Strengthening Participation by Developing Countries In International Decision-making: Case Study of South Africa

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CONTENTS

1. Background

South Africa is 1,219,200 square kilometres consisting of nine geographical and political entities (known as provinces). South Africa's total estimated population stands at 40.5 million.[1] The total population of South Africa accounts for about 5% of the total African population estimated to be around 800 million.

Political transformation to a constitutional democracy was effected in April 1994 following the election of the African National Congress into power and the establishment of a Government of National Unity. The second democratic elections took place in June 1999 - providing the African National Congress with an even greater majority than in 1994 - and was accompanied by the former President Nelson Mandela's succession by his deputy, Thabo Mbeki.

GDP grew from R696 billion to R837 billion from 1990 to 2001, a real CAGR of 1.7%. However, GDP per capita declined between 1991 and 1993 and again in 1998 and 1999 but in past two years however, it has begun to grow again. Growth is being forecast at around 3% as it has been in the last few years but it has seldom topped 2%.[2] The economy is based primarily on mining, agriculture, manufacturing and commerce. The exporting of mined minerals and gold accounts for over 60% of merchandise export value. Private consumption expenditure increased steadily in real terms between 1993 and 1997, with the consumption of transportation and communications services in 1997 accounting for almost 85% of total private expenditure.[3] As service sectors continue to gain significantly within the economy, broadcasting has grown from 0.27% in 1990 to 0.6% of GDP. Telecommunications has grown even more dramatically and at 4% South Africa already spends more on telecommunications as a percentage of GDP than most developed European nations.[4] The IT industry is around the 20th largest in the world.

Despite being touted as a beacon to the rest of Africa, South Africa faces many challenges around unemployment, crime, education, delivery of health services, and housing. The country is relatively dependent on foreign investment and gears economic policy largely to that end. Despite good economic fundamentals the

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[1] People of South Africa Population Census *Statistics South Africa*, Report No. 1: 03-01-11 (1996) While this report is dated 1996, it was released in 1998 following a post-enumeration survey (PES).
[2] SA Reserve Bank Time Series Analysis Sheet 1: GDP at market prices 2000-2001
[3] South African Reserve Bank (SARB) Quarterly Bulletin 1998.
[4] Bain and Company SA: The South African Telecommunications Industry Structure and Regulation: How to destroy Value- Lessons form a global perspective, 5 April 2001, Johannesburg.

economy has seen little growth with annual growth seldom over 2% inthe last five years and a dramatic depreciation of the South African currency.

South Africa continues to have one of the highest Gini coefficients in the world despite national policies aimed at some levels of economic redistribution and poverty alleviation the country. The income gap is vast with household subsistence levels situated at less than $200/month. This results in a situation where the poorest 20% of households (equivalent to 27% of the population), account for less than 3% of total income levels, whilst the richest 20% of households, (equivalent to less than 3% of the population) account for 65% of total income production[5].

Despite significant gains over the last five years the distribution of telephony service in South Africa continues to reflect the highly uneven development of the infrastructure of the past. Universal service, the availability of telephony in homes remains asymmetric, with 18% of black households serviced as opposed to a higher 82% of white households having telephony service. Universal access, measured as a 30 minute walk to the nearest phone has increased dramatically with over 80% of all households having access. South Africa has over 100 000 public pay phones distributed nationally. This differentiation in access and services between rural and urban households remains high, where 64% of urban households have a telephony service as compared to only 9% of rural households but the positive effect of policies to bridge this gap are beginning to be evident.

While great divides exist in the country between the services and access to telephony enjoyed by blacks and whites, as well as between rural and urban dwellers, the real redress of this situation has occurred with the introduction of prepaid mobile cellular services. The number of prepaid subscribers on both national networks has now outstripped the number of contract subscribers. The overall percentage of people with fixed telephones and/or cell phone in their house (universal service) in South Africa is 34%.

Poor teledensity figures are a combined product of the skewed utility distribution policies of apartheid and other barriers to telephone penetration, such as geographical barriers, low literacy levels, high costs to usage and poor infrastructure at the last mile.   In addition to this, the churn factor (line cancellation due to affordability) estimated at 16%, is a product of household subsistence levels situated

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[5] Yankee Group, 1999

at less than $200/month. According to the Telkom annual report for 2000, over half a million subscribers were disconnected either due to their failure to pay or due to fraud. One assumes that the majority of these subscribers were simply unable to afford service. A study commission by the telecommunications regulator in 1997 indicated that at that time over 40% of the population would not even be able to afford the line rental of the incumbent operator, if one used a figure of two percent of income on telephone expenditure which is below the national average of over 3%.[6]

Prior to 1996, the South African telecommunications sector was centrally regulated via the Department of Posts and Telecommunications and Telkom - the sole PTO and a state owned entity. The latter was incorporated as a public company in 1991 with the state being the sole shareholder. In terms of the existing legislation at the time, Telkom was positioned as both sole licence holder and regulator.

Significantly, prior to the first democratic elections, the Independent Broadcasting Authority (IBA) Act in 1993 created a total break from the past by establishing an independent and impartial regulator tasked to regulate broadcast content and signal distribution. Later, the Telecommunications Act of 1996, established the South African Telecommunications Regulatory Authority (SATRA) which was mandated with regulating telecommunications in the public interest. This post-1996 arrangement entrenched a three-tier separation of policy, regulation and implementation functions within the telecommunications service market. The government Ministry of Communications retained various policy-making functions and importantly the certain licensing functions and a veto on all regulations made by the regulator.

Due to mounting logistical pressures brought about by convergence of technologies and institutional resource restraints, the two regulatory authorities were merged into one. On 30 March 2000, the ICASA Act of 2000 established the Independent Communications Authority of South Africa (ICASA) as the sole body regulating the country's broadcasting and telecommunications sectors. The body, a continuation of the IBA and SATRA, implements the statutory objectives and is guided by the former broadcasting and telecommunications legislation with the new ICASA Act only dealing with the organisational structure of the merged bodies and the arising rights and obligations.

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[6] Stavrou and Mkize, Needy People Study, commissioned by the South African Telecommunications

ICASA is headed by a Council, which is its highest decision-making body. Councillors are presidential appointees, appointed following a public nomination and parliamentary hearing process as to their suitability for appointment. ICASA's primary role is set out in the objects of the legislation establishing the IBA and SATRA, which enjoins them to promote a range of economic and social goals including the advancement of historically disadvantaged persons and communities. Other roles and functions of ICASA are in line with those of international regulators, and include issuing licenses for broadcasting and managing the frequency spectrum for optimal use.

During 2001 The Telecommunications Amendment Act was passed, which among other things legislated the introduction of a second public switched network operator to compete with Telkom, a multimedia and international gateway licence for the common carrier signal distributor, Sentech and underserviced area licences for Small Medium and Micro Enterprises.

South Africa is a signatory to the World Trade Organisation Agreement on Basic Telecommunications with commitments to liberalise the market fully by 2003. It established a regulator for telecommunications in 1996 and has sought to establish a cost-based interconnection regime though as yet this has not been enforced.

2. The Role of ICT-related issues in National Policy, Regulatory and Development Strategies

The President of South Africa's State of the Nation address over the last two years has included extensive references to the deployment of information and communication technology as a key driver of overall economic and social development. The potential of ICT to improve the quality of life of people and as a precondition of wealth creation is evident in government, industry and civil society agendas. The Department of Trade and Industry have articulated the relationship very strongly in a range of strategic interventions over the last few years. One is focused on ICT and job creation, pointing specifically to the research report of the International Labour Organisation in 2001. They have drawn on this to examine the role of call-centres and

Authority (SATRA), Johannesburg, 1997.

applications-hosting in job creation directly but acknowledge the indirect influence of ICT on job growth in other sectors of the economy.

The feeling amongst most respondents however, was that while there was considerable rhetoric around the importance of e-government, e-commerce and the role of ICTs in development, in practice ICT did not play a sufficiently central role in national policies and strategies. Civil society respondents contended that while there might be some focus on economic benefits of deploying ICTs, policy failed to be filtered through developmental lenses. One of the major concerns among all stakeholder groups was the lack of an integrated national information and communication technology policy to direct the various initiatives by different parties. Many felt that without this the activities in the area of ICT deployment by various government departments, industry supported projects and significant donor funded and NGO projects would continue to result in a duplication of effort and perhaps even be counterproductive. More important, it was argued, was the absence of a national ICT strategy or guidelines to facilitate implementation and encourage usage of technologies. This was because even where the political will existed, it did not filter down to the actual policy implementation level. An example given of the need for integration was the opinion that as important a democratic instrument as the Promotion of Access to Information Act was 'crude with no serious consideration of the on-line environment'. Concern was expressed that such failures to integrate ICT seriously into the strategies and implementation would be carried into efforts and initiatives on the continent such as the New Partnership for African Development (Nepad.- the plan for continental transformation being championed by President Mbeki).

While some respondents cited initiatives such as the Presidential International Task Force on Information Society and Development as indicative of the national commitment to ICT, others viewed this as window dressing that had no focus and, if doing anything at all, was operating on international assumptions unsuitable for a developing country. Some argued that it included the wrong kind of representatives and failed to draw sufficiently on local expertise and knowledge. It was described by one interviewee as 'a flirtation with international business' and not likely to contribute to developmental challenges on the ground.

National ICT strategy

There was unanimous concern over the lack of an ICT strategy and the lack of integration between the different departments and agencies of government. Some stakeholders also expressed concern that where policy existed it had resulted from a top-down approach which has hampered initiative and dampened excitement .

One respondent noted that ICT had now been clearly made the overarching responsibility of the Department of Communication, clearing up the uncertainty that had existed between the Departments of Arts, Culture, Science and Technology, Trade and Industry and Public Service Administration. This had placed responsibility with the department that has delivered the most over the last five years. The Communications Department had formulated the most policy and passed the most legislation in this area. Other departments had failed dismally in rising to the challenge over the last few years in areas that impacted on ICT such as small medium and micro enterprise development, which had been particularly poorly implemented.

The national body, the Presidential Commission on the Information Society and Development, which has recently been set up under the auspices of the Department of Communication has indicated that it is currently working together with all government departments and agencies to finalise a national framework. While some stakeholders welcomed this development several expressed scepticism. Several respondents pointed to the various initiatives taken by various departments over the years to develop national policies such as the Foresight project of the Department of Arts, Culture, Science and Technology and the South Africa IT industrial Strategy (SAITIS) and the failure of new strategies to build on the substantial gains of previous efforts. A few respondents said specifically that their companies or associations had invested extensive time and resources in previous ICT national policy processes and they were simply not willing to do it all over again. Others expressed concern at the location of initiatives, arguing that a project of this scale and national importance required integration at the presidential level. All acknowledge the need for an integrated national strategy but some argued for this to be effective and responsive to the challenges of globalisation and international trade, it should not only look inward but also locate South Africa's development challenges within the international arena. India was cited as an example of a developing country that has gone a long way to realising the developmental and economic value of ICT through enabling state intervention.

Some respondents within Government pointed out however, that the mandate of the Commission was precisely to meet these challenges, particularly with regard to co-ordination and integration of Government efforts. Unlike other initiatives the Commission would have to report back to the President on the terms of their mandate.

Telecommunications

Like elsewhere in the world, legislation lags developments within industry but a broad range of telecommunications, broadcasting and e-commerce policy and legislation is in place with a policy on convergence being formulated. With regard to telecommunications specifically, South Africa is following a policy of 'managed liberalisation' that involves the gradual opening up of the market. It is intended that within this year (2002) a second national operator will be licensed which will include a 30% set aside on the ownership for the communications companies arising from the national transport and electricity companies. As one respondent noted, this process of liberalisation has resulted in increased participation by the state in the sector. The licence also includes a set aside of 19 % for historically disadvantaged individuals or groups. Originally 30%, this figure demonstrates the Government's willingness to accommodate investor concerns as several had demanded more than the remaining proposed 40% staking. Ten of the first rounds of over 30 potential underserviced area licences are also to be licensed this year. Local access and pay telephone services will also be liberalised by invitation from the Minister of Communications this year. The broadcasting signal distributor is to be given an international gateway licence as a carrier of carriers and a multimedia services licence. The Department of Communications indicated that a feasibility study would be conducted for the purposes of determining what happens in 2005, which is the targeted date for full liberalisation in telecommunications, particularly with regard to service based competition and with regard to expansion of the mobile market.

While some stakeholders have welcomed these developments, many pointed to the emphasis on policy-making over the last few years coupled with a failure to ensure effective implementation. Some stakeholders argue that this was due to a blurring of boundaries between the government and the regulator and that decisions were being made at the wrong level. Inadequate monitoring of implementation of policy and compliance with regulations and licences was also seen as a major contributor to the inadequate development of the sector, particularly the lack of substantial

universal service gains, over the last five years. An example of shortsightedness in policy cited was restrictions in the competitive services areas of the sector on Voice over Internet Protocol (VOIP). Such protectionism had failed to recognise the potential developmental benefits and inhibited innovation, it was argued.

Some respondents pointed out that a measure of good policy was one that took into consideration the capacity of the country to implement decisions. In this regard while South Africa's policies had often been hailed as examples of forward- looking policy, in practice they were not conducive to implementation and failed to recognise the limitations of government and South Africa as a developing country. An example cited of the complexity of implementing decisions and the lack of integration between various government departments in implementing policy, was the Telkom Initial Public Offering (IPO). The IPO involves four departments: Finance, Trade and Industry, Private Enterprises and Communications; each with its respective concerns about the money, global trade, maximising the value of a state asset and service delivery. There was no unifying policy from government or clear leadership, and reconciliation of these different priorities was missing, it was argued. Another example is that Internet Service Providers need to deal with a range of bodies: ISP (VANS) licensing is carried out by ICASA; Internet content regulation is done through the Film and Publications Board, while monitoring and surveillance legislation is currently being amended by the Justice Portfolio Committee.

Some respondents referred to problems of complex legislation such as telecommunications being concluded in the Parliamentary Portfolio Committee on Communications, which did not have the expertise to analyse and assess it. Other respondents felt that the committee was more responsible for the process than the content and some even commended the committee on its exemplary handling of the views of different parties in the most recent legislative round. Several industry respondents said the main problem with the policy and legislative framework was the inconsistency and dramatic changes in direction that made business planning difficult and discouraged investment.

Overall there was a sense that various departments, regulatory and advisory bodies were not working in tandem and the number of legislative instruments paid scant regard to each other. The broadcasting and telecommunications regulator in particular referred to none of the legal instruments being aligned with each other and 'creaking under the weight of competing demands'. The regulator called for

political leadership to ensure coherence amongst the various statutes and their arising institutions and regulations that impact on the ICT sectors.

Rather than promoting growth and inspiring investor confidence, the current legislation, together with what was perceived as the obstructive commercial behaviour of the incumbent, was an obstacle to growth in the view of several respondents. Another respondent praised the consultative nature of the policy process and noted that many participants took for granted the fruits of South Africa's new democracy. He pointed out that for many people who had been excluded from participating in national decision-making and the economy in general, the policy process was also a learning experience that was creating a more effective citizenry.

Trade in Telecommunications goods and services including DFI

Within the ICT sector there have already been some significant opportunities for Direct Foreign Investment over the last five years and the new legislation will create further opportunities. The 30% partial privatisation of the incumbent fixed line operator, Telkom, which was sold to a SBC Telecom Malaysia consortium, will be extended with the listing of Telkom later this year. The licensing of a third cellular network operator saw significant investment from Saudi Oger. The new second fixed line operator licence to be granted later this year will allow for as much as 51% foreign investment and the underserviced licence areas could see foreign partnerships.

Some respondents on the equipment and supply side however, cited a negative impact on the supply of telecom infrastructure. They attributed this to confusion in the market resulting from a coincidence of too many developments in the liberalisation process. Happening at the same time as a major downturn in the economy worldwide, this has led to a significant decline in telecom spending and in reduced FDI in telecoms throughout the world.

On the other hand, South African cellular telecommunications companies are also trading extensively in other African countries. The cellular companies have both fixed and mobile licences in six African countries including the Democratic Republic of Congo, Lesotho, Nigeria, Rwanda, Swaziland and Tanzania. South Africans also have broadcasting interests in Botswana. Trade and Industry pointed out that while ensuring the best use of local partners in the countries in which they were investing,

this had created an increasing volume of additional trade in goods and services with other South African companies in the equipment and software industry.

International telephone traffic is of course a significant source of foreign revenue and this should increase with the introduction of an international gateway competitor and the anticipated increase in intra-African trade. Telkom's energies on the international side have focused on developing South Africa as a hub for African traffic, by participating in the development of various undersea cable projects, most recently SAT 3.

Role of International ICT issues

The Department of Communication indicated that international ICT issues play a critical role in determining the national agenda in South Africa. This view was qualified with the point that South Africa did not just adopt international positions without assessing them against the particular need of the country. All international positions are considered with a 'critical eye'.

While Trade and Industry also felt that international policy issues influenced the national agenda they added that the array of international initiatives from DOT Force to Nepad and the ITU to ICANN were confusing to developing countries without extensive resources and were difficult to engage with effectively. By and large these organisations presented ICT uncritically as a panacea to development problems without considering the obstacles to successful implementation in an underdeveloped context. These organisations themselves and their activities were not very integrated and complementary.

While most stakeholders believed that South Africa aligned itself with international organisations, particularly the ITU, which had a strong influence on thinking, a few respondents said that, particularly with regard to telecommunications and WTO there was more lipservice than real buy-in to the spirit of the agreements. Several respondents said they received more information on international meetings from fraternal associations in Europe or other parts of the world than from their own government departments or agencies.

With regard to influencing policy and regulation, the European Community was identified specifically as being a resource for influencing local practice, if not policy

more formally. This was so because of the thoroughness with which processes were undertaken and the transparency of the outcomes, which could be easily tracked and clearly assessed.

Some stakeholders felt that consideration of international policy was very uneven. Some argued that while there was posturing in international fora to indicate support for internationally consensual positions there was not a commitment to conforming to international standards and practices back home. While South Africa was somewhat bound by the WTO Basic Telecommunications Agreement, its policies did not reflect the spirit of the agreements in the ICT area, some respondent felt. It was moving very slowly in some areas because of the delays caused by its policy of 'managed liberalisation'. Several respondents cited the new E-commerce bill that appeared to conform with international practice on the face of it, but closer examination revealed serious diversions that flew in the face of best practice and reflected a controlling approach to the Internet. This discordance with international 'best practice' was cited as a reason for poor policy in some areas of ICT. Some respondents expressed concern that an area such as domain naming, which had effectively been run in the non-profit arena through industry initiative, was being drawn into government. This was cited as the kind of activity that was contrary to the spirit of international trade agreements.

 A number of respondents pointed to responsibility for policy formulation being misallocated within the Government. E-commerce legislation was commerce legislation integrally linked to the economy and trade, not communications legislation which was simply the delivery mode. E-commerce policy in South Africa would not be as skewed as it is if it was formulated in the Department of Trade and Industry, some contended. Another however, argued that the record of Trade and Industry in the area of ICT had been so poor and the interventions so ineffectual that at least if electronic commerce policy and legislation were the responsibility of Communications it would be likely to come to fruition.

Another controversial aspect of the proposed electronic communications bill was the proposal to place domain naming in the Department of Communication. A few interviewees felt that the industry could not be trusted to represent and protect the interests of the country as a whole and not just its more narrow interests. Others lampooned the legislation, especially the contradictory aspects of drawing domain naming into the Department of Communications while requiring compliance with

ICANN which did not support government control of domain naming. One respondent stated that the draft legislation showed a gross misunderstanding of the nature of ICANN in saying that South African practice must implement ICANN rulings, which ICANN itself does not ask for. The lack of consistent participation of the national department in ICANN was cited as the reason for this.

3. Current levels of Participation in International ICT Decision-Making

South Africa participates extensively but unevenly in the International Telecommunications Union (ITU), the World Trade Organisation (WTO) and Internet Corporation for Assigned Names and Numbers (ICANN). However, South Africa tends to follow rather than lead. Government indicated that it participates in all three organisations at all levels and indeed fulfilled leadership roles from time to time. Formally, the last head of the ITU Council was a South African representative, who was also the first woman to head the council. Mostly, however, leadership takes place on the regional or African or developing country level. Due to anxiety around South Africa's economic dominance of the region this is often tentative or on request from other countries. South Africa's participation was seen to be most effective by stakeholders within the WTO, effective in certain areas of the ITU (particularly in the radio and technical bureau) and least effective within ICANN, in which South Africa's formal participation was described as sporadic, although some non-profit and industry associations were very active in ICANN.

There was most dissent among respondents on the nature and role of ICANN as opposed to ITU and WTO. While some stakeholders welcomed the informal nature of the organisation, others found the body itself problematic. Some respondents pointed out the lack of clarity around the organisation, while the activities and agendas of the ITU and WTO were much more clear (even if one did not support them). They pointed to the ambiguous authority of the organisation, confusion around levels and nature of national representation and criticised the dominance of the US in the organisation. In fact one civil society respondent went as far as to say the organisation could be viewed as illegitimate if it was understood as a national entity effectively controlling international governance of the Internet.

Trade and Industry pointed out that it had a permanent representative with a staff of four in Geneva in order to prepare better for future WTO negotiations but many of the smaller developing countries had no representation there at all. This was important as

lobbying and the positions of developing countries were developed through country ambassadors in Geneva rather than through regional meetings or organisations.

The Department of Communications also has a post in Paris responsible for the international ICT development, particularly at the ITU in Geneva.

Generally concern was expressed around the failure to develop common country or regional positions in relation to ICT in international fora, unlike the successful consensus in the agricultural sector for example and the representation and hard-nosed negotiation of a national position in relation to the EU. It was argued that one of the reasons for this is the international nature of the ICT sector and the fact that big companies can divorce themselves from local issues and list on foreign stock exchanges in a way that the agricultural sector, for example, cannot. The lack of a strong and binding industry association in the ICT sector was also cited as a weakness of industry to respond successfully to developments within the sector. Stakeholders in and out of the sector cited the polarisation of the sector into various factions as one of the main obstacles in achieving coherent industry input into the national process and therefore the ability of the sector collectively to be globally competitive.

Some government agencies, industry and NGO stakeholders attribute this generally negative position within the sector to the tight control of the policy process by the Department of Communication which despite the public consultative process ultimately drew on 'a small group of insiders' to determine policy. Various examples were cited where consultative consensus positions were overruled by the Department of Communications. This had resulted in scepticism of the consultative process and a 'dampening of enthusiasm and excitement'. Some respondents pointed to this being the prerogative of a democratically elected government and pointed to the fact that the Department had achieved much more than other departments that had delivered little tangible to the sector. Others warned that the measure of good government could not be the number of acts passed, but the substance of them and the degree to which they contributed to agreed national objectives.

Likewise, while some Government departments felt that all three international organisations made adequate provision in their structures, working methods and decision–making processes for the needs and interests of developing countries, there was a widespread view among all stakeholders that while at a superficial level participation was possible or even encouraged, the ability of a country such as South

Africa to really influence outcomes was severely hampered. Some respondents said the special needs of developing countries were not recognised by and large and that the constitutions and agendas of the international institution referred to were heavily biased in favour of developed countries. Some referred to such practical issues as the cost of getting to meetings and staying on expensive foreign currencies at meetings that were invariably held in Geneva or New York or elsewhere in the Northern Hemisphere. Others went further to say that while developing countries such as South Africa were able to participate and respond to issues, they were largely unable to set the agenda, determine the issues or swing outcomes. A few saw the institutions as agents of United States imperialism and said they were insulted by the patronising attitude of multilateral institutions that believed they had the all the answers to developing country problems.

Also, while Government believed it dealt with general themes and issues specific to the country, the general perception of industry and civil society was that South Africa largely only responded to country specific issues. Some respondents believed this was an appropriate use of resources and accepted the structural constraints both within the international organisation and the position of developing countries in relation to them.

Participation in the international organisations happens through meetings, attendance in discussions and negotiations. In some of the more technical areas, proposals are submitted for the work of organisations. Some respondents argued that the participation of delegations was too politicised to be effective as those with the competence to develop informed country positions were often excluded from consultation. Some respondents pointed out that while South Africa did not face the same resource restraints of other developing countries, it nevertheless lacks the know-how of the processes to determine the agenda or leverage the outcomes. Others emphasized that the organisations were structured in such a way that developing countries had very little leverage.

In telecommunications, representation at international meetings is largely limited to government officials, though prior consultation may take place prior to meetings. In several areas, the incumbent, which still commands the bulk of expertise, was still consulted by Government, while the regulator was often excluded. This reflects both where the technical skills lie in a number of areas but also reflects the market structure and the continued domination of the monopoly. Sector specific negotiations such as

telecommunications may include private sector representatives but they are more likely to be representatives of parastatals. Some private sector players financed their attendance at meetings in the telecom area but largely they had an observer role. Other civil society groups such as non-governmental organisations or academic institutions are seldom if ever included in official delegations.

Trade and Industry usually draws on the National Economic, Development and Labour Advisory Council (NEDLAC) structures in order to prepare for meetings, and their delegations have included industry, union and NGO representatives.

In the absence of a national ICT strategy each international organisation is dealt with on its own merits by the responsible government department though some matters would go through Cabinet. WTO negotiations tend to be most inclusive of government as a whole. Regulatory agencies however were not consulted on matters that fell directly in their jurisdiction. The communications regulator cited the audiovisual area as an example, where they were charged with protecting and nurturing local music and television content but were not taken into account when commitments were being negotiated. This contrasted with Trade and Industry's reference to its own expert bodies, which were seriously consulted on national and international issues.

While the Department of Communications believes current levels of participation are sufficient to protect and advance national interests, many of the stakeholders believe it is uneven and may not advance its interests adequately. Trade and Industry said that while these organisations were one-country-one-vote institutions, the uneven power relations between the industrialised nations and developing countries meant that, while much improved, participation was never likely to be sufficient.

Several respondents drew attention to what can be summed up as the intellectual political leadership and the resulting status it was accorded which was way beyond its economic power. This had allowed it to take up important developing country issues within the International Monetary Fund and the WTO. As one respondent put it with regard to South Africa participation in international negotiations: "…in many of the meetings South Africa has been able to box successfully outside its weight".

4. Current levels of capacity to participate in international ICT decision-making

Capacity to participate in international organisations was also regarded as uneven. While capacity was strong relative to other African and developing countries it was not sufficiently strong in critical areas. Overall the sense was that South Africa was very strong in the technical areas but lacked policy and regulatory capacity, with capacity often missing in the institutions in which it was most needed. It was also pointed out that capacity referred to in organisations was often individuals, which was a weakness due to the lack of depth of capacity and limited training taking place and current expertise could be lost at any time. Several respondents pointed out that with regard to technical capacity in the telecommunications arena, capacity was weighted heavily in favour of Telkom. This allowed Telkom's interests to prevail over those of the rest of the industry which could be countered by an authoritative regulator where it to have the expertise to play this role. Most respondents identified the regulator as most in need of improved capacity. While the communications regulator concurred with this, it pointed out that it was not that there was no expertise in the organisation but that it was spread very thin due to the vast demands placed on it by several waves of legislation. Its ability to be effective was also undermined by the 'palpable mistrust of independent regulation' and the failure of Government to treat it as an expert agency. Practically, it added that while the regulator was stretched to meet its statutory obligations, there was little likelihood of it fighting for better representation or consultation prior to international meetings. All these factors had a knock-on effect that was likely to perpetuate the lack of authority of the regulator, with national and international implications, due to the centrality of effective regulation to the growth of the sector.

The view was expressed by a number of stakeholders that extensive capacity existed on a range of issues within the private sector, academia and non-government organisations but that it was not drawn on for preparation or participation in international meetings.

Even within Government, capacity was regarded as uneven within and between departments. Extensive capacity to negotiate within international meetings was identified with the Ministry of Finance and Trade and Industry. Regulatory capacity was identified as particularly weak within the telecommunications regulator as mentioned but stronger in the Competition Commission. While the Department of Communications viewed its capacity as adequate it felt there was room for improvement. NGO respondents identified as particularly weak the area of ICT and

sustainable development and felt that capacity did not exist within Government and its agencies to optimise its benefits of ICT for development.

5. Obstacles to Strengthened participation and suggestions for improvement

While in South Africa there were generally high levels of awareness, access to information, technical regulatory and policy capacity and even financial resources to some degree, to participate in international ICT decision-making, the top-down approach of government to policy was identified as a limitation to strengthened decision-making. The creation of a space for consumer participation in the process was seen as an important missing component, particularly because of the poor consumer ethos in South Africa, and the largely unsuccessful role the regulator has been able to play as proxy for competition in this regard.

Roles and responsibilities

National government was generally seen as responsible for facilitating international and national strategy and developing guidelines for implementation through multiple- level participation and for providing leadership. Emphasis was placed on the need to allow regulators to implement government policy independently. The national ICT sector should take responsibility for organising themselves and for allocating resources to national and international policy development. Academic and research institutions were identified as critical to the development of informed policy formulation, review and analysis. The media's role is to build awareness, report and assess developments including international ICT developments that are seldom adequately reported on, if at all.

The role of bilateral agencies was identified as assisting with the development of good policy and training and development in order to make it sustainable. A number of respondents argued against bilateral relationships as they were always tied financially or ideologically in ways that could compromise the best interests of the country.

Several respondents were satisfied with the three international agencies or believed there was little that could be done to change them. Others argued that obstacles to participation could be overcome with the transformation of the international

organisations, including making them more democratic, allowing member states to participate more actively in agenda-setting and in influencing decisions. ICANN in particular it was noted, had moved backward, clawing back participation by members-at- large, making it an even less democratic organisation.

A more participatory national policy process, greater use of capacity outside of Government, regional leverage of common interests to influence agenda setting, swing or veto votes, and generally lobbying by organisations would improve developing country participation.

Several respondents identified the key to shifting the balance of power within the international organisations as regional co-ordination, caucusing and lobbying. Where a 'community of interests' had been created in Africa or regions of it, and resources had been pooled, enormous gains had been made. Several respondents cited issues particularly in the area of spectrum planning for international meetings that successful collective positions had been adopted to good effect. The failure of Africa and regions of Africa to do this consistently was compared to the consistent success of Arab countries in achieving this. Several respondents also said that regional meetings needed to move from talk-shops into becoming serious working sessions with timely deliverables. There were several lessons that could be learned from the EC in this regard. The gains were evident for example in VSAT licensing which allowed for bilateral recognition and one stop licensing. This of course assumed a relatively harmonised regulatory environment. At the moment the uneven costs created business opportunities for better regulated countries or priced services at the expense of inefficient or overpriced services in other countries. A South African operator for example was providing a VSAT link from a company on one side of Lusaka to its office on the other side of Lusaka via Johannesburg because it was cheaper than a local leased line.

The Southern African Development Community was nevertheless identified as having made significant gains around regional harmonisation and consultation for the effective regional regulators association, TRASA (Telecommunications Regulatory Association of Southern Africa) to the current work on regional e-readiness. There was a strong sense that regional approaches of this nature had the potential to improve national policies and international effectiveness.

6. Conclusions

At the national level stakeholders expressed concern at the lack of a national ICT policy and strategy which they attributed to the lack of integration of ICT-related initiatives between various government departments. While some respondents welcomed new efforts at developing an ICT policy others criticised them as not being inclusive enough either of local players with regards to the Presidential Task Team and particularly of industry and civil society with regard to the Presidential Commission on Information Society and Development.

The organisational vacuum within the ICT industry on the other hand was highlighted as a major cause for the uneasy relationship between Government and business within the ICT sector. The factionalism in the sector, which prevented the collective representation of industry interests, was also cited as a major contributor to the failure of South Africa to become globally competitive. Despite relatively advanced policy in many sectors relating to ICT, concern was expressed about the process and the ability of stakeholders to influence the outcome. Despite a consultative processes being required by law, several respondents felt that consensual positions arrived at during consultative processes were not translated into policy and law. Others argued that e-commerce policy and law for example was inappropriately allocated to the Communications Ministry when in fact it was trade legislation and this had resulted in a skewing that was not in line with international trends. Some, however, welcomed the fact that it had been located in a department with a record of delivery within the sector and which would provide much need certainty to the industry.

It should be noted that these criticisms reflect a very high level of expectation resulting from South Africa's recent democratic history and particularly the struggle for participatory democracy. Stakeholders of all persuasions expect a high level of consultation and participation, which has become the practice since 1994. The levels of consultation seen since 1994 are unprecedented within the region and must be among the most rigorous required of developing countries and conform with practices in the most mature democracies. There was widespread concern though that several of the gains made under the new political dispensation were being clawed back. As one respondent said the 'honeymoon was over'.

While the statutory requirement of consultation was being met in form, the substance of the policy did not reflect the sentiments expressed in the consultation process. Concern was expressed that there did not even seem to be consultation and

consensus within Government on the approach to ICT. Some were less harsh, pointing to the gains made in the sector in a relatively short period of time and highlighting the learning curve the country has been on for the last decade, which had enabled citizens and stakeholders to participate more effectively.

With regard to international participation respondents felt that South Africa's participation was uneven. While several respondents felt positive about being back in the international community and participating in international fora they felt there was insufficient scope for participation by industry and non-governmental organisations. Many pointed to the fact that in certain areas the capacity which government required lay outside of government in these sectors. This was particularly important while the regulator developed capacity and as long as it remains notably under resourced. Others noted that the technical capacity on many issues remained within the incumbent PSTN operator, which was included in government delegations to international meetings which would allow them to influence national policy disproportionately. Others argued that this was not surprising as it reflected the current structure of the market.

These issues of good governance at the national level impacted on the ability of the country to operate as effectively as it could internationally. Governance was also identified as a problem within the international organisations. While Government generally indicated satisfaction with the three international agencies others argued that as long as the industrial countries determined the agenda and had the resources to work the system in their interests, developing countries would derive little benefits from these organisations.

Obstacles to effective participation could be overcome through a more genuinely consultative national policy process, greater use of the capacity that resided outside of government and its agencies, regional leverage of common interests in voting fora and to generally lobby within these organisations.

Regional co-ordination was cited by several parties as one of the most realistic ways that existed of working the structures within the organisations on their own terms in developing countries' favours.
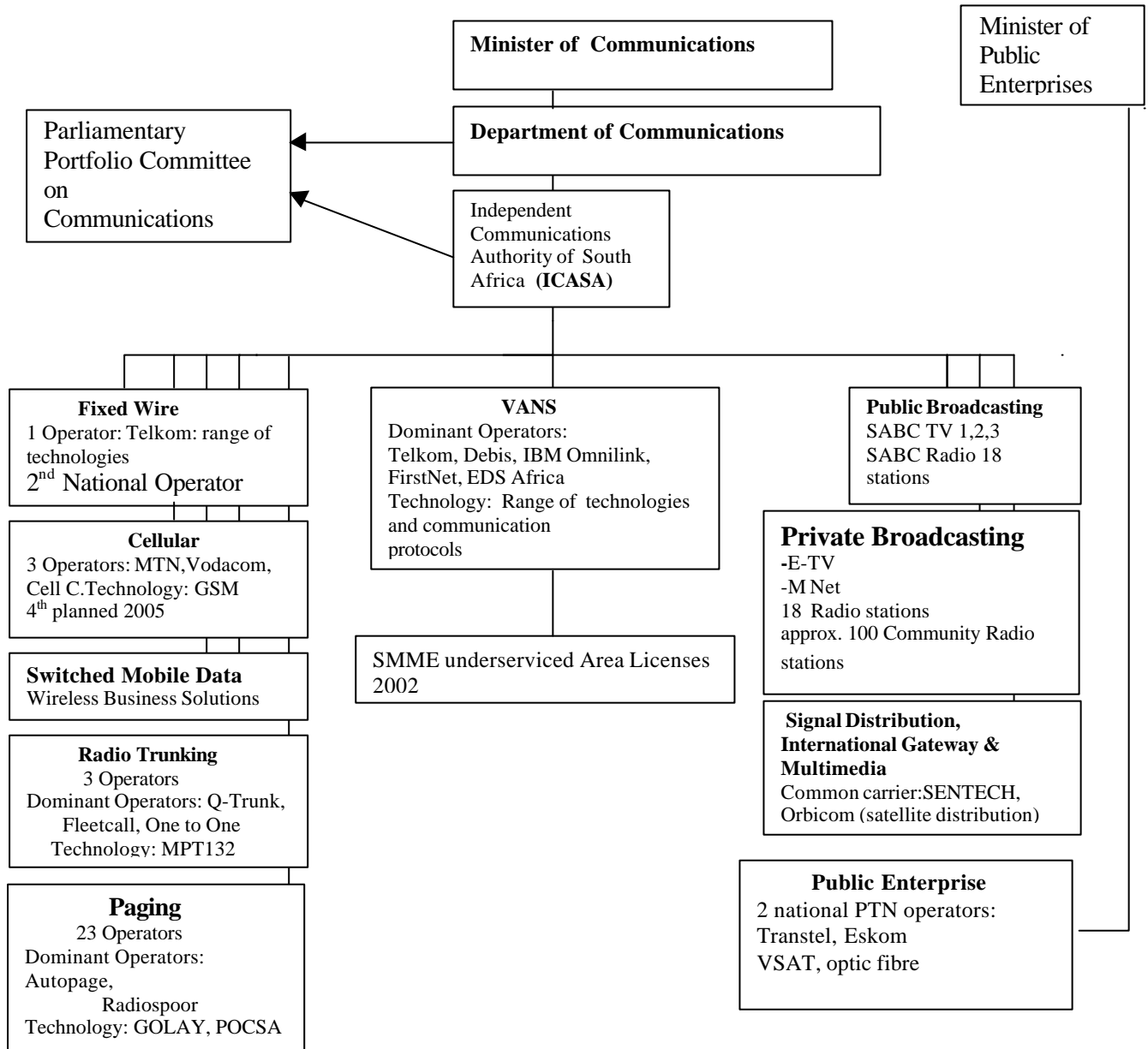
Mechanisms to increase active participation by a range of role players from developing countries in international organisations could include the three

organisations (WTO, ICANN and ITU) extending their efforts to developing a e-mailing list of people throughout the world on their issues. This could be done by encouraging subscription to their lists on existing email lists, websites and at conferences. Two months before major international meetings are to be held, a briefing paper outlining the main areas to be discussed is sent out to all on their list, with details of the national 'points of contact' in all member countries (e.g. SA Department of Communications for ITU, Department of Trade and Industry for WTO). This would inform more people of the issues being considered by these organisations, and encourage greater national debate. This would also be a means to bypass the 'gate-keeping' role currently played by many of the national departments. It could be hoped that in many countries this would lead to some national debate (electronic or face-to-face meetings) on the issues, bringing forward ideas and expertise in the country that otherwise might be overlooked by the departments. This would enhance good governance on a global level.

Appendix 1

South Africa's Telecommunications Structure

Minister of Communications

Minister of Public Enterprises

Department of Communications

Parliamentary Portfolio Committee on Communications

Independent Communications Authority of South Africa **(ICASA)**

Fixed Wire
1 Operator: Telkom: range of technologies
2nd National Operator

VANS
Dominant Operators:
Telkom, Debis, IBM Omnilink, FirstNet, EDS Africa
Technology: Range of technologies and communication protocols

Public Broadcasting
SABC TV 1,2,3
SABC Radio 18 stations

Cellular
3 Operators: MTN,Vodacom, Cell C.Technology: GSM
4th planned 2005

Private Broadcasting
-E-TV
-M Net
18 Radio stations
approx. 100 Community Radio stations

Switched Mobile Data
Wireless Business Solutions

SMME underserviced Area Licenses 2002

Signal Distribution, International Gateway & Multimedia
Common carrier:SENTECH, Orbicom (satellite distribution)

Radio Trunking
3 Operators
Dominant Operators: Q-Trunk, Fleetcall, One to One
Technology: MPT132

Public Enterprise
2 national PTN operators:
Transtel, Eskom
VSAT, optic fibre

Paging
23 Operators
Dominant Operators:
Autopage,
Radiospoor
Technology: GOLAY, POCSA

Source: BMI-T 2000, LINK 2002

Appendix 2

Many thanks to the following organisations for giving of their time and sharing their experience in the interviews that underpin this study.

1. Alcatel
2. Association for Progressive Communication (APC)
3. Black IT Forum (BITF)
4. Council for Scientific and Industrial Research (CSIR)
5. Department of Trade Industry (DTI)
6. Independent Communications Authority of South Africa (ICASA)
7. Internet Service Providers Association (ISPA)
8. National Telecommunication Users Group (NTUG)
9. Telkom South Africa
10. Trade and Industrial Policy Studies (TIPS)
11. UNIFORUM (Domain naming organisation)
12. University of South Africa (UNISA)