation bodies to underpin Government to Government MRAs in the regulated sector. SANAS itself is already used in South Africa for domestic regulatory support.

Two significant issues for use of accreditation bodies by regulators are the questions of the ability of accreditors to report the outcomes of their accreditation assessment findings to regulators, given their usual confidentiality arrangements with accredited clients, and the ability of accreditors to be indemnified in some way by the Government to allow them to operate without fear of recrimination from accredited clients when acting on behalf of regulators.

In the former case examples exist where the ability of an accreditor to report the detailed findings of assessments to an appropriate regulator is covered as a special condition of accreditation in the area concerned. All accreditation clients are made aware of this in advance and seek accreditation on that basis. Such arrangements could work in South Africa if needed for specific regulatory support activities conducted by SANAS. Such regulators could also be asked to provide some form of indemnity or other support for SANAS acting on their behalf (including meeting any legal costs to defend actions by affected organisations).

If the purpose of an Accreditation Act was to give legal force to dealing with unethical practices by conformity assessment bodies, the international experience has been that this is adequately dealt with by a combination of trade practice or consumer protection legislation and the sanctions directly able to be used by the accreditors themselves.

If the purpose of an Accreditation Act was to enshrine SANAS as the sole organisation in South Africa able to conduct accreditation activities, this has some merit to ensure unnecessary duplication and fragmentation of resources, but possibly could be achieved more simply by ensuring that the Memorandum of Agreement (MOA) between SANAS and the DTI is formally expanded to become a whole of government MOA.

The Review team obtained legal advice on various options potentially available to SANAS to operate under an Accreditation Act, while achieving comprehensive government recognition for its roles, and continuing to act in both the private and regulated sectors.

The options included:

- Promulgation as a statutory organisation enabled by an Accreditation Act;
- Continued operation as a Section 21 Company enabled through an Accreditation Act (which could be achieved through referring in an Accreditation Act that SANAS incorporation is through another Act, such as the Companies Act, under which it is currently incorporated); and
- Continued operation as a Section 21 Company but enabled through Memoranda of Agreements with either individual Government departments or with Government as a whole.

The perceived advantages and disadvantages of each of these options were considered to be:

**a) Statutory body under an Act.**

**Advantages:**

- Ensure entire Government recognition.
- Have liability assured by government if operating as a statutory body.
- Facilitate ongoing Government funding.

**Disadvantages**

- Complete Government control and increased Government intervention.
- Possible loss of credibility as an independent and objective accreditor both internationally and locally.
- Possible decrease in market penetration in the private sector.
- Possible decrease of private sector revenue.
- Length of promulgation of Act by Government.
- Increased accountability towards Government.

- Cost of promulgation of such an Act

**b) Section 21 company enabled through an Accreditation Act**

**Advantages**

- Maintaining independence and credibility as an accreditor both locally and internationally.
- Ensure entire Government recognition.
- Ensure continued state-funding.
- Maintaining current governance style and representation.
- Maintaining current ownership.

**Disadvantages**

- Length of time of promulgation of an Accreditation Act by Government (2-4 years).
- Length of time of amendments to such an Act.
- Cost of promulgation of such an Act.
- Potential perception as a state controlled entity.

**c) Section 21 Company enabled through a whole of Government MOA**

**Advantages**

- Maintaining the status quo of SANAS with regards to independence, governance, form of business entity, representation etc.
- Conclusion of one MOA with entire Government.
- Length of time of implementation.
- Ensure entire Government recognition.
- Less costly to conclude a single MOA.
- Possibility of ensuring state-funding.

- Ensure continued increase in private sector penetration.

### **Disadvantages**

- Time implications to conclude MOAs with individual government departments.
- Possible cost implications of conclusion of individual MOAs .
- More difficult achievement of liability indemnity by government.

The first option could be further split into two sub-options i.e. operation as a statutory body or as a parastatal organisation. In the latter case, the parastatal organisation assumes legal personality in its own right and could be sued for liability for its actions. The level of liability assumed by Government for SANAS operating on the Government's behalf either through a parastatal organisation or through the second and third options would need to be negotiated with Government for each of these scenarios.

If an Accreditation Act was drafted (or if the current MOA is updated) it could use the current MOA between DTI and SANAS as a basis but with the following features:

- Ensuring it covers whole of Government responsibilities, not only DTI interests
- The current Clause 5 on termination of the Agreement would need to be amended to cover considerably longer than 14 days
- Inclusion of an arbitration process between SANAS and the Department responsible for administering the Act or MOA
- Confirmation of continuing funding support for agreed national interest activities
- Limitation of liability for SANAS when conducting national activities, including activities on behalf of Government regulators.

On balance, and considering the issues above, the Review has reached the view that SANAS should retain its status as a Section 21 Company. However, there are advantages to be gained by enabling its operations on behalf of the whole of government through an Accreditation Act. It is recognised that such an Act could take some years to complete and the Review therefore has recommended below that there be a short term objective of extending the current MOA with DTI to a whole of Government recognition, with the longer term objective of establishment of an Accreditation Act. The Review recommends:

**Recommendation 38: An Accreditation Act be promulgated with legal personality for SANAS acquired in that Act as a Section 21 Company through the Companies Act. In the short term the current MOA with the DTI should be redrafted to become a whole of Government MOA.**

Recommendations 41 and 42 in section 12.4.3 of this report propose that this MOA be concluded through interdepartmental discussions coordinated by DTI and the final document be re-endorsed by Cabinet.

Irrespective of the short or long term status of SANAS and its operations under an Accreditation Act, or otherwise, it does need some legal protection for its operations on behalf of Government. Accordingly, the Review makes the following recommendation:

**Recommendation 39: The South African Government limit the liability of SANAS for its conduct of national interest activities on behalf of the Government, including activities conducted on behalf of regulators.**

## 12.3 Fields of accreditation

### 12.3.1 The South African situation

The following are the primary current activities of SANAS:

- Accreditation of inspection bodies.
- Accreditation of calibration and test laboratories.
- Accreditation of product certification bodies.
- Accreditation of quality, environmental and other management systems certification organisations.

It has specialist technical committees that determine special technical criteria for accreditation in areas such as calibration, testing, inspection, quality management and environmental management.

The current levels of accreditation are listed in the following table:

**Table 21: SANAS levels of accreditation**

Quality Management Systems Certification Bodies	:	3
Environmental Management Systems Certification Bodies	:	2
Calibration Laboratories	:	124
Testing Laboratories	:	127
Good Laboratory Practice Principles Compliance	:	3
Inspection Bodies	:	51
Proficiency Scheme Providers	:	1

There are currently no personnel or product certification bodies accredited.

SANAS has a business plan which identifies some potential new markets for existing and new accreditation programs, but to date has not undertaken a comprehensive market survey of its penetration and new client opportunities. It does however liaise with its own technical

committees and professional and industry groups to determine current and future needs for its services.

SANAS is currently in discussion with SABS regarding transfer of SABS accreditation of verification bodies for trade metrology functions and it is expected that this transfer will occur shortly.

In the regulatory area SANAS is formally involved in the activities of the national technical committees of SABS responsible for the formulation of technical requirements for approved inspection authorities, as well as the SABS Committee for Occupational Health and Safety. SANAS is also part of the Pressure Vessel Advisory committee to the Department of Labour.

### **12.3.2 The international situation**

SANAS' accreditation activities cover the major areas currently provided by their international counterparts with a few newer areas not yet fully developed, such as product and personnel certification body accreditation. Other areas for potential future development of accreditation services include Hazard Area Critical Control Points (HACCP) certification, now being addressed by a number of accreditation bodies for the food industries particularly, and accreditation of Occupational Health and Safety Management Systems. The accreditation processes needed for these areas are very similar to the work currently being done by SANAS and should present no major challenges for them to expand their accreditation services, if a national need is identified for such accreditation. There would, however, be some resource demands to develop such new programs, in terms of recruitment and training of technical committees and assessors (auditors) and development of criteria and, if necessary, establishment of international linkages and MRAs.

In terms of this Review, it appears that SANAS is servicing the current needs of the country and has the skills to extend its accreditation roles as new demands emerge. There are, therefore, no specific recommendations for new fields of accreditation for SANAS to cover, while noting the need for SANAS to develop and maintain ongoing market research of new accreditation needs.

### **12.3.3 Conclusions**

It is recognised that SANAS has achieved relatively high levels of market penetration and awareness within industry. SANAS recognises that there are still many untapped markets, but to date has not undertaken a comprehensive market survey of its new client opportunities and potential markets. SANAS needs to conduct such research. Considering the current and future

importance of accreditation, and a number of untapped markets, it is imperative that Government provide appropriate support for SANAS to aggressively pursue areas where real national needs are identified. Where such needs are considered to be in the national interest the government should consider seed funding for the initial development and implementation of new programs, particularly where it is impractical to expect full cost recovery from the initial clients for such accreditation services deemed to be in the national interest.

SANAS is currently in discussion with SABS regarding transfer of SABS accreditation of verification bodies for trade metrology functions and it is expected that this transfer will occur shortly. This is considered a positive development.

The issue of recognition of SANAS by Government departments other than those with which it has MOUs, need to be resolved as a matter of urgency. The following examples best illustrate the implications. SANAS formulated the technical requirements for accreditation of Medical Laboratories. It is envisaged that accreditation of medical laboratories will become mandatory. The Health Act mentions accreditation, but makes no direct reference to SANAS. (It allows the Minister to nominate). If SANAS was not the accreditation body nominated by the Minister there would be serious implications for maintenance of a central Government recognised accreditation body.

SANAS seeks to be involved earlier in the development of technical regulations and has the objective of promoting and negotiating greater use of accreditation in all areas of regulation. The future relationship of SANAS with the whole of Government is an issue in regard to achievement of this objective.

## 12.4 Funding

### 12.4.1 The South African situation

SANAS is funded partially from the DTI and from fees for services. Funding from the DTI is through the MOA and is for projects identified as being of national importance. This includes the National Audit Sample Program and pilot accreditation projects. It also covers all activities associated with establishing and maintaining MRAs. SANAS is being funded by Government at a level of R 4 Million per annum, subject to annual review and according to a zero based budget provided by SANAS. These funding provisions in the MOA apply up until the financial year 2000-2001, but clearly SANAS will require ongoing funding beyond that period to continue to undertake its national interest roles. This could also include future involvement in SADC related projects and advice to government on MRA support for trade negotiations.

The table below summarises the government funding of SANAS over the past three financial years:

**Table 22: Government funding for SANAS**

<b>Year</b>	<b>Government Funding</b>	<b>Percentage of Total Income</b>
1997-1998	R1,397,004	97.8%
1998-1999	R4,000,000	86.1%
1999-2000	R4,000,000	56.4%

Data for SANAS prior to 1997 is not tabled as SANAS had just been established at that time and previous Government funding was primarily for the operations of the National Laboratory Accreditation Service and the start-up of SANAS.

SANAS seeks to have its overall contributions from Government progressively reduced as a percentage of total income. It is however noted that SANAS does not have an appropriate long term market development strategy in place. It does not know the potential size of existing and potential markets, the investment costs associated with developing new markets and the potential revenue streams of markets. It is therefore difficult for SANAS or the DTI to know to

what extent existing or anticipated services could become self-sufficient. This leads to the following recommendation:

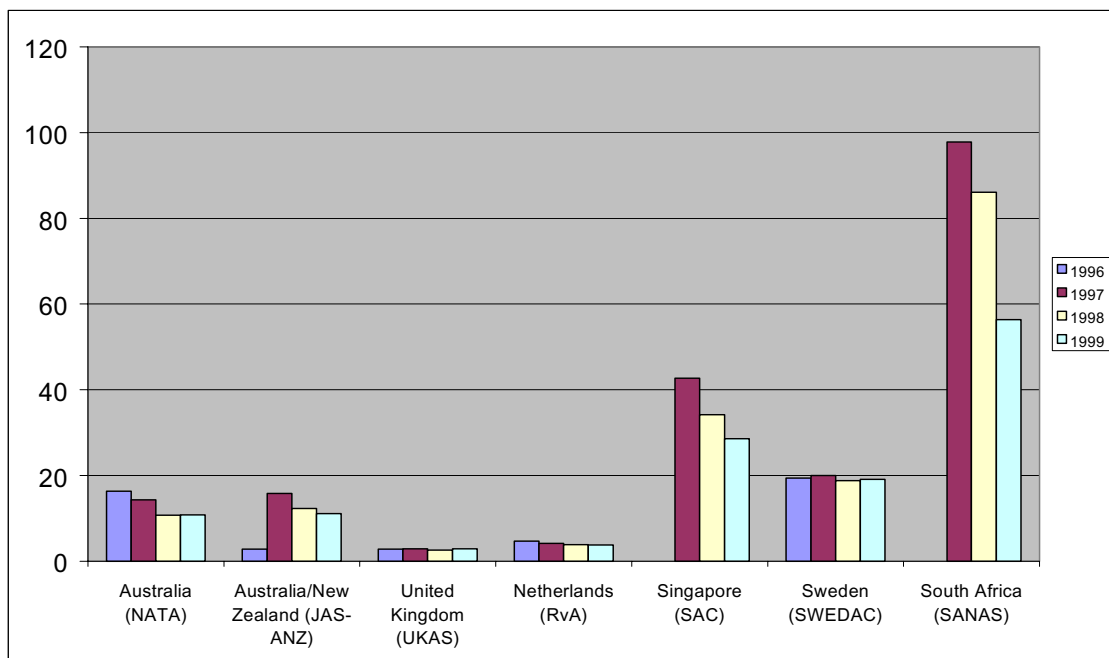
**Recommendation 40: SANAS to undertake more comprehensive business development planning including investigation of future demands for its various services to assist in its goal of appropriately reducing the overall contribution to its income from Government.**

### 12.4.2 International situation and practice

From the following graph it can be concluded that government funding for long established accreditation organisations in developed countries is a minor contributor to their overall funding. Such funding is generally closely tied to specific government support activities.

For economies such as Singapore the funding levels are higher, but ever decreasing as the accreditation organisation establishes itself in the market. Although the level of Government funding for the activities of SANAS, as a percentage of overall income is higher than that of other accreditation organisations, it is following a similar pattern of that of developing nations. SANAS wants to move to self-sufficiency in its core activities, while aiming to ensure that all non-core work, including that performed on behalf of Government, is fully costed and transparent.

**Figure 17 - Percentage of Government Funding of Overall Income for Accreditation Activities**



In the USA, A2LA receives no government funding. NVLAP is funded to the level of approximately US\$ 50,000 for international representation (versus total income in 1999 of US\$ 4.35M). RAB has not provided any information on funding.

For Singapore, the funding support for SAC is split between its laboratory accreditation activities and its accreditation of certification bodies. The levels for SAC tabled above are for overall government support funding.

### **12.4.3 Conclusions**

It is common and, indeed essential, in a developing nation, such as South Africa, for Government to fund the initial development of the accreditation organisation, and gradually reduce support as the organisation establishes market presence.

It is also realised that there will always be a need for involvement of the accreditor in specific national interest activities, for example involvement in Government to Government MRA negotiations. Government must fund these activities, but it is essential that they be explicitly identified and appropriately managed. It is understood that no funding is explicitly provided for SANAS to participate in Government to Government trade negotiations, or for its support and representation roles in SADCA and related regional activities.

There might also be cases where the establishment of accreditation services for specific market segments is in the national interest, but, for reasons such as market size, never realise a positive return on investment. In such cases there is merit in the Government funding the establishment and maintenance of such services. The key is however that the Government should expect SANAS to prepare separate and comprehensive business plans for all areas of activities. It is noted that SANAS does not have an appropriate long term market development in place. It does not know the potential size of existing and potential markets, the investment costs associated with developing new markets and the potential revenue streams of markets. It is therefore difficult for SANAS or the DTI to know to what extent existing or anticipated services could become self-sufficient. This requires attention.

However, it is clear that the high level of international recognition of SANAS will only be maintained if it continues to receive continuing comprehensive funding support from government. The size of the accreditation body is independent of the need for comprehensive international recognition, as the same level of personal investment in time in the relevant forums and committees is needed irrespective of the number of accredited organisations covered by the body. The current support from government funding for domestic proficiency testing (and

particularly for measurement audits) should also be encouraged to continue as it adds considerably to the international and national credibility of the overall accreditation program.

One difficulty currently faced by SANAS is the lack of future commitment of government funding for its national interest roles. This, along with a need to clarify the scope of the national role of SANAS, leads to the following recommendations:

**Recommendation 41:** Recognition of SANAS as the national accreditation body be, and be seen to be, a whole of government recognition. DTI continue to be the appropriate administration and funding link to SANAS, but undertake appropriate liaison with other Government Departments to ensure their accreditation needs are addressed and that duplication of SANAS functions does not occur through separate activities conducted or commissioned by such Departments.

**Recommendation 42:** The Memorandum of Agreement between SANAS and the Government be redrafted by DTI, following interdepartmental discussions, and be endorsed by Cabinet to clearly identify SANAS as the sole national body operating on behalf of all of Government.

**Recommendation 43:** Rolling three-year projected funding commitments for agreed national interest activities be provided by DTI to allow SANAS to undertake appropriate resource planning and development.

## **12.5 Accreditation support for regional and international trade agreements**

### **12.5.1 The South African situation**

Although the Government has an explicit objective of using accreditation as a support mechanism for the establishment of regional and international trade agreements, at present no formal Government to Government MRAs are in place, and SANAS is not directly involved in this area. SANAS has however been involved in preliminary discussions between South Africa and Australia, represented SADCA at the Regional Trade Negotiation Forum, and been part of the South African delegation to a meeting of the WTO committee on TBT

SANAS has concluded many bi-lateral and multi-lateral agreements in testing, calibration and certification, which will be referenced in the bi-lateral negotiations between South Africa and the EU and Australia.

SANAS has the following MRAs in place:

- ILAC, EA, NATA, IANZ, CNLA for calibration and testing
- IAF for quality management systems

SANAS is of the opinion that it should become more involved at a national level in negotiations regarding MRAs in the regulatory sphere. This will ensure that accreditation is appropriately referred to and used by all parties involved.

### **12.5.2 The international situation and practices**

The accreditation systems in Australia, New Zealand, Singapore, United Kingdom, Sweden and the Netherlands are all used formally by their governments in various underpinning roles for government to government trade agreements relevant to conformity assessment in regulated sectors. Some of these used by government relate to bilateral trade agreements; others apply to regional or multi-lateral agreements. Additionally, both Brazil and Malaysia have government policy objectives to foster development of mutual recognition agreements by their accreditation bodies, to facilitate trade. It is not yet clear how these MRAs will be used in those two economies in a formal sense to support relevant international trade agreements.

Some of the accreditation bodies surveyed have direct inputs to their governments in trade agreement negotiations. Accreditation bodies in Australia, New Zealand, Sweden and Malaysia have accompanied government delegations to relevant APEC, ASEAN and WTO forums, to provide advice to their government officials. Others have ad-hoc or informal inputs to their relevant government departments.

### **12.5.3 Conclusions**

It is considered desirable for Governments to use accreditation systems formally in various underpinning roles for government to government trade agreements relevant to conformity assessment in regulated sectors.

In South Africa, where Government to Government MRA development is at an early stage, it would be considered good practice if the whole of Government (which is currently not the case) formally recognise and utilise SANAS in such a supporting role. The rationale for such usage is that government has available a uniform national source for determining competence in the service delivery of conformity assessment bodies demonstrating compliance with technical regulations. SANAS is also an impartial body, not being the regulator itself, and is operating in accordance with international codes of practice. This ensures transparency of the process used to determine competence and facilitates TBT compliance through use of harmonised international standards.

SANAS has concluded many bilateral and multilateral agreements in testing, calibration and certification, which will be referenced in the bilateral negotiations between South Africa and the EU and Australia. These agreements will provide valuable underpinning for Government to Government MRA development, and are considered a strength.

The future relationship of SANAS with the whole of Government is however an issue that needs to be resolved. As proposed in 5.4.3 it is considered that the current corporate status of SANAS should allow SANAS to operate in the regulatory sphere. The need for SANAS to become more involved in the regulatory sphere, in support of regional and international trade agreements is accepted by the Review Team as a necessity. It leads to the following recommendation:

**Recommendation 44: Government seek participation from SANAS in trade negotiations, when appropriate, and this be recognised as a national interest activity with funding provided for participation in relevant international forums and in trade negotiations including MRAs, as part of SANAS's national interest funding. Similarly, support for trade negotiations should be sought and funded for other SQAM institutions for aspects affecting their national roles or in their areas of expertise.**

Where testing, certification, inspection and other conformity assessments are significant issues in South Africa's international trade, or where standards affect trade, SANAS, the SABS and other SQAM institutions should be authorised to provide direct inputs to Government in trade negotiations, and to accompany Government officials on trade negotiations as and when necessary. Expected deliverables for such representation and associated funding should be clearly defined in the MOA between Government and SANAS and in the funding arrangements for other SQAM institutions.

## 12.6 SANAS meeting the needs of South African industry

### 12.6.1 Approach to the assessment

Based on an industry survey conducted as part of this review, a thorough assessment was made of SANAS meeting the needs of South African industry. The ability of SANAS to meet the needs of industry was assessed as follows:

- a) Awareness: the awareness amongst industry of the role and importance of SANAS.
- b) Effectiveness : the ability to provide the required services.
- c) Efficiency and overlap with other organisations.
- d) Industry and other stakeholder involvement.
- e) SMME support.

### 12.6.2 Findings

#### a) Awareness and importance of SANAS

Considering the fact that the activities of SANAS are not directly relevant to some organisations (mostly indirect through accredited laboratories), it was concluded that SANAS has managed to achieve a high level of market awareness in its relatively short existence. The high importance that industry assigns to the function of accreditation, can be seen as a positive development. The survey conducted as part of this review indicated the following:

<b>Awareness</b>	<b>Very High</b>	<b>High</b>	<b>Average</b>	<b>Low</b>	<b>Very low</b>	<b>Don't know</b>
<b>Percentage</b>	24%	19%	20%	15%	15%	7%
<b>Importance</b>	<b>Very High</b>	<b>High</b>	<b>Average</b>	<b>Low</b>	<b>Very low</b>	<b>Don't know</b>
<b>Percentage</b>	28%	15%	28%	8%	13%	8%

**b) Effectiveness of SANAS**

Effectiveness	Excellent	Good	Adequate	Poor	Very poor	Unknown
Percentage	15%	15%	24%	15%	11%	21%

Industry has mixed feelings regarding the effectiveness of SANAS. A cross-sector industry analysis indicated that organisations in some industry sectors, such as steel, regard SANAS to be highly effective, whereas organisations in the IT industry regard SANAS to be ineffective because it does not have the same level of status of some other international accreditation bodies. This can however be disputed.

**c) Efficiency of SANAS**

Industry indicated that the efficiency of SANAS was average. No specific examples of poor service delivery could be established, but costs of service to SMMEs is problematic as highlighted.

**d) Industry and other stakeholder involvement**

Industry stakeholders are adequately represented in the governance structures of SANAS through the Representative Accreditation Advisory Forum (RAAF). The recent development where the Minister of Trade and Industry can directly appoint a Board member is seen as a positive development. This now allows for direct representation by a government official on the Board.

SQAM institutions are also well presented on the governing structures of SANAS, and vice-versa, as follows:

- The SABS serve on the RAAF.
- SANAS is involved in the technical committees of the SABS on invitation, as appropriate.
- The NML is represented on the NLA Board, which can nominate members for certain positions on the SANAS Board.
- SANAS contract NML personnel to act as SANAS technical assessors.

#### **e) Assistance to SMMEs**

SANAS does not have any specific programs aimed at SMMEs. This is an important aspect and deserves further attention.

It must be considered that a large portion of SANAS' client base is SMMEs and that this will increase even further in the future. At present SANAS faces a dilemma in that many such small organisations struggle to find the necessary financial resources to obtain accreditation. SANAS has in fact informed the review that it has to subsidise its services in order to make it affordable for SMMEs.

It has come to the attention of the Review that SMME's in the manufacturing sector, who wish to become accredited, will qualify for government assistance in the form of a matching grant under the current supply side incentives. This provides an opportunity for SANAS to expand its customer base of accredited SMME's without subsidising the accreditation service.

**Recommendation 45: SANAS should actively market the availability of Government support, under the current supply side incentives, to SMME's in the manufacturing sector who wish to become accredited. In addition, SANAS should actively lobby the Government to include accreditation as a qualifying activity as and when incentive schemes for services industries are developed.**

The Government support for SMME's under the current supply side incentives is however limited to organisations in the manufacturing industry. The Government has however indicated that they might in future wish to develop similar incentive schemes for organisations in the services industry, and would include support for accreditation in such schemes.

### **12.6.3 Conclusions**

It is concluded that SANAS is meeting the needs of South Africa in an effective and efficient manner, with specific areas for improvement identified, as follows:

- The need for improved business development planning, as discussed.
- The need for SANAS to actively market the availability of Government financial support to SMME's in the manufacturing sector.
- The need for Government to provide supply side incentives for SMMEs, in services industries, who wish to become accredited.

## **12.7 Accreditation and compulsory specifications**

### **12.7.1 The South African situation**

At present the SABS is responsible for the conformity assessment of compulsory specifications under the Standards Act. The conformity assessment of requirements referred to in legislation as well as technical regulations is carried out by a number of bodies, including SABS, Government Departments, and in the case of standards referred to in the Occupational, Health and Safety Act, by NOSA. In some cases it needs to be done in a decentralised , manner, for example building inspections.

All stakeholders consulted as part of the review process, including the SABS, are of the opinion that it is necessary that the conformity assessment aspect of compulsory specifications be opened up to service providers.

Stakeholders are however in agreement that this must be done as part of a broader overhaul of the current regulatory regime. Stakeholders are also in agreement that accreditation is of vital importance, and that the system can only be opened to accredited service providers.

Should the system of compulsory specifications be opened up, it will affect all compulsory specifications, namely compulsory specifications under the Standards Act, SABS standards referenced in legislation as well as technical regulations contained in legislation.

The opening up of the system will level the playing field between SABS and other certification bodies, and should result in efficiency gains associated with a multiple competitor environment.

At present there is no trade practices legislation in South Africa aimed at regulating the use of conformity assessment claims and marks. The South African Association of Certification Bodies (SAACB) does however have a code of practice to which its members subscribe. The current Standards Act does, however, give very strong control powers to SABS on the use of certification marks in general, without discriminating between commercial marks and marks that might be intended as regulatory marks (in sections 3 (m), 18(4), 19(1) and 20).

It would be untenable for a scenario to develop that allowed SABS to continue to control (under any regulatory powers of an amended Standards Act) the overall use of commercial and regulatory marks in a market that saw opening up of the system of demonstrating compliance with compulsory specifications, where a newly-commercialised SABS subsidiary was one of the competing service providers.

Various role-players have provided examples of unethical practices taking place in conformity assessment activities in South Africa. There is however consensus that there is not a need for the establishment of special legislation for controlling unethical practices by conformity assessment service providers. Such unethical behaviour could readily be controlled under the Harmful Business Practice Act, which has very recently been broadened to include organisations.

### **12.7.2 The international situation**

The survey found that a number of countries use accreditation as a basis for specifying suitable conformity assessment bodies to demonstrate compliance with compulsory specifications. In some countries, (e.g. Australia), regulatory bodies extend such recognition to conformity assessment bodies accredited by MRA partners in foreign countries. The International Laboratory Accreditation Cooperation (ILAC) is currently researching the range of recognition's by regulators of accredited laboratories in the ILAC member countries, including whether such recognitions extend to MRA partners' accredited facilities.

Product liability legislation was considered to be an effective mechanism to deal with non-complying products in those countries where it is available. No respondent to the survey considered that special legislation needed to be enacted to control unethical practices by conformity assessment bodies

### **12.7.3 Conclusions**

The first conclusion is that there would be considerable benefits and greater compliance with international TBT requirements if the system for demonstrating compliance with technical regulations, including compulsory specifications, was opened up to all competent providers both in South Africa and abroad, based on their demonstrated competence to comply with South Africa's specific technical requirements. Such demonstration of technical competence should be through an objective and transparent process as provided by SANAS accreditation and accreditation by its international MRA partners. It is however recognised that demonstration of technical competence is not the only criteria for acceptance of a service provider. Issues such as legal liability should also be considered. It is therefore essential that final acceptance of such service providers vest with the regulator and not with SANAS, who does not have regulatory powers.

Accordingly, the Review makes the following recommendation:

**Recommendation 46: Conformity assessment services providers used by regulators in the technical regulation domain must be accredited by SANAS, and be approved by the regulator for that purposes.**

The need for product liability legislation in South Africa is the subject of a separate project study in South Africa, so no specific recommendations are being made on that topic by this Review. However, it is noted elsewhere in this Review report that control of unethical practices by conformity assessment bodies will be most effectively be addressed by the Harmful Business Practises Act, rather than through the establishment of a special purpose Act such as an Accreditation Act.