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AN INSTITUTIONAL ARRANGEMENT ANALYSIS OF THE SOUTH AFRICAN BUREAU OF STANDARDS

AYENDER NDZALAMA MAKHUVELA

A research report submitted to the School of Governance in the Faculty of Commerce, Law and Management of the University of Witwatersrand, Johannesburg, South Africa, in part fulfilment of the requirements for the Degree of the Master of Management in Public Policy

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Declaration

I declare that this research is my own unaided work apart from contributions cited in the acknowledgments. This research project is submitted to the University of the Witwatersrand, Johannesburg, South Africa in partial fulfilment of the requirements for the Degree of the Master of Management (in the field of Public Policy. It has not been submitted before for any degree or examination in any other university. I further declare that I have obtained the necessary authorisation and consent to carry out this research.

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(Signature of candidate)

23 day of October 2020 in Pretoria

Dedication

This report is dedicated to my late aunt Joyce Makhuvela and uncle Chavani Mtebule, Whom I never knew my life without them. N'wa marindza Nhlanga wa Hulela uswikotile hahani. To my uncle, from Party Management to a Master of Management, ni navela ku twa xihleko xa n'wina.

Lastly, to my great grandmother, Gavaza N'wandzule

Nakhensa nhlonhlotelo wa n'wina wa ku hi entisa vutivi na ti dyondzo ta hina

Namunthla, hakelo ya swikhongelo na vuthlari bya nwina hi leyi

I n'wa Marindza Nhlanga wa Hulela

I n'wa Muhlava wa Nkomari wa Muhlava

I Mhunti Ya mona

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Abstract

The aim of the research is to analyse the institutional arrangements of the verification network institutions for local content requirements and designation policy in South Africa (SA). The verification network institutions for local content requirements and designation policy in South Africa hardly receive scholarly scrutiny. This study is undertaken to understand the institutional arrangements, and the procedural, methodological and institutional value choices that are in place to capacitate the South African Bureau of Standards (SABS) to conduct local content verification.

A Qualitative research methodology approach is undertaken to study inductive reasoning and to answer the research questions that require discussion and elaboration by research participants. This research arises from the need to gain further insights into the capacity challenges the SABS is experiencing in conducting verifications. The primary data was collected using methods of observations, content analysis, structured and unstructured interviews with stakeholders from government departments, the industry supplying products and goods, procuring entities participating in the procurement of public goods and services. Further, the secondary data is generated from theoretical analysis.

The mandate of the SABS is defined by the Standards Acts (1945;1993;2008) that established the institution as a statutory Standards Authority. It was enacted as a national institution for the development, promotion and maintenance of standards on behalf of the South African government. Each Act repealing the previous is about the continuation of service, updating the rules for human conduct, complying with the governance requirement of the government. The SABS aligned its mandate to support governments Industrial Policy Action Plan (IPAP), which is the government's plan for industrialization that promotes localization of products and services, protecting the local industries from penetration of low-quality cheap imports.

The SABS were appointed by **the dti** during the amendments to the procurement policy due to the expertise and the fact that the SABS prepared the SATS document. It was then recommended that the SABS be the verification authority for local content and designation policy. There was no MOU or any legal official documentation detailing the mandate of the institutions to conduct the verification.

This verification process has been faced with conceptualisation and implementation challenges of **cost** and also non-compliance by the procuring entities. The cost of verification has been a contentious issue since inception of the policy. This resulted in gaps in the delegated authority and the funding of the institution to conduct verification. Certain functions are more constructive when handled by particular state institutions, as certain institutions are great agents of institutional design, but not-so-great agents of implementation and enforcement. The SABS has been delegated legal powers to conduct verification by **the dti**, using the PPPFA. However, these powers are not enforceble as the procuring entity is the one that enters into contractual agreement with the bidders who will be verified. Additionally, the procuring entities have been empowered to action remedial action against a tenderer who submitted false information.

Institutional change is necessary to improve service delivery and achieving the organisational mandate, goals and objective. In reforming institutions, it is necessary to formally change the institutional arrangement such as re-organisation of the administrative functions in the institution. The Minister of Trade and Industry exercised his discretion as stated in the Standards Act of 2008 Subsection 9 and terminated the term of office for board members. By placing the institution under administration dissolving the board citing "institutional failures, in governance, finances, policy and operation. This can be seen as a form of institutional reform as there was a formal change to the institutional arrangement of the SABS.

Key words: Institutional arrangement; procedural, methodological and institutional value choices; Institutional theory; New Sociological institutionalism, the South African Bureau of Standards

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Abbreviations

AG	Auditor General of South Africa
CEO	Chief Executive Office
CSIR	Council for Scientific and Industrial Research
ITAC	International Trade Administration Commission of South Africa
LCR	Local Content Requirements
MFMA	Municipal Financial Management Act
NT	National Treasury
OECD	Organisation for Economic Co-operation and Development
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act
SA	South Africa
SABS	South African Bureau of Standards
SARS	South African Revenue of Services
the dti	The Department of Trade and Industry
WTO	World Trade Organisation

CHAPTER 1: INTRODUCTION

1.1. Introduction

The aim of the research is to analyse the institutional arrangement of the verification network institutions for the local content requirements and designation policy in South Africa (SA). The specific focus is on the South African Bureau of Standards (SABS), which was appointed to verify products supplied under the local content requirements and designation policy. This study is undertaken to understand the institutional arrangements, the procedural, methodological and institutional value choices that are in place to capacitate SABS to conduct local content verifications. This chapter presents the background of the research, research problem, research purpose statement and questions, and outline of the research thesis.

1.2. Background

Public procurement has particular significance as it has been used as an industrial policy tool of government. It is used to foster job creation and socio-economic improvement by promoting various aims such as improving social, industrial and environmental policy (Bolton, 2006). Public procurement has been used to stimulate economic activities; protect national industries against foreign competition; enhance job creation; improve local manufacturing value addition of these products; improve the competitiveness of certain products and sectors, and remedy regional disparities (Watermeyer, 2000 in Bolton, 2006, p. 195). However, it should be done within a competitive environment to foster the growth and development of enterprises that participate equitably in the global economy.

The use of local content requirements (LCR) in public procurement is a multi-dimensional concept with varying scope. There are many criteria to LCR ranging from requirements of ownership of companies, preferential procurement, sourcing from local companies, as well as the transformative value addition processes or beneficiation of raw materials, job creation, and level of technology improvements (Ramdoo, 2015). Depending on the procurement processes of the country, local content requirements are legislated and articulated in government policies and the regulatory framework.

The LCR policies can also be used in conjunction with other industrial policy instruments such as incentives offered to manufacturing companies to enhance their capacity and capabilities, tariffs, and other measures to reduce import content.

Ado (2013) explains that Local Content Requirement (LCR) is increasingly being made part of government's industrial policy in resource rich developing countries. LCR has found applicability in different ways such as ownership, having local requirements of a certain percentage of the project cost, or requirements of the manufactured products. This is achieved by mandating the use of certain locally manufactured products in specific projects, leveraging on public spending to guarantee sales whilst building capacities and capabilities necessary to compete with international competitors (Ado, 2013).

The World Trade Organisation (WTO) associates local content requirements with the investor being required to purchase a certain amount of local product to be incorporated in the investor's product. The flexibility of national governments to implement developmental objectives in industrial policies has been reduced. The WTO explicitly prohibits the practice of LCR and the government subsidies linked to the use of local goods rather than those imported, as it considers LCR to be inconsistent with free and fair trade (Johnson, 2013, p. 13). However, due to the restrictions on government procurement agreements by the WTO, the use of procurement as an effective policy tool has been limited.

The Organisation for Economic Co-operation and Development (OECD) (2016) refers to the use of LCR as policies that are imposed by government that intends to operate the economy by requiring firms to use domestically manufactured goods and services. They view this as a government protectionist act leading to losing international competitiveness, and undermining growth and innovation opportunities that result from a diverse economy. They also view this as government paying premium prices for products, as domestic prices might be higher than the import price. Thus, making imports attractive and cheaper undermines the value for money objective that most governments have as their procurement requirements. This might lead to bidders tendering imported products masquerading as locally manufactured due to the weak verification enforcement (OECD, 2016).

LCR supports different objectives that government is trying to achieve, such as protecting infant industries, achieving political harmony and social compensation. LCR also is used as protection of strategic sectors and incentivising stimulation of job opportunities, value addition to products and services, and the industrial base. This is done with the aim of developing the emerging domestic industries and export potential of these industries, thus rectifying the trade imbalances. It has been noted by Johnson (2013) that since the 19th century, developing countries, which have caught up with the most economically developed countries, are those that have implemented some form of government protection and direct or indirect government subsidies (Johnson, 2013, p. 22).

Public procurement accounts for a significant proportion of goods and services demanded by a nation and it has a major role to play in making society better. South Africa implements LCR policies by leveraging on public expenditure to mandate the use of locally manufactured products and services in public procurement. The president declared that the government must procure 75% from the local economy, supporting the Preferential Procurement regulations (**the dti**, 2018).

The Department of Trade and Industry (**the dti**) has a mandate to implement LCR with preferential procurement of domestic value-added products and services. It does so through the use of the Industrial Policy Action Plan (IPAP), identifying local content as a strategic industrial policy instrument, which can be used to leverage the power of public procurement; reduce the country's trade deficit; address market failures; foster infant industries; and increase the government's tax base (**the dti**, 2018; TIPS, 2017). **the dti** is empowered by clause 8.1 of the 2017 Preferential Procurement Regulations to designate sectors, products and services in line with the national industrial policy for local production.

The minimum local content threshold of products and sectors that will be considered for government tender is stipulated in Instruction Notes published by National Treasury. In sectors and products for which an instruction note has not been issued to designate products or is in the process of being issued, provision has been made by clause 8.4 for the procuring entity to self-designate sectors and services in consultation with **the dti**, prescribing specific procurement conditions for local products and services to be considered (TIPS, 2017; **the dti**, 2018).

Davey and Gatenby (2007) define procuring entities as organs of state in national, provincial, and local government, and any other institution identified in national legislation to contract goods and services on behalf of the state. This includes constitutional institutions as defined in Section 239 of the South African Constitution such as any functionary or any state institution that exercises constitutional power, i.e. the State Owned Companies (SOC). SOCs are institutions that are legally created through the constitution by the government in order to conduct commercial activities on behalf of government (Department of Public Enterprise, 2014).

Bekink (2006) explains that municipalities function closest to the local communities they have been constitutionally tasked with development and delivery of sustainable services. Procurement of these services in all the state procuring entities is guided by the principles of affordability, quality, accessibility, and value for money and also promotion of competitiveness and job creation by sourcing from local business (Bekink, 2006).

In South Africa, procurement follows the competitive bidding contractual process and quotations as stipulated in the Preferential Procurement Regulations. Bids will be adjudicated, evaluated and awarded based on preferential criteria stipulated in the Preferential Procurement Policy Framework Act (PPPFA) and regulations that promote equality. Public procurement tools may prove to be useful and effective if they have measurable targets and the process is verifiable, auditable and transparent (Arrowsmith, 1995, pp. 247-248).

The SABS has been established through an Act of parliament, with the powers and functions detailed in the Standards Act. The legal mandate of the institution is to become the national standardisation institution of South Africa. The SABS was established as a standards authority by the Standards Act of 1945 and also continuation of existence by the Standards Act, 1993 (Act No.29 of 1993) which has since been repealed and replaced by the Standards Act, 2008 (Act No.8 of 2008). This was driven by a societal need for the country to develop quality standards that measure manufactured and imported goods. The goods and services were to be benchmarked against international standards to ensure that they are fit for use and consumption by the citizens of the Republic.

Public procurement tools may prove to be useful and effective if they have measurable targets and the process is verifiable, auditable and transparent. The SABS was appointed as the verification agency by **the dti**, to conduct verifications to provide assurance that products that are designated and supplied for public procurement are actually manufactured locally. Local Content and Verification has been included as a business focus of the certification unit, "the SABS has an important mandate to promote standardisation, conformity assessment and local content verification services to ensure achievement of industrial economic and developmental objectives" (SABSa, 2019, p. 10)

Verification of the manufactured products and services gives the state the proof that the intended beneficiaries will be reached, and objectives of the policy will be met. The local content requirements verification process has been specified and communicated that upon award of the tender, the procuring entity has to submit information to **the dti** and the SABS. The SABS will then together with **the dti** and the procuring entity, conduct verification using either the independent registered auditor or the accredited verification body (Govender, 2013; SABS, 2016; TIPS, 2017). This verification process has been faced with conceptualisation and implementation challenges of cost and also non-compliance by the procuring entities.

The cost of verification has been a contentious issue since inception of the policy, with public debates on who should bear the costs between the state, procuring entity, policy custodians (**the dti**), and the successful bidder. The PPPFA is silent on who should bear the costs, although SABS (2016) concludes that the successful tender bidder must cover the cost, the burden still lies on the state to carry the costs as they will be offset against the bidding price. Processes for the technical verification differs per designated product and verification procedures for manufacturing value chains will need to be established hence the delay in the implementation product verifications. The cost of verification is driven by the duration of the audit process, meaning that for products with complex components and manufacturing value chains that have to be verified the cost can be exorbitant, with small companies and co-operatives not being able to bear the costs (Ensor, 2016b; SABS, 2016).

Furthermore, the non-compliance to the PPPFA regulation and designation policy by procuring entities has also been cited as another challenge experienced during the implementation of the policy. Procuring entities often do not understand what is required and the legal obligations in implementing the designation policy during and post bid award. Most procuring entities have a different interpretation of designation rules and often do not submit the successful tender awards to **the dti** and SABS for verification. The SABS reports that only 165 tenders were submitted post award from March 2015 to January 2016, which is not the total amount of public procurement tenders awarded (Ensor, 2016a; SABS, 2016).

These institutions, together with institutions at ports of entry in South Africa including the South African Revenue Services (SARS) customs and excise divisions form a network of local content and designation verification institutions. SARS customs and excise divisions are responsible for facilitating entry and exit of goods and people on the borders of the republic and expediting the levying of duties on certain locally manufactured goods as well as on their imported equivalents (South African Revenue of Services, 2018).

The aim of the research is to analyse the institutional arrangement of the verification network institutions for the local content requirements and designation policy in South Africa (SA). The specific focus is on the South African Bureau of Standards (SABS), which was appointed to verify products supplied under the local content requirements and designation policy. This study is undertaken to understand the institutional arrangement, the procedural, methodological and institutional value choices that are in place to capacitate SABS to conduct local content verifications. Verifying the country of origin for manufactured products supplied in the government procurement in SA will assist the government to fully maximise the policy objective of local content requirements and designation. The state will then have proof that the local manufacturers are benefiting from these procurements and that there was no fronting or misrepresentation of the declared local content.

1.3. Research Problem

Despite the local content requirements and designation policy being implemented since 2012 with over 23 products being designated and the SABS appointed as the verification agency by **the dti,** not much verification of the awarded procurement has taken place (TIPS, 2017; **the dti**, 2018). This has left the government and procuring entities relying on self-declared assurances from companies supplying designated products and services.

The South African Bureau of Standards reported that 165 tenders have been submitted by procuring entities for the verification from March 2015 to January 2016, these tenders were valued R54 billion (SABS, 2016). Without verification of local content, there is no assurance that the public expenditure will support economic growth, job creation, stimulating and enhancing competitiveness of the local manufacturers, as there is no safeguard that the products supplied are not imported. Verifications are conducted after the tender is awarded, in most cases, it is done after product supply and delivery, and commission, meaning that the damage is already done as the products are already in service. The SABS confirmed that only one local content verification was conducted out of the 165 tenders submitted (SABS, 2016).

Procuring entities do not always submit the awarded tenders to **the dti** and the SABS, the amounts of tenders submitted as supplied by the SABS are far less than the total numbers awarded. To further elaborate this point, in 2015 Transnet awarded the '10-64' locomotive tender to four suppliers, this tender contract alone is valued at R50 million. Which means this tender was not submitted to SABS for them to conduct verifications, as the four tenders submitted to the SABS amounts to R50 million. This indicates the dire incapacity for the SABS to conduct the local content verification (SABS, 2016). Policies formulated by the government must be actionable, coherent and verifiable (Arrowsmith, 1995). Verification assists with monitoring to ensure the maximisation of the policy to achieve 75% procurement from the local economy (**the dti**, 2018). The lack of verified procurement awards can be seen to undermine the policy objectives of local content requirements as there are no assurances and guarantees that the products supplied are as prescribed in the local content regulation, that is, from local manufacturing facilities.

This study will focus on the institutional models, ways in which SABS has been arranged, its legal powers, rules, procedures, and the processes which enable the institution to conduct verification. The limelight will be placed on analysing the institutional arrangements, interrogating the legal powers, policies and processes that SABS legislates, plans and management of their activities efficiently and to effectively coordinate with others in order to fulfil their verification mandate. It will bring insights into the capacity challenges SABS experiencing in conducting verifications by analysing the procedural value choices, methodological value choices and institutional value choices.

Other insights the study will bring include an understanding of the redefinition of the relationships within government and the decisions that affect governmental institutions. Furthermore, the research will analyse the alignment of various network institutions implementing local content requirements and designation policy in South Africa, that is, the procuring entities, verification agencies, custodians of policy and procurement will be conducted. Most institutional policy analysis focuses on a single government institution, but this study proposes a holistic study, systematically considering several institutions implementing verification of local content. This research will examine the role of SABS and its contribution to the overall verification process by looking at the value choices, methodological choices, and institutional choices as proposed by Gormely (1987).

1.4. Research Purpose statement and questions

The purpose of this research is to analyse the institutional arrangements of SABS as a verification agency for the local content requirements and designation policy. This will be done by analysing the procedural value choices, methodological value choices and institutional value choices. It will explore the legal powers, rules, procedures, and processes of the institution that are put in place to enable verification of local content to be conducted. This is a necessary approach to understand the institutional arrangements of the SABS and its capacity to conduct local content verification. This research arises from the need to gain further insights into the capacity challenges experienced by the SABS in conducting verifications.

The main research question is the following: what are the current institutional arrangements of SABS, the legal powers, rules, procedures, and processes of the institution that are put in place to enable verification of local content?

The secondary research question is: are the network verification institutions (the legal powers, implementation processes and procedures) aligned to support SABS to conduct verifications?

1.5. Outline of the Thesis

This report has been sectioned into five (5) chapters. Chapter one is the Introduction which describes the subject matter, provides background and identifies the research problem. The chapter also presents the purpose statement and research questions. Chapter two outlines the review of relevant literature focusing on institutional arrangement, institutional theory, procedural values, methodological values and the institutional value choices. It is from this literature review in chapter two, where the study is justified, as it is filling a gap in knowledge production. This chapter also spells out this study's conceptual framework which will be used to analyse its research findings. The next chapter is about the approach this study adopts, its research design, the methodology including data discussions on data collection techniques and data analysis. The research findings derived from the research questions and analysis are presented in chapter 4. The concluding chapter offers recommendations.

Chapter 2: Literature Review

2.1. Introduction

It is very critical to establish an understanding of institutional theories that guide the arrangements of institutions, more especially public institutions. The literature review covers local and international publications such as, periodicals, journal articles and the electronic media on institutional arrangements, institutional theory, policy networks. The literature review will focus on the description of themes and also on the following aspects:

a) Public institutions and developing institutions in Africa
b) Defining the concepts of institutional arrangements and institutional policy analysis
c) Institutional theory; historical institutionalism, rational institutionalism and
d) The theoretical framework of analysis

2.2. Public Institutions and Policy

Public institutions and government departments in South Africa are constitutionally mandated to determine, implement, manage and enforce public policies including the local content requirement and designation policy. According to Babalola (2020) public institutions are used by government as organisations of rules and regulations. They are used for ownership, sale, provision, delivery and allocation of goods and services by and for the government or its citizens (Babalola, 2020).

Each institution is given a mandate with roles, powers and functions that it has to fulfil to deliver services to the citizens of the republic. In most instances, inter-organisational collaborative policy networks are necessary to fully achieve the policy objectives (Raboy & Podovani, 2010). According to Kooiman (2003) "no single actor, public or private, has the knowledge and information required to solve complex…. societal challenges…no single actor has sufficient action to dominate unilaterally" (Kooiman, 2003, p. 11). Social policy networks are often required to solve major contemporary complex social and economic issues as no single institutional authority can act with assurance in resolving challenges.

Given the nature of the current societal problems robust strategies, capable actors and governance systems which are integrated to be able to solve or at least mitigate the problem are required (Daviter, 2017a; Head & Alford, 2013). It is important to note that as stated in Ambe and Bardenhorst- Weiss (2013), policy is a function of institutions that participate and implement it, extending the range of policy actors and stakeholders involved in the policy process as it requires participation from procuring entities, the private sector, government, and its agencies (Ambe & Badenhorst-Weiss, 2012). Raboy and Podovani (2010) further elaborate that policy is all intervention processes, whether formal or informal, by actors with different degrees of power and autonomy. In summary, it is about arrangements for governing formal and informal structures of law making and regulation (Raboy & Podovani, 2010).

Rhodes and Marsh (1992) explain that policymaking is a game in which participants use their constitutional legal powers, political, financial and informational resources to manoeuvre and maximise their influence on the policy outcomes. Policies are simply a product of an elitist power structure that give groups privileged access to decision making due to their economic position and their knowledge. Public Policies are products of government, designed through a single institution or network of their institutions to alter aspects of social behaviour. They are products of decision makers, context, environment, and policy design process and tools. Policy design involves application of knowledge and adoption of actions that are likely to yield desired outcomes within the specific context (Howlett & Ramesh, 1995).

These policy outcomes are also affected by the existence of the policy networks, which are mainly dominated by governmental institutions or serve the interests of the most vocal and influential group. Policy networks are defined as interdependent and non-hierarchical stable relationships that link a variety of actors with a shared common policy interest, who also exchange resources to pursue these shared interests. These networks differ according to their integration, stability and exclusiveness and the distinction between policy networks (Rhodes & Marsh, 1992). Bensons (in Borzel, 1998) explains policy networks as those clustered or complex organisations that are connected together by resource dependency and common interest.

They can be regarded as an analytical tool used to examine the exchanges relations that are instittutionalised between the state, business, industry and civil society. These networks include all actors that are involved in the formulation, implementation and monitoring, and evaluation of policies. Network governance when used in public institutions, transforms levels of governance towards a more interactive, reflective and communicative forms of steering and coordination within public institutions by changing the content of public discourse to inform concrete decision making, policy development and implementation (Bang & Esmark, 2009).

The expectation of reforming public institutions to be autonomous in performing their functions prevails in most public organisation studies. Autonomous institutions are those that have at least one of the following; conferred rights to determine their organisational and administrative structures, manage their budgets, able to act according to its own discretion and regulate its own affairs. It is affected by external constraints through interaction with the environment and by the attitudes of those within the institutions. According to Kaya as cited in Kori (2016), insitutional autonomy speaks to the institutional self-regulation and self determination with regards to the institutional local and internal matters, relates to institutional accountability not only exclusively to political structuresand/or government but also to society at large (Kori, 2016, p. 48).

The transfer of decision making by government to these institutions which is based on the rational choice theory is meant to enhance the credibility of government policies and reducing the political risk for policy makers (Verhoest, Bouckaert, & Verschuere, 2004). Berthod (2016) argues that public institutions are inclined to appear legitimate in the eyes of the most important resource holder, in this case their oversight government department. The legitimacy of an institution is based on the belief or assumption by institutional actors that the actions of the entity are desirable and appropriate to achieve the set mandate of the institution.

2.3. Institutions

Institutions, according to Hall and Taylor (2006), provide information on how individuals are meant to behave, mechanisms for enforcing agreements, and the penalties to be applied for defection by providing a cognitive template for interpretation and action.

institutions define the informal and formal rules, procedures, relationships, power structures, values and norms to be embedded on organisational structures (Hall & Taylor, 2006). In Kumssa and Mbeche (2004) various definitions of institutions have been discussed, with some authors believing that institutions are a set of constraints, which govern the behavioral relations among groups or individuals. Institutions can also be defined as governmental and non-governmental social systems, and their social relations are governed by the underlying values, rules, norms of behaviour and traditions (Kumssa & Mbeche, 2004).

Ostrom (1999) in (Kraft & Furlong, 2003) refers to institutions as interaction within and across organisations which are structured by rules. The World Bank is said to define institutions as sets of informal and formal rules that govern the interactions of participants in the development process (Kumssa & Mbeche, 2004). The emphasis is placed to understand the ways in which governments are arranged, their legal powers and their rules and procedures of policymaking, this are the formal aspects of government. Kraft and Furlong (2004) explain that the degree of public access to decision making, the availability of information in government agencies or sharing of power (decentralisation of power) between spheres of government are important characteristics of these rules and legal powers (Kraft & Furlong, 2003).

Borzel (1998) explains institutions as being conceived as regulatory structures that provide opportunities and constraints which preferences are maximised by rational actors (Borzel, 1998). Institutions allocate and adjudicate distinctive responsibilities to institutional actors in order to provide solutions to the coordination challenges experienced within organisations. This allocation of responsibilities creates guarantees, stability to initiate change, patterns of reliable activities assurance and ways to negotiate disagreements and capacity to create change. Responsibilities are allocated to individual levels by their organisation to ensure accountability, transparency, appropriateness, openness and mutual oversight. Furthermore, institutions are also allocated responsibilities to communicate, negotiate and bring about change that is responsive to societal needs (Williams, 2006).

Power, as defined by Scruton (1982 p. 366), is the ability to achieve the desired effect and may be exercised based on consent or it may be coerced by any form of violence.

Within public institutions, power can be conferred, delegated shared and limited to an individual within the organisation in order to exercise power to achieve the desired objective (Scruton, 1982). The South African constitution provides for the separation of powers that ensures that each branch of government acts as a counterweight to the other, preventing it from accumulating all the powers of the state.

Raboy and Padovani (2010) conclude that power for decision making in government institutions is not distributed equally among actors and other network institution for example, most national government departments still wield tremendous power although policies are formulated and implemented through network of institutions (Raboy & Podovani, 2010). Officials within government institutions develop public policies that address regional, local and even international public issues through the political process. More importantly, it is about how the nation's capacity and paths are to be followed in response to new challenges that arise in society. Change that is responsive to societal challenges is achieved when administrative institutions translate the nation's visions into processes that are actionable and achieve the desired outcomes. It needs to be coherent and anchored on national ideologies; this can be said about the local content requirement, the National Treasury, and **the dti** (**the dti**, 2018; National Treasury, 2005).

Values refer to what is believed to be accepted and not accepted in a particular community whilst **norms** are the standards of behaviour and conduct that are accepted in a particular society to avoid sanctions (Kumssa & Mbeche, 2004). In most institutions, values and norms adorn the walls of the buildings and they evolve over time as society becomes subject to fundamental changes that affect access to resources that influence the developmental process. Societal values and culture are identical to the socio-economic system of a given society and institutions are the products of the very socio-economic systems. It is important to note that the very same individual actors in the institutions are products of the specific culture and societal value. This makes institutions, good governance, and sustainable development to be interlinked, as they facilitate human relations by providing both formal and informal rules and values for effective exchange in the development process. These rules have to be enforced through various coercive systems to create a stable society and a flourishing economy (Basiago, 1999)

2.3.1. Procedural Values

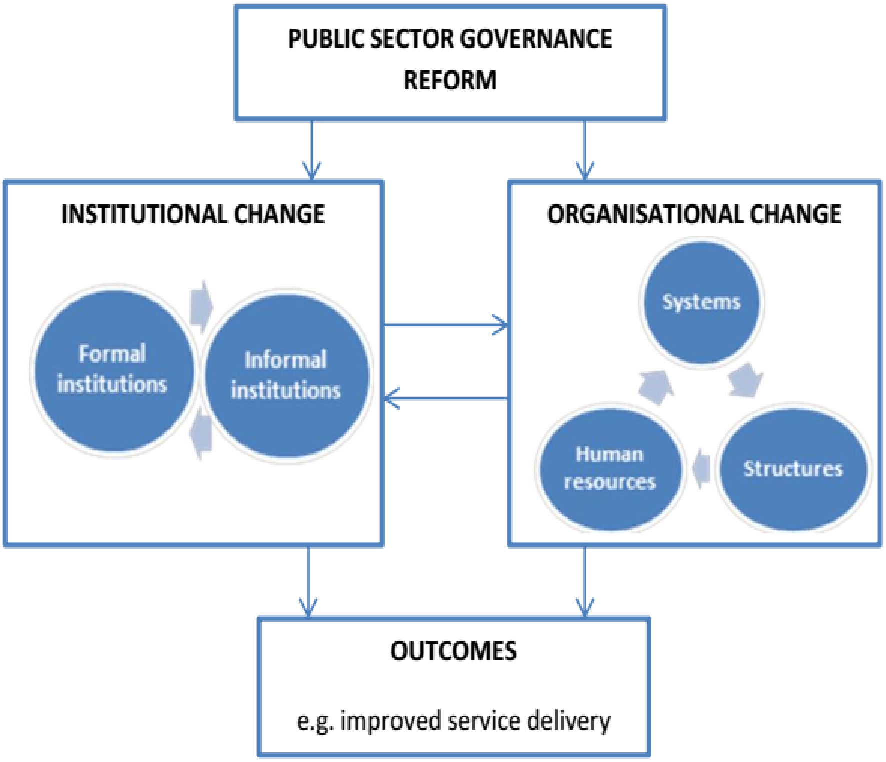
Procedural values are criteria such as coordination, accountability, leadership, interest groups, pluralism, participation, administrative efficiency, representation, checks and balances, fairness, expertise, public awareness, and rationality. They characterise the process of governance in institutions and institutional design. They cultivate shared organisational values that help institutions to ensure that there is public confidence in the procedure of public institutions and also elite support when there is technical uncertainty (Gormely, 1987).

2.3.2. Methodological Values

It is critical that public organisations remain relevant in the ever-changing environment to maintain its relevance and productivity over time. Institutional change is necessary to improve service delivery and achieving the organisational mandate, goals and objectives. Public sector institutional reform addresses formal and informal institutions, dealing with complex social and political contexts, the underlying issues problems of motivation and behaviour of people and organisations. Institutions should have strategies to deal with these changes, if they not able to change, institutions become dysfunctional, unproductive and irrelevant (State Services Authority, 2013).

Joshi and Carter (2015) suggest identification of decision-making and relational connections by reviewing the structures of the state and it's governance. Reviewing the inter and intra state relations, the oversight relationship between society, policy-makers and service providers, and interrogating if the state has a receprical relations with the private sector. Bukenya and Yanguas (2013) concluded that political settlement shape the effectiveness of improving the public sector, with fundamental changes to the institutional features taking long period of time, posing challenges to the short term political opportunities and also donor funding. According to Meyer (2008) “Passive old national state bureaucracies turn into actors filled with plans and strategies” (Meyer J. , 2008, p. 797)

Institutions are used as social constructs, performing specific functions that enhance the quality of democracy and improving service delivery. Cultural, environmental or structural changes neccessitates reform of the governance of public sector institutions to be able to improve service delivery. Figure 1 illustrates public sector governance as an activity that involves both institutional change and organisational changes of systems, it should happen interchangably to achieve improved delivery of services. Meyer (2008) suggests that “if reform is commonly a process of constructing improved actorhood, rather than improved action, the often noted ‘failure of implementation’ is to be expected” (Meyer J. , 2008, p. 802).



Source: (Joshi & Carter, 2015, p. 5)

Figure 1: illustration of public sector reform

2.4. Developing state institutions in Africa – institutional reconstruction

Kumssa and Mbeche (2004) analysed the role of institutions in the developmental process of African countries and concluded that poor enforcement of the rule of law, corruption, political interference, mismanagement, and to a certain degree absence of a strong civil society result in African institutions being weak and ineffective. This is supported by Ngaje (2005) who explains that the colonial legacy of authoritarianism and institutional dysfunctions of poor governance. Institutions developed exclusionary policies and the elitist rule in Africa have been internalised and perpetuated by the post-colonial rulers and their elitist rules in their government by producing institutions characterised by patronage, clientelism neo-patrimonialism as the dominant institutional form (Ngaje, 2005).

South African institutions are no exception; there have been reports of institutions that are embroiled in corruption, maladministration and political interference in the implementation of policies (Ambe & Badenhorst-Weiss, 2011). With regard to the local content and designation policies, the challenges that have been raised were those of the lack of enforcement of the policy, in a sense the limited enforcement of punitive measures (Ensor, 2016 a & b; Davey & Gatenby, 2007)

Yangus and Bukanya (2016) explain that the industrialised world offers Africa lessons that failure in public sector reform lies in the unrealistic short time frames for interventions and evaluations. African states continue to exhibit weak state capacities for rationality in the technical and hierarchical organisation of adminstrative action. It can also be seen by the autonomy of implementing public policies without succumbing to political or societal interference, and restraint of the disciplinary enforcement of formal, impersonal and rule-bound conduct in their adminstrative actions within their institutions (Yangus & Bukanya, 2016, p. 137). In the research conducted on public sector reform, the following was reported about public corruption, adminstrative patrimonialism, and political capture;

> "new formal institutions have not been able to replace old informal ways of doing things… those agencies that were entrusted with leading the reform process have tended to have capacity constraints and no sanctioning powers, making them 'great agents of institutional design, but not-so-great agents of enforcement…they have relied on the political will of those in authority to act on

> the basis of this information…. sometimes they were built weak on purpose, lacking sanctioning powers for non-compliance with audit recommendations…. public sector reform pit professional bureaucrats against a small set of powerful actors whose socio-economic status as political players relies on their ability to interfere with the policy process. (Yangus & Bukanya, 2016, p. 138;139).

Public institutions also embody different political and social orders in that they evolve as a result of their actors and the exercise of power. When powerful actors have the will and ability to change institutions, a process of transformation of these institutions is then undertaken as a result of a different political and social logic of that particular group (Ngaje, 2005).

2.5. Institutional Theory

Institutional theory according to Delmestri (2007) explains the role of norms, rules and cultural beliefs in social interactions of world systems. This is based on social order changes to the legal jurisdictions and the social actions empowering institutional processes. (Delmestri, 2007). Toma, Dubrow and Hartley (2005) describe institutional theory based on choices made which result in institutions adopting the norms, values and ideologies of the organisational field, these choices can be deliberate or accidental (Toma, Dubrow, & Hartley, 2005).

Meyer and Hollerer (2014) cite in Greenwood et al’s (2014) critique of institutional theory, the ignorance of heterogeneity of institutions, in that it treats all institution as though they were the same. Legitimate state institutions are shaped by cultural and historical forces, social and economic realities, choices and actions of actors within the institution (Meyer & Hollerer, 2014). Steinmo (2008) concludes that institutional theory is concerned with studying the structures of political behaviour in political institutions to discover the role institutions play in structuring behaviour, processes and laws that govern these institutions and shaped the political outcomes (Steinmo, 2008).

The usefulness of public institutions can be analysed using three different approaches to institutional analysis; historical institutionalism, rational choice institutionalism and new (sociological) institutionalism. This will assist in understanding the nature and role of actors whose behaviour is structured by rules of institutions. There are significant theoretical and methodological challenges in the measurement of institutions using institutional theory variants due to the assumption that the differences in policy choices are predicted by the existence of structural differences among institutions (Peters, 2000). These differences are assumed to predict policy outcomes of the institution, which are products of evolutionary process central to the conception process of the institution. Three variables can be used in order to analyse these approaches the rules, institutional context and the individuals tasked with the responsibility of making choices (Steinmo, Historical Institutionalism , 2008).

These variables of institutional analysis assist in understanding the required structures of the relationship between institutions and actors, and explaining the process of formulation of institutions and institutional changes (Hall & Taylor, Political Science and the Three New Institutionalisms, 1996).

Peters (2000) advises that the following attributes can also be measured in order to determine the degree of institutionalisation within state institutions;

> "the capacity of the institution to implement their decisions, capability of the institution to adapt to changes in the environment, capacity of the institutions to construct internal structures to cope with the changing environment, capacity of the institution to develop processes to manage their work load" (Peters G. , 2000, p. 8)

2.5.1. Historical Institutionalism

Historical institutionalism contradicts other institutional analysis approaches (rational and sociological institutionalism) as it focuses on the historical records of choices. There is a believe that actors learn from experience and tries to understand why certain choices were made and their consequence (Steinmo, 2008). In their analysis of this approach, Hall and Taylor (1996) explain that historical landscape is seen as the persistent feature of institutions, assuming that the same forces, process and procedures will produce similar social and political outcomes as a result of causation 'path dependancy' (Hall & Taylor, Political Science and the Three New Institutionalisms, 1996). According to Thoenig (2002) this approach allocates state resources and power through the existing and past institutional arrangement (Thoenig, 2002).

Hay and Wincott (1998) in response to Hall and Taylor's (1996) critique on historical institutionalism suggest that for this approach to be a consistent and coherent institutional analysis, there should be transcending of the limitation and unhelpful “dualism of institution and intention, context and conduct, structure and agency” (Hay & Wincott, 1998, p. 953). Institutional change is seen because of an actor’s perceptions of an institutional context that favours certain actors, strategies and perceptions over others. According to this approach, institutions are said to be resistant to change due to actors being invested in the rules and preferences, which are sometimes embedded within the overall institution and have implication for another set of rules, resulting in a lengthy change process. Furthermore, this approach identifies the need for incremental change to the existing institutional arrangement (Thoenig, 2002, p. 129).

2.5.2. Rational Choice Institutionalism

The rational choice institutional analysis approach advocates for the actors within the institutions using and maximising calculative decision making ‘calculus approach” by totally disregarding the distinctive political features of individual actors in any given situation. Steinmo (2008) assumes that institutions frame individual’s strategic behaviour as human beings are calculative of the costs and benefits of choices they are faced with and would want to maximise their personal individual gains (Steinmo, Historical Institutionalism , 2008). Casting focus on constraints imposed on institutions of society, which are rational actors, the political and social outcomes is determined by the behaviour of these actors in response to the rules of the institution (Hay & Wincott, 1998).

These actors structure their choices of social and political outcomes based on the information available to them at the time they are making that decision. Hall and Taylor (1996) suggest that this approach explains existence or creation of institutions because of strategic interaction and agreement by relevant actors perhaps as a ‘process of social learning” in order to efficiently realise value of functions that an institution performs to produce political and social outcomes (Hall & Taylor, Political Science and the Three New Institutionalisms, 1996).

2.5.3. New Sociological institutionalism

This approach to institutional analysis assumes that actors follow ‘logic of appropriateness’ as recommended by March and Olsen (1989) in the making of rules for social norms and social interactions. These actors are shaped and legitimized by societal norms, visions and values in their decision-making, processes and procedures that produce social and political outcomes of institutions. Institutional contexts such as the norms and network structures, historical exogenous constructed contexts empower and control actors. This is done with the aims to design institutions that are radically different to the current institutions that are seen to have constrained autonomy to allocate resources, reform and control public organisations (Thoenig, 2002).

Organisational action is mostly driven by societal norms and beliefs. This together with the external cultural diversity of actors, legal requirements, conventions, and norms, influences the environment in which actors make decisions and explains the choices in formal structures and organisational practices.

Hall and Taylor (1996) suggest that behaviour of actors in a given context within institutions is influenced by specifying what one should do and also what they can imagine doing. They are socialised with ‘practical reasoning’ to internalise norms associated with these institutional roles. Additionally, the broarder cultural environment of institutions enhances social legitimancy of organisations and participants leading to the adoptation of new institutional practice. It can be concluded that both historical and sociological institutionalism creates and adopts new institutions regardless of the existing public institutions, these institutions replicate the same existing institutional template (Hall & Taylor, Political Science and the Three New Institutionalisms, 1996).

Zucker (1987) cited in Yangus and Bukanya (2016) suggests that the global environment often influences institutional environment and control over how resources flow is often translated through power or authority. The institutional environment also reflects the pressures that influence the organisation that are generated externally. These pressures are either created by the state through enactment of laws and regulations, economic conditions and in certain instances by professionals in that sector. The development of the structural arrangement and the production processes of an institution are influenced by the external environment and conform to the specifications of the sector, which the institution operates in. Hinings and Greenwood (1987) suggest that if public organisation have strong ties with government then they are likely to support innovations required or supported by that respective government. (Hinings & Greenwood, 1987)

According to Meyer (2010) autonomous and purposive individual and organised actors construct society in which institutions operate. These actors possess collective legitimate authority when they act beyond representing self-interest by managing rules of social environment constructing agency, activity and identity. According to Zucker (1987) the willingness of individuals to let go of self-interest and working towards achieving the same institutional goals is driven by the rules, leadearship of the institution. Public institutions are constructed by powerful and reflect the interest of their actors (Meyer J. , 2010). Whilst DiMaggio and Powell (1991) argues that "Organizations tend to model themselves after similar organizations in their field that they perceive to be more legitimate or successful" (DiMaggio & Powell, 1991, p. 70)

DiMaggio (1983) concludes that the dependance of the institution on government resources for the operations of the institutions determines if that institution will comply with the requirements, as non confirmance risks disruption in funding. In South Africa, all institutions funded by the state have to comply to the Public Finance Management Act (PFMA) which regulates the use and distribution of public funds. These institutions are also expected to report to their respective oversight government department and the legislative parliamentary committee.

Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. Powerful interested actors in state-like political arrangements miss the important changes necessary to take institutions forward, with most organisation seen as failure as this change transcends practicality-leaving gaps between policy and practice (Meyer J. , Reflections on Institutional Theories of Organizations, 2008). Selznick (1996) argues that:

> "In post-industrial society, formal structures "dramatically reflect the myths of their institutional environments instead of the demands of their work activities." Furthermore, "the more an organization's structure is derived from institutionalized myths …. The formal structure must itself be seen as an adaptive product, responsive to environmental influences, including cultural definitions of propriety and legitimacy… the official design is created within a received and constructed framework of culture and constrain". (Selznick, 1996, p. 273; 274)

In a critique of the new institutionalism approach, Abbott (1991) and Stinchcombe (1997) were cited in (Berthod, 2016, p. 3) stating that the theory fails outline the relevance of institutional change and processes, and underestimates the willingness of people to accept institutions for what they are and not.

2.6. Institutional arrangement and institutional policy analysis

According to De Jong and Woolthuis (2008) an institutional arrangement is mainly concerned about the contractual agreements and institutional setup that will facilitate cooperation of intergovernmental (De Jong & Woolthuis, 2008). Woerdman and Van Der Gaast (2001) limit institutional arrangements to the design characteristics of intended or implemented policy (Woerdan & Van Der Gaast, 2001).

The United Nation Development Programme (2017) defined institutional arrangement as "the legal powers, policies and processes that the institution use to legislate, plan and manage their activities efficiently and to effectively coordinate with others in order to fulfil their mandate" (United Nations Development Programme, 2017).

Peters and Pierre (1998) explain that arrangements of institutions are because of political regimes and their overarching ideological objectives. This makes it necessary for institutional transformation to be in place to restore some degree of correspondence between the values of the evolving political regime and the values of the state institutional arrangements (Peters & Pierre, 1998). Gormely (1998) defined the study of government, its reform, and its consequences as institutional policy analysis. Institutional policy analysis focuses more on the remedies to save the old institutions that have served the nations well rather than to design new institutions that are suitable for the policy challenges experienced. This type of analysis focuses on criteria such as leadership, coordination, participation, efficiency, and representation, which is the dominance of only procedural values. West (2004) analysed the responsiveness and accountability of bureaucratic policy making processes using the institutional policy analysis methodology.

This study reinforces Gormely critique of institutional policy analysis, that policy analysis only presents dominance of procedural values and also allows a single reform analysis of a single institution using one/single method (West, 2004; Gormely, 1987). In reforming institutions, it is necessary to formally change the institutional arrangement such as reorganisation of the administrative functions in the institution.

These changes must occur through catalytic controls of acting and directing bureaucracy towards certain goals to create capacity rather than the coercive controls by paying greater attention to the functions, norms, and roles. The methodological choice for institutional analyses requires cross-validation and comparison of reforms by undertaking a holistic analysis (Gormely, 1987).

2.7. Conceptual Framework

This research paper builds on Gormely's critical review on institutional policy analysis, which concluded that this analysis deprives substantive bases of comparison as it limits the analysis to a single reform of a single institution. Hence, this work will focus on institutional arrangement as it is more exhaustive and does not limit the analysis to only policy and government reform. This research will be grounded on the institutional theory and institutional analysis approach, identifying the existing institutional arrangement.

It aims to interrogate the legal powers, policies and processes that SABS use to legislate, plan and manage their activities efficiently and to effectively coordinate with others in order to fulfil their verification mandate. It will bring insights into the capacity challenges experienced by SABS in conducting verifications by analysing the procedural value choices, methodological value choices and institutional value choices. This will bring about an understanding of the redefinition of the relationships within government and the decisions that affect governmental institutions.

Institutional theory according to Delmestri (2007) explains the role of norms, rules and cultural beliefs in social interactions of world systems. This is based on social order changes to the legal jurisdictions and the social actions empowering institutional processes. Legitimate state institutions are shaped by cultural and historical forces, social and economic realities, choices and actions of actors within the institution (Meyer & Hollerer, 2014). Steinmo (2008) concludes that institutional theory is concerned with studying the structures of political behaviour in political institutions to discover the role institutions play in structuring behaviour, processes and laws that govern these institutions and shaped the political outcomes. The usefulness of public institutions can be analysed using three different approaches to institutional analysis; historical institutionalism, rational choice institutionalism and new (sociological) institutionalism. This will assist in understanding the nature and role of actors whose behaviour is structured by rules of institutions.

The new institutionalism approach to institutional analysis assumes that actors follow 'logic of appropriateness' as recommended by March and Olsen (1989) in the making of rules for social norms and social interactions. These actors are shaped and legitimized by societal norms, visions and values in their decision-making, processes and procedures that produce social and political outcomes of institutions. Hall and Taylor (1996) suggest that behaviour of actors in a given context within institutions is influenced by specifying what one should do and also what they can imagine doing. They are socialised with 'practical reasoning' to internalise norms associated with these institutional roles.

Zucker (1987) suggest that the global environment often influences institutional environment and control over how resources flow is often translated through power or authority. The institutional environment also reflects the pressures that influence the organisation that are generated externally. The pressures are either created by the state through enactment of laws and regulations, economic conditions and in certain instances by professionals in that sector. According to Meyer (2010) autonomous and purposive individual and organised actors construct society in which institutions operate. Public institutions are constructed by powerful and reflect the interest of their actors (Meyer J. , 2010).

DiMaggio (1983) concludes that the dependance of the institution on government resources for the operations of the institutions determines if that institution will comply with the requirements, as non conformance risks disruption in funding. Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational in reforming institutions, it is necessary to formally change the institutional arrangement such as reorganisation of the administrative functions in the institution.

Peters (2000) advises that the following attributes can also be measured in order to determine the degree of institutionalisation within state institutions;

> "the capacity of the institution to implement their decisions, capability of the institution to adapt to changes in the environment, capacity of the institutions to construct internal structures to cope with the changing environment, capacity

of the institution to develop processes to manage their work load" (Peters G. , 2000, p. 8)

Chapter 3: Methodology

3.1. Introduction

This research analyses the institutional arrangements of SABS as a verification agency for the local content requirements and designation policy. This was done by analysing the procedural value choices, methodological value choices and institutional value choices. It explored the legal powers, rules, procedures, and processes of the institution that are put in place to enable verification of local content to be conducted. This is a necessary approach to understand the institutional arrangements of the SABS and its capacity to conduct local content verification. This research arises from the need to gain further insights into the capacity challenges experienced by the SABS in conducting verifications.

3.2. Research Questions

The questionnaire was designed to give guidance to the researcher when conducting interviews. The research questions posed to the participants were as follows:

a) What are the current institutional arrangements of SABS, the mandate and the institutional values?
b) What are the legal powers and rules to enable the SABS to conduct verification of local content?
c) What are the procedures, and processes that the institution has put in place to enable verification of local content?
d) Are the network verification institutions (the legal powers, implementation processes and procedures) aligned to support SABS to conduct verifications?
e) What would be the ideal SABS or an institution conducting local content verification?

3.3. Research Methodology

Qualitative research methodology approach was undertaken to study indicative reasoning and to answer the research questions that required discussion and elaboration by research participants (Merriam & Associates, 2002; Nieuwenhuis &

Smit, 2012). Seeking an understanding of human experience and perception on the matter; hence the purposive personal interaction with participants, analysis of literature documents that underpin the phenomenology on the institutional arrangements of the SABS and its capacity to conduct local content verifications, rather than measuring the relationships between variables which requires quantitative research methodology.

3.4. Methods, Techniques and Instruments

This research arises from the need to gain further insights into the capacity challenges experienced by SABS in conducting verifications. The primary data was collected using methods of observations, individual in-depth interviews, and collection in the form of structured and unstructured interviews with stakeholders from government departments, the industry supplying products and participating in the procurement of public goods and services, SABS and procuring entities.

An open-ended questionnaire that included the research questions was designed to conduct individual in-depth interviews with ten (10) research participants (see Appendix A for the questionnaire). The research participants were identified based on their professional profiles, experience, expertise and understanding local content and designation policy, and verification of local content. The profile of the identified research participants included policy makers, key industry players supplying products and participating in the procurement of public goods and services, the SABS and procuring entities that procure goods and services on behalf of the South African citizens. A list of the interviewees that participated in this study is provided in Table 1.

Table 1: List of interviewees

No.	Interviewee	Organisation	Date of interview	Reference
1	Respondent 1	Foundry industry	January 2020	(Respondent1, 2020)
2	Respondent 2	Testing Industry	January 2020	(Respondant2, 2020)
3	Respondent 3	**the dti**	February 2020	(Respondent3, 2020)
4	Respondent 4	Procuring Entity	February 2020	(Respondent4, 2020)
5	Respondent 5	Procuring Entity	February 2020	(Respondent5, 2020)
6	Respondent 6	SABS	February 2020	(Respondent6, 2020)
7	Respondent 7	Procuring Entity	February 2020	(Respondent7, 2020)
8	Respondent 8	Local manufacturer	February 2020	(Respondent8, 2020)

9	Respondent 9	**the dti**	March 2020	
10	Respondent 10	**the dti**	March 2020	

Most participants availed themselves, although there were few participants for whom the researcher had to work around their schedules, as their work took precedence over the interviews. There were cases where the interviews had to be rescheduled for a later date. Interviews were conducted at their workplaces and once they were assured that their participation will be anonymous, most participants freely gave their input. It was difficult to secure participants at the SABS due to the current restructuring and the institution being put under administration. The situation was exacerbated by the resignation of the acting CEO of the SABS.

Participants were briefed on the phone about the thematic issues that there will be interviewed on and an email requesting their participation had an abstract briefing about the thematic issues, they had not been privy to the interview questions prior to the interview. Participants were well versed with the thematic issues due to the fact that they are directly involved with the local content verification in their professional lives either as implementers of the policy or participate as suppliers and therefore have undergone verifications. All interviews were recorded with the signed consent from participants to ensure that every aspect of the discussions is secured and could be retrieved for accurate reference.

Further primary trade data (import and export) for designated products was collected from databases such as Quantec and the SARS customs duty database. This was done to observe changes that have been brought about since the implementation of designation and local content requirements. Secondary data that provided depth and informed the study was collected from the academic literature. Journal articles, books, case studies, reports, documents from websites and newspaper articles which cover the fields of local content requirements, verification, network institutions and governance, and institutional policy analysis was reviewed.

Qualitative studies have to ensure that data is accurately measured. The multiple methods of data collection such as observations of qualitative research ethics, participant validation and triangulation were used together to ensure that there are unconstructive measures when collecting data (Nieuwenhuis & Smit, 2012). Table 2 below, details different data collections methods used for the research to ensure data reliability and validity. Furthermore, the researcher sought participants' validation by asking the participants whether they understood the questions and whether their responses and views were interpreted and were captured correctly. This ensured that the researcher removed their own biases and subjectivity about the topic (Nieuwenhuis & Smit, 2012).

Table 2: Data collection methods

Data Collection Source	Details from source required
Literature review of institutional theory and institutional arrangement of public institutions	- Theory and practice on institutional theory - Published and unpublished documents or reports on institutional arrangements - Related policy documents on the local content and verification; institutional value choices on the SABS
Trade data analysis of designated products	To observe changes, which have been, brought about since the implementation of designation and local content requirements verifications.
Interviews	Observations, individual in-depth interviews, and collection in the form of structured and unstructured interviews with stakeholders to interrogate the institutional value choices; methodological value choices and procedural vale choices of the SABS

3.5. Researcher positionality

The researcher's positionality must be noted as the researcher is an employee of the Department of Trade and Industry, under the Industrial Development Division (IDD), a division tasked to implement the Preferential Procurement Policy of local content requirements and designation. The nature of her work requires that she engage with some of the research participants on a daily basis. Furthermore, although the SABS is a public entity reporting to **the dti**, the researcher is not in any way involved with the accounting and reporting of the entity.

The researcher acted ethically and morally in approaching the research, observing the Wits University code of conduct for conducting research. The researcher informed and obtained signed consent from the research respondents. The researcher informed participants of how the data collected would be handled and used. Confidentiality was guaranteed to ensure that respondents are more truthful with the assurance that their names will not be used.

3.6. Data analysis

Data collection and analysis was done simultaneously due to time constraints and to give the researcher an opportunity to make meaningful data collection adjustments. The interview transcription was done with the aid of the recordings and the notes taken during the interviews, the original notes and audio was maintained in its original format for data verification as recommended by Kawulich and Holland (2012). Subsequently, the data was analysed identifying themes and patterns (as illustrated in Table 3) using a method of thematic analysis as different types of data can be analysed and can capture wide range of participants perceptions and experiences (Clarke & Braun, 2013).

Table 3: Research themes with detailed analytical framework and the data collection methods

Themes	Concepts tested	Analytical frame	Data collection
Procedural values	Rules, procedure, and processes of the institution coordination, accountability, leadership, interest groups, pluralism, participation, administrative efficiency, representation, checks and balances, fairness, expertise, public awareness, and rationality	Policy and reform impact-direct and indirect Free flow of information builds transparency within organisations. Institutional processes and procedures - information being accessible to those concerned with them Results focused, monitoring and reporting on financial accountability, political accountability and administrative accountability Reorganization of the administrative functions - new formal institutions have not been	Interviews, analysis of government documents and academic literature

		able to replace old informal ways of doing thing	
Methodological values	Organizational reforms, assumptions and hypothesis (basis of comparison)	There should be more than one method of analysing the institution (cross validation of the research findings) Analysis of more than one institution –analysis of the alignment with network institutions –this will inform us on the quality of government	Interviews, analysis of databases and analysis of government documents and academic literature
Institutional values	Legal mandate, institutional values and norms, organizational culture Coercive controls (requirements); formal and informal reforms structures Functions of the institution (overlapping responsibilities) inter-institutional alignment (institutions sharing power	Fair legal frameworks that are enforced impartially are requirement for good governance. Designing institutions bearing in mind the constitutional mandate and allocation of functions –certain functions are more constructive when handled by particular state institutions – "great agents of institutional design, but not-so-great agents of enforcement" Roles – actors - Public institutions also embody different political and social orders in that they evolve as a result of their actors and the exercise of power	Interviews, analysis of government and legal documents and academic literature

3.7. Limitation of Study

This research chose not to focus on the pragmatic choices, the authoritative allocations of government resources, which is the substantive policy analysis. It did not either focus on the descriptive policy analysis, which is the examination of the political process in an effort to improve understanding of politics. This would not bring about an understanding of the redefinition of the relationships within government and the decisions that affect governmental institutions. Analysing the procedural value choices, methodological value choices and institutional value choices brought about that understanding. This is a study on governmental reform and its consequences, which is underpinned by the institutional policy analysis.

There is a limitation in the scope of research literature. The work done by government departments is aimed at unlocking the challenges of verification by focusing on the human capacity and financial constraints of SABS. The main scope of most research conducted focuses on the skills and human resource capacity constraints at SABS and understanding the funding model of the verification (cost of verification and source of funding for the verification processes).

3.8. Conclusion

This research analysed the institutional arrangements of SABS as a verification agency for the local content requirements and designation policy. This was done by analysing the procedural value choices, methodological value choices and institutional value choices. The primary data was collected using methods of observations, individual in-depth interviews, and collection in the form of structured and unstructured interviews with stakeholders from government departments, the industry supplying products and participating in the procurement of public goods and services the SABS and procuring entities.

The researcher acted ethically and morally in approaching the research, observing the Wits University code of conduct for conducting research. Data collection and analysis was done simultaneously due to time constraints and to give the researcher an opportunity to make meaningful data collection adjustments. This research chose not to focus on the pragmatic choices, the authoritative allocations of government resources, which is the substantive policy analysis, nor the descriptive policy analysis, which is the examination of the political process in an effort to improve understanding of politics.

Chapter 4: Research Results and Findings

4. Introduction

This chapter presents and analyses findings of the research study on the institutional arrangement of the SABS. The aim of the research is to analyse the institutional arrangement of the verification network institutions for the local content requirements and designation policy in South Africa (SA). The specific focus is on the South African Bureau of Standards (SABS), which was appointed to verify products supplied under the local content requirements and designation policy. This study is undertaken to understand the institutional arrangement, the procedural, methodological and institutional value choices that are in place to capacitate SABS to conduct local content verifications.

This research arises from the need to gain further insights into the capacity challenges experienced by the SABS in conducting verifications. It aims to interrogate the legal powers, policies and processes that SABS use to legislate, plan and manage their activities efficiently and to coordinate effectively with other institution in order to fulfil their verification mandate. Analysing the procedural value choices, methodological value choices and institutional value choices will bring insight into the capacity challenges experienced by SABS in conducting verifications. This will bring about an understanding, redefinition of the relationships within government and the decisions that affect governmental institutions.

The research questions are the following:

a) The main research question is: what are the current institutional arrangements of SABS, the legal powers, rules, procedures, and processes of the institution that are put in place to enable verification of local content?
b) The secondary research question is: are the network verification institutions (the legal powers, implementation processes and procedures) aligned to support SABS to conduct verifications?

4.1. Research Methodology Revisited

This chapter will present the trade data of all the designated products, it will further emphasise the need for verification by an illustration from the valves, taps and corks and associated accessories trade data. Findings from the interviews will be presented thematically together with the findings from content analysis. The research responses were validated as the research participants could not provide different answers from those given by other participants. Full transcripts of the interviews with the research participants are provided (see Appendix B for the interview transcripts)

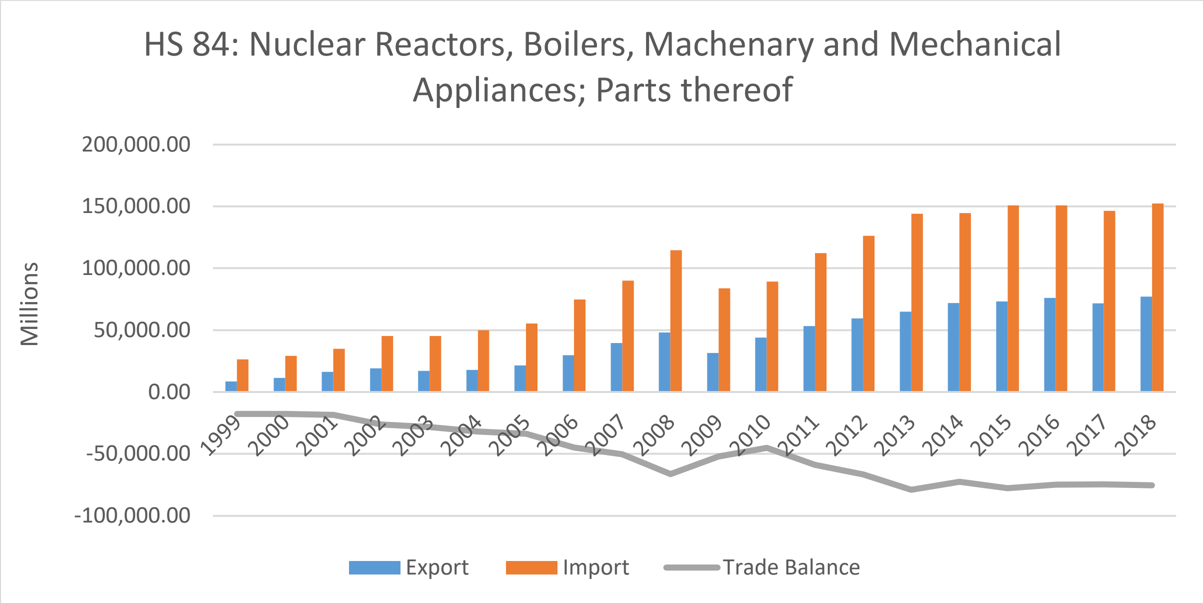
4.2. Trade data

Local Content Requirement policies support different objectives that government is trying to achieve. Such as protecting infant industries, achieving political harmony and social compensation, protection of strategic sectors and incentivising stimulation of job opportunities, value addition to products and services, and the development of the industrial base. This is done with the aim of developing the emerging domestic industries and export potential of these industries. Thus, rectifying the trade imbalances. It has been noted by Johnson (2013) that since the 19th century, developing countries which have caught up with the most economically developed countries (1st world countries) are those that have implemented some form of government protection and direct or indirect government subsidies (Johnson, 2013, p. 22).

The South African government uses local content and designation policy as an industrial development tool for strengthening the industrial base of the country. The government leverages on public procurement spend to improve the industrial competitiveness of South African manufacturers and further and developing the industrial manufacturing capacity and capabilities. They also aim to reduce import content and strengthening export capacity of locally manufactured products. At the top of the agenda for designation and local content policies is reducing import content and enhancing industry competitiveness.

Trade data (import and export) and the trade balance is considered during the designation process as the government aims to reduce the trade deficit. Internationally traded goods are classified by a Harmonized System (HS) codes. This classification provides the custom services of participating country with systems to track the products coming into the country, and also provides common basis for classification of traded goods. The HS 84 is inclusive of the capital equipment that have been designated such as the electrical transformers, medium voltage motors, pumps, valves, and materials handling equipment.

It is important to note that this HS code encompasses all machinery and capital appliances that South Africa imports as there is no business case, capacity and capabilities to manufacture such product.



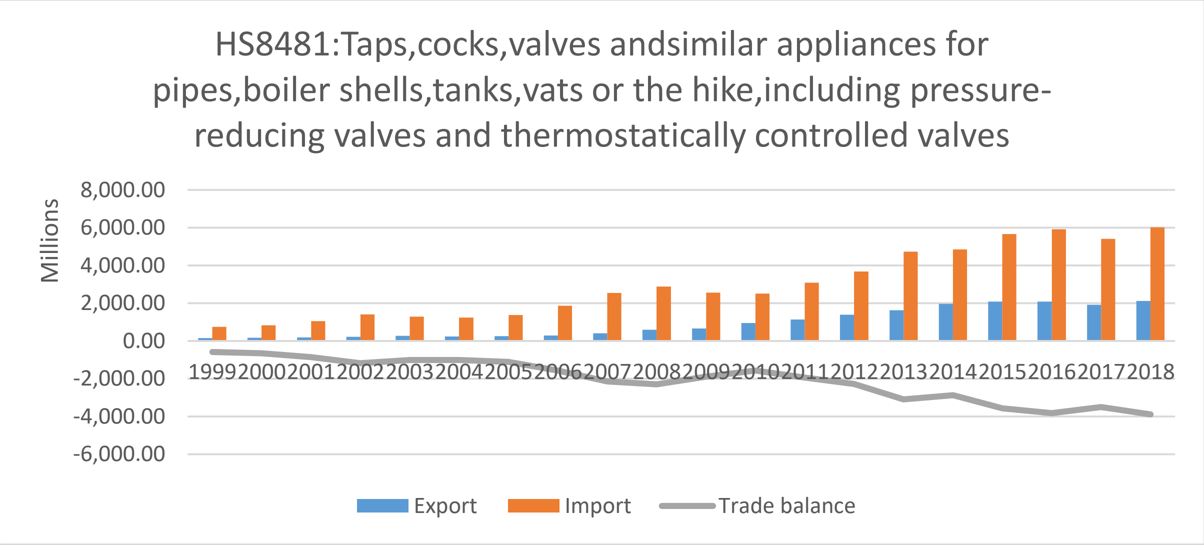
Source: EasyData Quantec (2019)

Figure 2: Trade data (import, export and trade balance) of capital equipment from 1999 to 2018

Figure 2 illustrates trade data for designated products listed above. The data was extracted from the EasyData- Quantec website, which provides highly organised economic data of the South African economic data. The data shows that import of capital equipment has been increasing. This indicates that the economy is growing and there is demand for these products. However, there was a decrease in imports between 2008 and 2011, this can be as a result of the 2008 global recession. Despite the implementation of local content requirements policies in 2011, the import data has increased, meaning that policy objectives are not being met.

However, one has to take into consideration that the policy changes and impact require time before they can be observed. Moreover, the export data has increased, indicating policy impact of improving the export competitiveness of South African manufacturers. It must be noted that the increase in exports and imports could not be only accounted to designated products and the LCR policy, but a collective effort of all the country's policies and economic activities.

A similar trend of trade data can be observed when analysing each designated product. Figure 3 illustrates trade data (import, export and trade balance) of valves, actuators, taps and cocks from 1999 to 2018. The trade deficit has been increasing as the imports of these products continue to rise, with a slight increase to the exports but it is not sufficient to have the trade balance on an upward trajectory. Valves products have been designated since 2014, and yet there has not been that much impact on the trade balance.

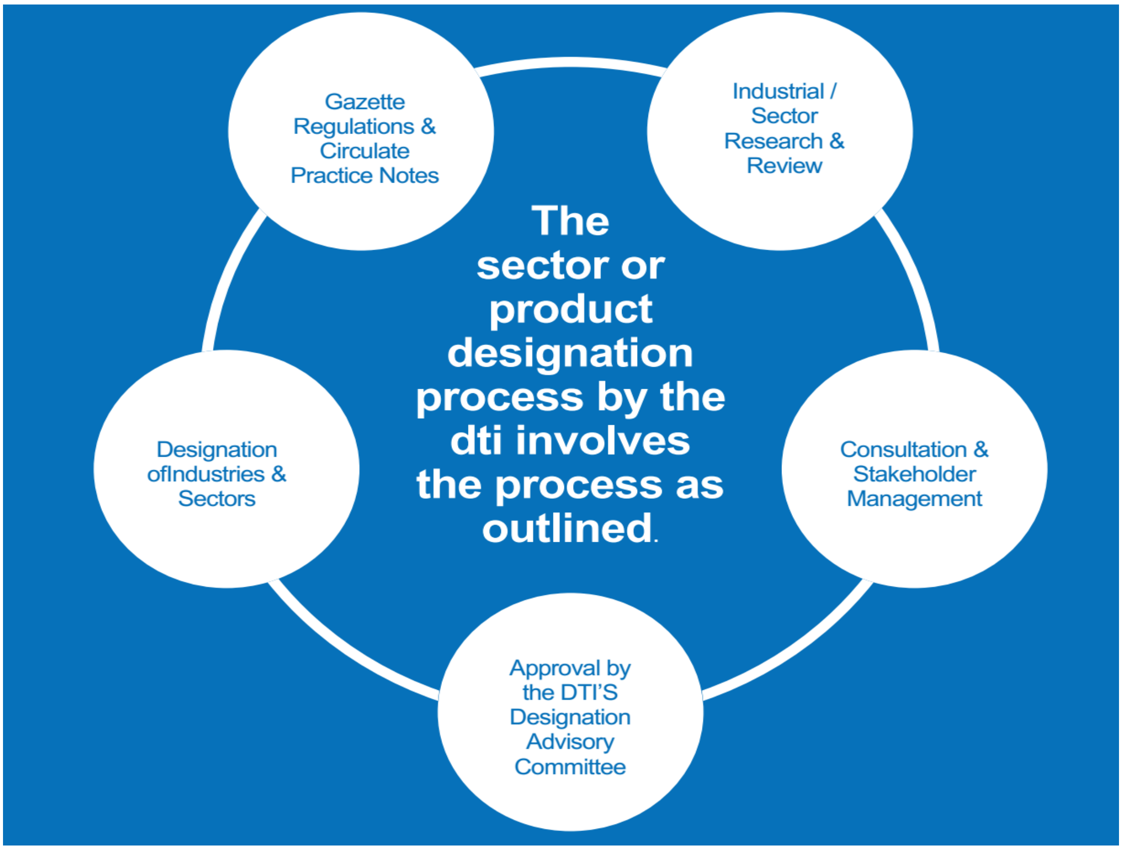


Source: EasyData Quantec (2019)

Figure 3: Trade data (import, export and trade balance) of valves, actuators, taps and cocks from 1999 to 2018

The valves, actuators, and associated accessories were designated as per prescripts of clause 8.1 of the PPPFA of 2017 regulations. This was done after **the dti** had conducted a study on the capacity and capability of the South African manufacturers to produce these goods within the borders of the Republic. The National Treasury published an Instruction Note number 11 of 2016/17, which repealed the previously published National Treasury Instruction No 3 of 2015/2016. **the dti** conducts sector and product analyses to determine government expenditure and demand volumes, industry capacity and capability to manufacture the product, potential increased demand of product and the capacity of the industry to cater for the growth in demand, potential budding industry and transformation potential.

The research findings are used to determine the minimum local content required for the product and solicit the National Treasury to pass into law the designation of the product. The minimum local content threshold of products and sectors that will be considered for government tender is stipulated in Instruction Notes published by National Treasury. Figure 4 illustrates the designation process from inception to completion. The Accounting Authority, Accounting Officer or anyone acting on behalf of the procuring entity is instructed to adhere to the set minimum local content during procurement of these designated products by stipulating these requirements in their tender bid invitation.



Source: SABS (2018)

Figure 4: illustration of the designation process

Verification of the manufactured products and services gives the state the proof that the intended beneficiaries will be reached, and objectives of the policy will be met. Verification of local content could be another tool to that would ensure compliance to the policy and assist incentivising tender suppliers to comply with the legislated policies. Table 4 shows verification data for valves and actuators submitted to the SABS between 2015 and 2019.

Since designation of valves in 2014, there has not been verifications of local content conducted until the 2018/19 reporting period, as per the records published by SABS. In 2015/16 reporting period, only 2 tenders were reported by procuring entities for the overall public procurement of the Republic. Even the tender value of these products is questionable. There were no verifications conducted during this period. For the 2018/19 reporting period, there was an increased number of tenders recorded. However, the SABS had not conducted any verification from their yearly allocations transferred by **the dti** to enable them to conduct verification.

As per the 2018 integrated annual report, **the dti** allocated and transferred R5 million to the SABS to conduct verifications of local content *(SABSb, 2018)*. However, once **the dti** transferred an additional R17 million to the SABS, verifications of only eight (8) tenders out of the 25 reported tenders were conducted. The figures provided by the SABS are construed, when comparing the total value of the 25 tenders recorded and the total value of the verified tenders (8) which can be seen to be inconsistent and unreliable reporting.

Table 4: Verification data for valves and actuators submitted to the SABS between 2015 - 2019

Year	Total Number of tenders recorded	Number of companies verified	Total value of the tenders	Value of verified tenders	Number of companies verified post the dti transfer	Value of tenders verified post the dti transfer
2015/16*	2	0	R701	-	-	-
2018/19	25	0	R 292,710.0	-	8	R281,551.0

Source: (SABS, 2016)

4.3. Institutional Value Analysis

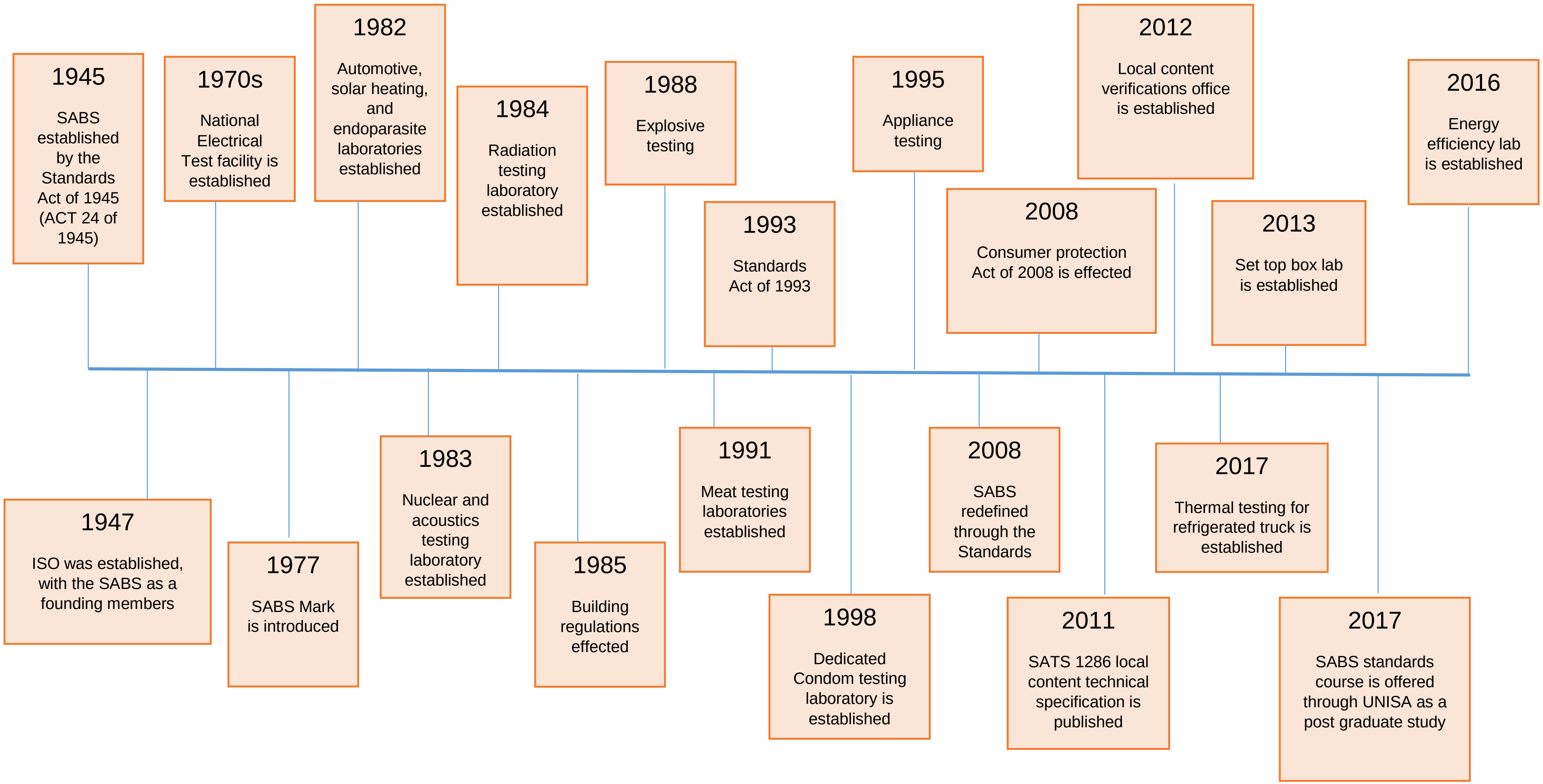
Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. Legitimate state institutions are shaped by cultural and historical forces, social and economic realities, choices and actions of actors within the institution (Meyer & Hollerer, 2014). Institutional values include the legal mandate that established the institution, institutional values and norms, organizational culture, coercive controls (requirements), formal and informal reforms structures, functions of the institution (overlapping responsibilities).

The South African Bureau of standards was established as a public institution that will act as a standards authority of the Republic in 1945 through an Act of parliament (Standards Act No.24 of 45 of 1945). It was enacted by Section 2 of the Standards Act of 1945 as a public entity acting on behalf of the South African Government to amongst other functions, develop, promote, and maintain standards of the Republic. Acts of parliament detail systems of rules that regulate human conduct, enforcing these rules through a set of government institutions, as they are passed by both houses of parliament and signed into law by the president of the Republic. Figure 5 illustrates SABS timeline and milestones achieved since 1945.

The Standards Act of 1993 (Act No.29 of 1993) ensured continuation of the existence of the institution as a public entity, but the Act has since been repealed and replaced by the Standards Act of 2008 (Act No.8 of 2008). The Standards Act of 2008 provides the purpose of continued service of the SABS as the peak institution and also to provide the establishment of the SABS board as per prescripts of good institutional governance of public sector entities. Institute of Directors South Africa (2019) citing the King IV report argues that:

> "Good corporate governance is paramount to the success of the SOE itself, and to protect and advance the interests of the country and its citizenry. Governance helps enhance the functioning of leadership structures of an SOE, and provides the arrangements by which the SOE should be governed so that it is able to meet its strategic objective" (Institute of Directors South Africa, 2019, p. 5).

The Standards Act of 2008 aimed to give guidance and stipulates good governance rules and structural arrangments that regulate human conduct within the SABS. It spells out the functions and powers of the institution, powers and functions of the role players. It details the establishment and composition of the board, appointment of the Chief Executive Officer and appointment of staff, good and sound financial management public institution as per the prescripts of Public Financial Management Act, legal framework for the development and promotion of South African National Standards.



Source: SABS (2019)

Figure 5: illustration of the timeline of the SABS and milestones achieved since 1945

The legal mandate of the institution is to become the national standardisation institution of South Africa which is mandated to (SABSa, 2019):

⇒ Develop, promote and maintain South African National Standards (SANS)
⇒ Promote quality in connection with commodities, products and services
⇒ Render conformity assessment services and assist in matters connected therewith

The institution is guided by the following values in support of the governments Industrial Policy Action Plan (IPAP), which is the government's plan for industrialization that promotes localization of products and services, protecting the local industries from penetration of low-quality cheap imports (SABSa, 2019);

⇒ Impartiality
⇒ Innovation
⇒ Accountability
⇒ Integrity
⇒ Quality
⇒ Customer-centricity

The institution has aligned its strategic objective and goals to those of **the dti** through action and embodying of the IPAP.

Interviews of various participants within the network organisations of the SABS were conducted and observations are as summarised below. It was viewed that most participants have shared perceptions on the mandate of the SABS as a verification agency of the local content. Although Respondant 6 notes that there was no official documentations issued post appointment of the SABS as the verification agency by **the dti**. There was no Memorundum of Understanding (MOU) or any legal official documentation detailing the mandate of the institutions to conduct verification. Respondent 6 observes that:

> "SABS was involved in the development of the SATS 1286 technical standards for verification. They were subsequently appointed as the verification body for local content but there are no official documents except for the official announcement and communication through Instruction Note and the media that

> SABS has been appointed. There are so many gaps that could help the SABS conduct verification and even clarity of funding for verification would have been provided should there have been official documents” (Respondent6, 2020)

This was also supported by Respondent 10 who confirmed that clarification of the mandate and also how verification will be funded was not done at the inception of the policy but rather as the policy was implemented;

> The mandate of the SABS is to verify all awarded local content tenders of designated sectors. However, the payment of verifications and the costs were not clearly defined and agreed to before the implementation of the policy. All the details are clarified as the policy is being implemented. Verification was supposed to be per tender, but it was not realistic. (Respondent10, 2020).

DiMaggio (1983) concludes that the dependance of the institution on government resources for the operations determines if that institution will comply with the requirements. Non conformance risks disruption of the funding. Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. This insight can be said to be true as most research participant related the mandate of the SABS to conduct verification to that of executing the mandate of **the dti**;

> They were appointed by **the dti** during the amendments to the procurement policy, **the dti is** empowered to designate sectors and the SABS are the crucial aspect of this designation policy as for the bids we rely on self-declaration by the bidders. Due to the expertise and the fact that the SABS prepared the SATS document, it was recommended that the SABS be the verification authority. This is a chance appointment and also learnt experiences from the BBBEE appointments of also the private sector as verifying agencies (Respondent3, 2020).

> **the dti** has given the SABS the mandate to verify local content. Verification is a measuring tool of local content with the SABS determining the scope of the verification (Respondent5, 2020).

> The mandate comes from **the dti** to support industrialisation and localisation used for job creation to contain the money from leaving the country and to inspire local production (Respondent7, 2020).
>
> They implement the directive of **the dti**, auditing organisation for the measurement of the local content (Respondent8, 2020)

Section 3 of the Standards Act of 1945 subsection (f) was explicit about the provisions for cooperation by the SABS with any organisation or department of the state. However, the Standards Act of 2008 opens up the institution to different interpretation of this clause as it states that the SABS can "perform in so far as it is not repugnant to or inconsistent with the provisions of any Act of Parliament, such functions as the Minister may assign to the SABS" (Standards Act No.8 of 2008; p8). This clause makes provision and qualifies the decision by the Minister of Trade and Industry to appoint the SABS to be the verification agency of **the dti**.

This raises questions around how the repugnancy of the institution determined and measured. Do we consider only the legal conflict of institution, as the SABS is considered a defunct institution by industry expects. As it does not deliver on its mandate and objectives of the organisation. Yet they are given an additional mandate to verify local content without **the dti** making financial resources available to enable execution of this task. To illustrate the failure of the SABS to deliver on their mandate, following key finding have been summarised;

> The SABS has been in a state of disarray for years due to poor governance and a deluge of complaints over its under-performance in conducting tests and issuing certificates for products. Backlogs and long delays in performing these functions have resulted in businesses losing export orders for products that require a quality assurance from the bureau. The SABS received a disclaimer, the worst possible audit outcome, from the auditor-general for its 2017/2018 figures" (Phakathi, 2020).
>
> "Backlogs and delays of three to nine months in getting products tested meant companies were unable to fulfil orders within agreed-upon delivery times. The termination by the SABS of partial testing of products has also caused problems

for industry. Partial testing is important for companies that have already had a product tested and just require a new component to be tested. The SABS also allowed its testing capabilities to deteriorate, which meant that industry could no longer rely on it to test its products" (Ensor, 2018).

When responding to a parliamentary question in 2018, about his decision to place the SABS under administration, Minister Davies confirmed that;

"SABS had lost 1 052 customers since its 2015/16 financial year, including 401 customers since April this year, resulting in a loss of revenue to the bureau of almost R50m in this period. In addition, the SABS had to refund 41 customers a total of R1.03m in this period. The peak in customer losses was in the SABS's 2016/17 financial year, due to customers cancelling their permits and certificates with the SABS. The reasons for the cancellations included the suspension of SABS certification programmes by SANAS; customers moving to competitors; and expired certificates and permits" (Cokayne, 2018).

"Auditor-General also emphasised a number of matters, including uncertainty related to the future outcome of "exceptional litigations", the material losses of R35.4 million that were incurred because of write-offs of irrecoverable trade receivables and prior period errors. Group bad debts written off rocketed to R35.4 million from R6.67 million. Contingent liabilities rose to R45.5 million from R5.1 million and were partly due to alleged negligence in testing products, which was largely covered by insurance, and Commission for Conciliation, Mediation and Arbitration (CCMA) employee dispute cases that were still pending" (Cokayne, 2019).

Financial challenges at the SABS were accounted by the CFO Tina Maharaj to be resulting from revenue generation;

"Firstly the SABS is not generating enough revenue, in the face of employee expenditure accounting for the majority or 70% of all operational expenditure. Namely the SABS had agreed to offer increasing benefits to central bargaining employees, to the value of R65m per annum, which has not corresponded with revenue generation, Maharaj said. Secondly the SABS is at risk of its cash resources being depleted by March 2021. The entity had been profitable between 2009 and 2016, but has been making losses since 2017. While the

> trend is expected to rebound in three years, the SABS does not have time before it reaches the day zero of its cash reserves. The company's losses have been eroding reserves, Maharaj explained (Omarjee, 2019).

Peters and Pierre (1998) explain that arrangements of institutions are as a result of political regimes and their overarching ideological objectives. This makes it necessary for institutional transformation to be in place to restore some degree of correspondence between the values of the evolving political regime and the values of the state institutional arrangements (Peters & Pierre, 1998). Other participants linked the mandate of **the dti** as political oversight institution to the mandate of the SABS;

> Every country has to have standards and SABS is meant to be the standards authority where the bark stops (Respondent1, 2020)
>
> The SABS has focus areas for the standards publications, testing products according to the national standards and they are the only institutions with these functions. They are industries that complain about the sabs services and the costs of verification are too much, there's no transparency on how they came to the calculations (Respondent2, 2020)
>
> SABS has a mandate to maintain and develop standards, benchmarking standards. They are legally empowered to craft particular standards, they must review and amend these standards (Respondent4, 2020)

Peters (2000) advises that the following attributes can also be measured in order to determine the degree of institutionalisation within state institutions;

> "the capacity of the institution to implement their decisions, capability of the institution to adapt to changes in the environment, capacity of the institutions to construct internal structures to cope with the changing environment, capacity of the institution to develop processes to manage their work load" (Peters G. , 2000, p. 8)

When probed about the implementation of verifications and the enforcement capacity that the SABS has, participant shared insight below;

> Respondent4 explains that the SABS advocates that they had capacity but that never materialised. They never showed up for pre-tender briefing when the procuring entity requested that they address tender bidders. There is a need to

have the biting teeth as expectations are not being met. Outsourcing diminishes the trust as it carried more weight that the knowledge within the SABS will be utilised. This use of third parties creates a knowledge disjuncture in public institutions.

Respondent7 states that on paper the SABS looks like they have teeth. When the SABS conducts verifications, they break their own rules, they create loopholes. There are no punitive measures for non-compliance, even for the resistance from suppliers to provide information.

Respondent8, confirmed that penalties have not been enforced. Consequence management and remedial action for repeat offenders have not been actioned

Certain functions are more constructive when handled by particular state institutions, as certain institutions are great agents of institutional design, but not-so-great agents of implementation and enforcement. All the participants concur that the institutional design of the SABS does not allow it to effectively implement verification of local content.

4.4. Methodological value analysis

Steinmo (2012) advised that institutions are complex systems that act as interdependent subsystems. Institutions serve different functions and “change all the times” (Steinmo, 2012, p. 314). It is critical that public organisations remain relevant in the ever-changing environment to maintain its relevance and productivity over time. Institutional change is necessary to improve service delivery and achieving the organisational mandate, goals and objective. In reforming institutions, it is necessary to formally change the institutional arrangement such as re-organisation of the administrative functions in the institution.

4.4.1. The rules of the institutions

The South African Bureau of Standards was enacted as a national institution for the development, promotion and maintenance of standards on behalf of the South African government. It was enacted as a legal public entity as per prescripts of Section 239 of the South African Constitution to exercise the constitutional powers of the country in order to conduct the commercial activities on behalf of the government (Department of Public Enterprise, 2014). Acts of parliament, detail systems of rules that regulate human conduct, enforcing these rules through a set of government institutions, as acts are passed by both houses of parliament and signed into law by the president of the Republic.

Section 2 of the 1945 Standards Act enacted the establishment of the institution in 1945 (Standards Act No. 24 of 1945) as a public entity acting on behalf of the South African government to amongst other functions, develop, promote, and maintain standards of the Republic. The act provided the legal framework of the governance of the institution, in 1945 the institution reported to the Minister of Economic Development. A council of five members who are knowledgeable, and experts was appointed by the Minister to assist with the governance of the institution, with the Minister being the chairperson of this council. The duty of the council was formulating policies that will achieve the objective of the organisation and tasked with the appointment of the director of the organisation. The Act dealt with financial management of the institution and punitive measures for those not adhering to the provisions of the act.

The Standards Act of 1993 (Act No.29 of 1993), an amendment to the Standards Act of 1945 (Act No.4 of 1945) ensured continuation of the existence of the institution as a public entity for promotion and maintenance of standards. It detailed the powers and functions of the institution, the exercise of power outside the borders of South Africa, continuation of the SABS council, the appointment and functions of the SABS executive as the accounting officer, the appointment and conditions of service of staff, financing and financial management of the institution. The institution reported to the Minister of trade and Industry and the parliament of South Africa.

The Standards Acts (1945; 1993; 2008) are similar in their iterations as they provide governance principles of the institution. Each Act repealing the previous is about the continuation of service, updating the rules for human conduct, complying with the governance requirement of the government. The main changes are in the language used, as the main structure and the rules are still those of 1945. There are just changes to adhere to the governance language used, for example, the use of terms such as council, president or director as the executive (1945 and 1993) to board, and CEO (2008). The other change was for compliance and alignment to the legislative requirements of the country. The financing, the structure of the organisation, reporting structures and the governance principles, powers and functions are still the same throughout the years.

Bolton (2006) identified acts that regulate procurement, these acts predates designation and local content policies so they do not explicitly refer to local content, but are guidance documents that should be used in conjunction with the PPPFA
Procurement acts include:

> The Preferential Procurement Policy Framework Act (5 of 2000), hereafter referred to as PPPFA; Public Finance Management Act (1 of 1999) hereafter referred to as PFMA; Broad-based Black Economic Empowerment (Act 53 of 2003, as amended by Act No 46 of 2013) popularly known as BBBEE; Local Government: Municipal Finance Management Act (56 of 2003) hereafter referred to as MFMA; Promotion of Administrative Justice Act (3 of 2000); the Local Government: Municipal Systems Act (32 of 2000, as amended by Act 44 of 2003) hereafter referred to as Municipal Systems Act; Development Board Act (38 of 2000); and the Promotion of Equality and the Prevention of Unfair Discrimination Act (4 of 2000)

With all the changes in societal requirements and expectations, the institution and its rules has been changing to the first and second order paradigm. The PPPFA only contracts **the dti** to drive the localisation and designation policy but is silent about SABS as the verification agency and the enforcement capacity to implement punitive measure against those who contravene the laws.

4.4.2. Authority of the institution

Within public institutions, power can be conferred, delegated shared and limited to an individual within the organisation in order to exercise power to achieve the desired objective. Power, as defined by Scruton (1982 p. 366), is the ability to achieve the desired effect and may be exercised based on consent or it may be coerced by any form of violence. Only an authorised person appointed to a position with authority can delegate authority, disposing of power authorising another to exercise the same power at all times subject to the conditions set and stipulated in the Standards Act of 2008. According to the Act the delegation and the authority is structured as follows;

Delegation of authority → Minister of Trade and Industry – has executive authority → the board – has oversight authority → the CEO – has the accounting authority

Ministers are members of cabinet appointed by the president to act as a political head of a government department.

> "Ministers are accountable to the National Assembly for their actions and for those of their departments and they must act according to government policy. They must also provide Parliament with regular and full reports about matters for which they are responsible" (PMG , 2020).

The Minister of Trade and Industry acts in the interest of the National Assembly and the country as an executive authority over the SABS. The Minister has the executive oversight over the financial performance of the institution, appointment and termination of service of the board, with the appointment of the executive officer, and accounts to parliament about the performance of the institution.

The SABS Board

As prescribed in section 6 of the Standard Act of 2008, the **board** of the SABS and the chairperson is appointed by the presiding Minister of Trade and Industry. It is composed of 7- 9 members who meet the criteria set in subsection 3 (b) with one member designated as chairperson. For the period under review, the SABS board has had two chairpersons. The role of the board as described by the Institute of Directors SA is "to ensure the company's prosperity by collectively directing the company's affairs, while meeting the appropriate interests of its shareholders and relevant stakeholders" (Institute of Directors South Africa, 2019).

Mr Bahle Sibisi served as chairperson from 2011-2014; the forward by the Chairperson noted the need for a constant review of programmes to ensure alignment with policy and regulatory actions to support industrial development. He further emphasised the expansion of the local content verification services, he also oversaw the development of the SATS 1286 local content and verifications standards (SABS, 2012).

During his tenure as chairperson, Mr Jeff Malobela established the Industry Advisory forum and the government consultative forum to ensure conducive environment for expression in the development of standards but notes that the "lack of commitment to implement good policies in the country” as the reason for the underutilisation of the local content verification unit (SABS, 2017, p. 15). During his tenure, he ensured that the board was subject to independent appraisal efforts in line with King III. However, it was during his tenure that the Minister of Trade and Industry exercised his discretion as stated in the Standards Act of 2008 Subsection 9 and terminated the term of office for board members. By placing the institution under administration, he dissolved the board citing “institutional failures, in governance, finances, policy and operations”. Subsequently appointing three co-administrators to “undertake the diagnostic analysis of the problems at SABS and develop turnaround strategy for the institution” (SABSb, 2018, p. 5).

The Executive Officer of the SABS

Section 16 of the 2008 Standards Act makes provisions for the appointment of the executive of the institution by the board in concurrence with the Minister of Trade and Industry. The executive will have the delegated authority to perform any of the board functions and similarly the executive can delegate their authority to any employee with the appropriate experience and knowledge to perform functions of the institution. For the period since the enactment of the Standards Act of 2008, there has been one CEO appointed by the board. Ms Bonakele “Bonnie” Mahlomakhulu was the executive of the SABS since 2009 until her resignation in 2018.

The CEO Ms Bonakele Mehlomakulu, was appointed by the board in September 2009. This was after they concurred with the Minister of Trade and Industry as stipulated in section 16 of the Standards Act of 2018. The CEO is the accounting authority of the institution, accountable to the board and responsible for the efficient management of the institution, execution of the institutions strategy and to perform tasks assigned by the board. Furthermore, the CEO was tasked to appoint executive members of the institution who will assist in achieving the mandate of the institution.

The CEO had to implement the mandate for organisational renewal and transformation of the 64 years old organisation (in 2009). In the 2014/15 CEO’s overview, the end of her first term (5 years) at the helm of the SABS, she acknowledged and celebrated as an achievement the “conceiving, marketing, selling and achieving the status of the country’s sole Local Content Verification Authority” (SABS, 2015, p. 21). The CEO, because of the proximity to information, is aware of the challenges experienced in the institution. In the CEO's overview section of the annual report, she noted that the challenges experienced with regards to local content verification was as a result of lack of support from the procuring entities; the SOE not providing the necessary information required for the verification process; and lack of clear policy direction and policy uncertainty from government. Government was cited as stakeholder that has ambiguous expectations that SABS must fulfil which results in the challenges experienced by the institution;

> "Unfunded mandates on behalf of government and to discount services offered to the market… aged laboratory infrastructure… the 1972 laboratory infrastructure… with limited tests" (SABS, 2017, p. 17 & 18).

At this point one can sense the difficult task expected from the CEO to deliver and the tensions in the relations with the key stakeholder government as they kept reducing the funding, but the expectations were not reduced. This is a clear indication that the power lies with the funder, **the dti**. It was during her tenure, the second term in office, that the Minister of Trade and Industry placed the SABS under administration in 2018. Ms Mehlomakhulu subsequently resigned in July 2018.

The Minister of Trade and Industry appointed Mr Garth Strachan, Dr Tshenge Demana, Ms Jodi Scholtz as administrators of the SABS to be at helm of the institution. They were tasked with developing the turnaround strategy securing optimal governance, financial sustainability and operational arrangements. In their diagnosis of the institutional failure, they noted SABS's failure to deliver services "its legal mandate" funded by both the annual fiscus transfer from **the dti** and revenue generated from services rendered to public and private sector. This resulted in the R74 million in the SABS SOC limited subsidiary, decline in the operational performance and the Auditor General issuing a disclaimer audit opinion and a qualified opinion on SABS financial statements (SABSb, 2018, p. 6).

Mr Garth Strachan was the Deputy-Director General of the Industrial Development Division at **the dti** before retiring and his appointment as co-administrator and acting CEO of the SABS in 2018. Dr Tshenge Demana is the Chief Director: Technical Infrastructure under the industrial development division of **the dti**, a unit the SABS reports to as part of the governance requirement. Mr Strachan and Dr Demana served as members of the SABS board representing the interest of **the dti**. An interesting observation on the role of board members and the executive; although the two administrators previously served on the board, they were not able to effect the necessary changes and oversight of the institution, which shows the limitation of power and influence over the institution that board members have. Ms Jodi Scholtz, is the Group Chief Operating Officer of **the dti**, tasked with providing operational oversight on **the dti**'s administrative functions.

Under the three administrators, the SABS has made a conceited effort to ensure outlined services provided by business units within the SABS. Local Content and Verification has been included as a business focus of the certification unit, "the SABS has an important mandate to promote standardisation, conformity assessment and local content verification services to ensure achievement of industrial economic and developmental objectives" (SABSa, 2019, p. 10). Something which was previously only mentioned in the annual report only and said to be not core business of the SABS. In 2019, 16 government institutions participated in the local verification programme, with 28 tenders verified. There was a drive to get the SABS to conduct verifications in an efficient manner and align verification of local content to global competitive practices by localisation of certification schemes aimed at designated sectors (SABSa, 2019).

4.4.3. Exercise of power

The Minister of Trade and Industry has the executive authority over the institution, board and the executive management and employees of the SABS. There has been only one Minister of Trade and Industry since the inception of the local content verification. Mr Rob Davies was the minister until the current changes in 2019 where Mr Patel was appointed as the new Minister. Minister Rob Davies in 2018, made a decision to place the SABS under administration given the institutional failures in governance, finances, policy and operations at the SABS, the significant loss of capacity and capabilities in testing and a lack of investment in testing infrastructure and equipment. The Minister of Trade and Industry appointed three Co-administrators to undertake a diagnostic analysis of the problems at SABS and develop a turnaround strategy for the institution. The strategy included a detailed operational plan to return the institution to financial sustainability and to secure optimal governance, policy and operational arrangements in order that SABS returns to its place as the apex institution.

According to the PFMA, the SABS is a schedule 3B Entity, classified as a government business enterprise that generates income in provision of its service and also substantially funded by the government. These public entities operate on general principles and have less autonomy as State Owned Companies as they have limited financial borrowing powers. **the dti** as per the Standards Act of 2008 is the government shareholder for the SABS and over the years provided continued financial support for the institution. **the dti** further demonstrated its confidence in the services of the SABS by appointing the SABS as the designated service provider to government for local content verification on government tenders.

Research participants were probed on the exercise of power at the institution. Respondent 2 notes that decision making takes longer periods than what the representatives from the SABS explained and is concerned about the autonomy of the employees the industry engages with on day to day bases.

> There are delays in decision-making, the regulation documentations that were meant to be published but there are no signatures since October 2019. Even though the industry provided all the required information but there is, limited communications for progress made to date. The employees that were engaged seem to not be the decisions makers (Respondent2, 2020)

This sentiment is shared by Respondent 4, as they reiterated that decision making at the SABS takes forever;

> People are not empowered, it takes forever to get a response, it is as if certain matters do not get the required urgent attention. Managers don’t have the decision-making powers, a response on verifications conducted is still outstanding (Respondent4, 2020)

Respondent 3 acknowledges that the institution has a top down approach as the follow the hierarchical structure in exercising authority. “The executive manager has the highest authority, when the verification certificates are to be issued, they have to first be discussed by the panel and approved by the Executive Manager" (Respondent3, 2020).

Respondent 5 observed that the actions and behaviour of the employees of the SABS reflects that they know the mandate of the SABS, but they are not sure on how to execute the mandate. Respondent 6 concluded that the lack of formal arrangements during the appointment of the SABS as a verification agency has resulted in the limitation of authority of the SABS.

4.5. Procedural Value

Procedural values are criteria such as coordination, accountability, leadership, interest groups, pluralism, participation, administrative efficiency, representation, checks and balances, fairness, expertise, public awareness, and rationality. They characterise the process of governance in institutions and institutional design. They cultivate shared organisational values that help institutions to ensure that there is public confidence in the procedure of public institutions and also elite support when there is technical uncertainty (Gormely, 1987).

4.5.1. Processes

Public procurement tools may prove to be useful and effective if they have measurable targets and the process is verifiable, auditable and transparent (Arrowsmith, 1995, p. 247-248). The SABS was appointed as the verification agency by **the dti**, to conduct verifications, providing assurance that products that are designated and supplied for public procurement are actually manufactured within the borders of the Republic. Verification of the manufactured products and services gives the state the proof that the intended beneficiaries will be reached, and objectives of the policy will be met. Figure 6 illustrate the timelines of the verification of local content since the inception of the policy and the development of the SATS 1286 standards.

The local content requirements verification process has been specified and communicated that upon award of the tender, the procuring entity has to submit information to **the dti** and the SABS. The SABS will then in consultation with **the dti** and the procuring entity, conduct verification using either the independent registered auditor or the accredited verification body (Govender, 2013; SABS, 2016; TIPS, 2017). Respondent 8 explained that;

> process is clear, tools and formulas have been explained, different auditing firms came to conduct the process. The process might not be effective as verification only uses invoices. The process is not efficient as the people who falsely declared local content can get away with it (Respondent8, 2020).

Respondent 7 said that “the process was explained to the procuring entity and the use of third parties was also explained. But questioned the secrecy around availability of the study that was used to designate and how the local content thresholds were determined” (Respondent7, 2020).

Respondent 6 said that;

> the process of varication is available on the website, during verification the process and plans are explained to those undergoing verification. It is explained that there are two aspects of verification, the financial and the technical verification of local content. **the dti** and the procuring entity are informed of the outcomes and appropriate action can be taken by the procuring entity. Post the verification process, the supplier is afforded the opportunity to supply further information to dispute noncompliance (Respondent6, 2020).

Respondent 2 related the process of verification to other testing and verification services offered by the SABS.

> Similarly, to the other processes there are standards documents for verification processes. However, if the SABS didn’t have the sole rights to verification, competition would help the industry and also the SABS to clean-up their work. (Respondent2, 2020).

Respondent 4 advised that the procuring entity developed the Standard Operating Document because of the intense study on the designation and the supporting documents and IN and also based on the training received from the SABS and **the dti**. The SABS has a high-level schedule that is detailed from start to end of the process showing all the steps and time frames. There was expectation that SABS will sample the tenders that will be verified given the understanding that due to the capacity constraints they will not be able to conduct verification on all the tenders. Despite the reporting of awarded tenders there was a realisation that the time frames and the process of verification was not even going to happen. The procuring entity even wrote to the SABS to get them to conduct verification and it never happened. However, the SABS was pardoned the due to the challenges they are experiencing.

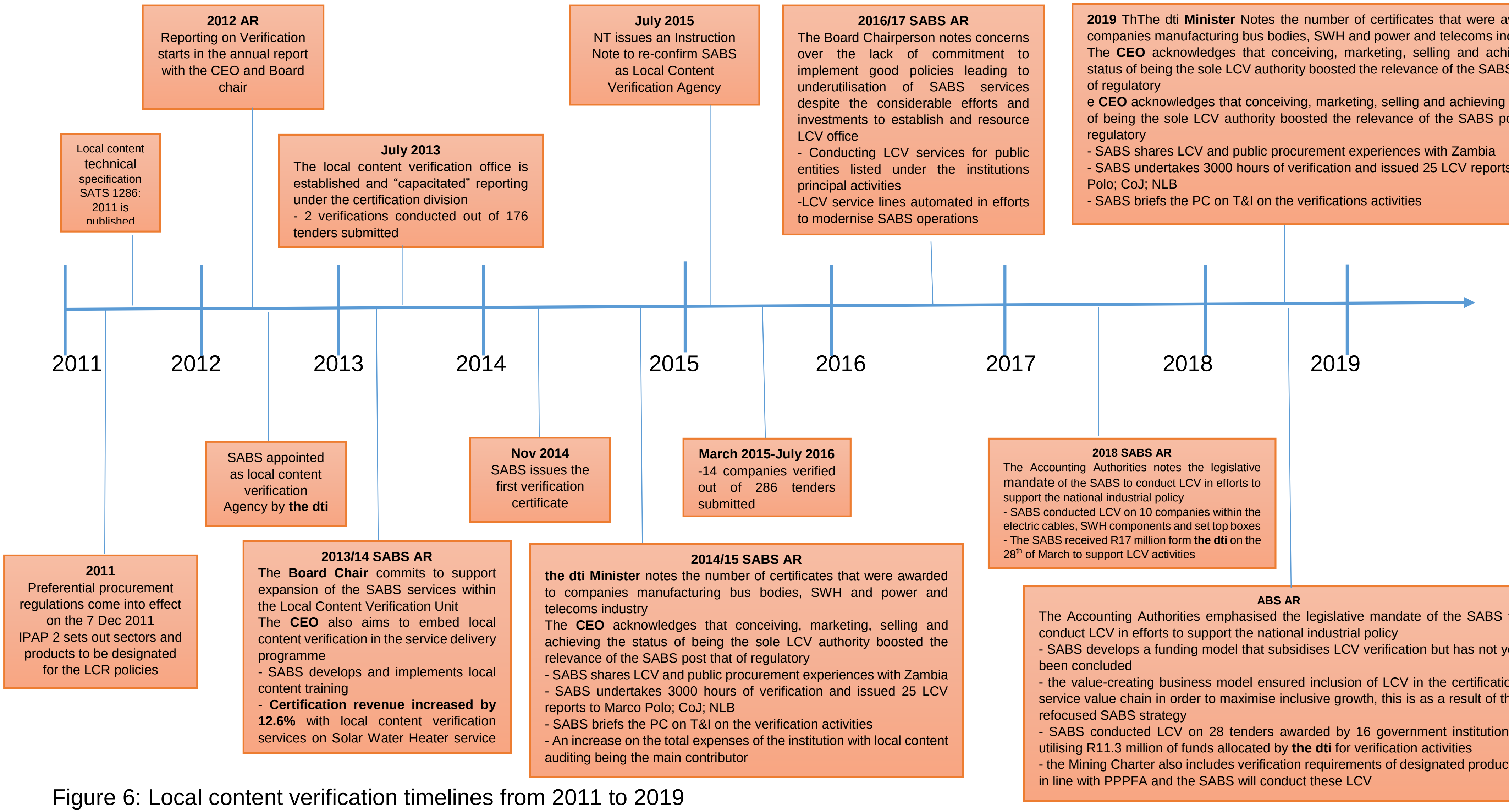
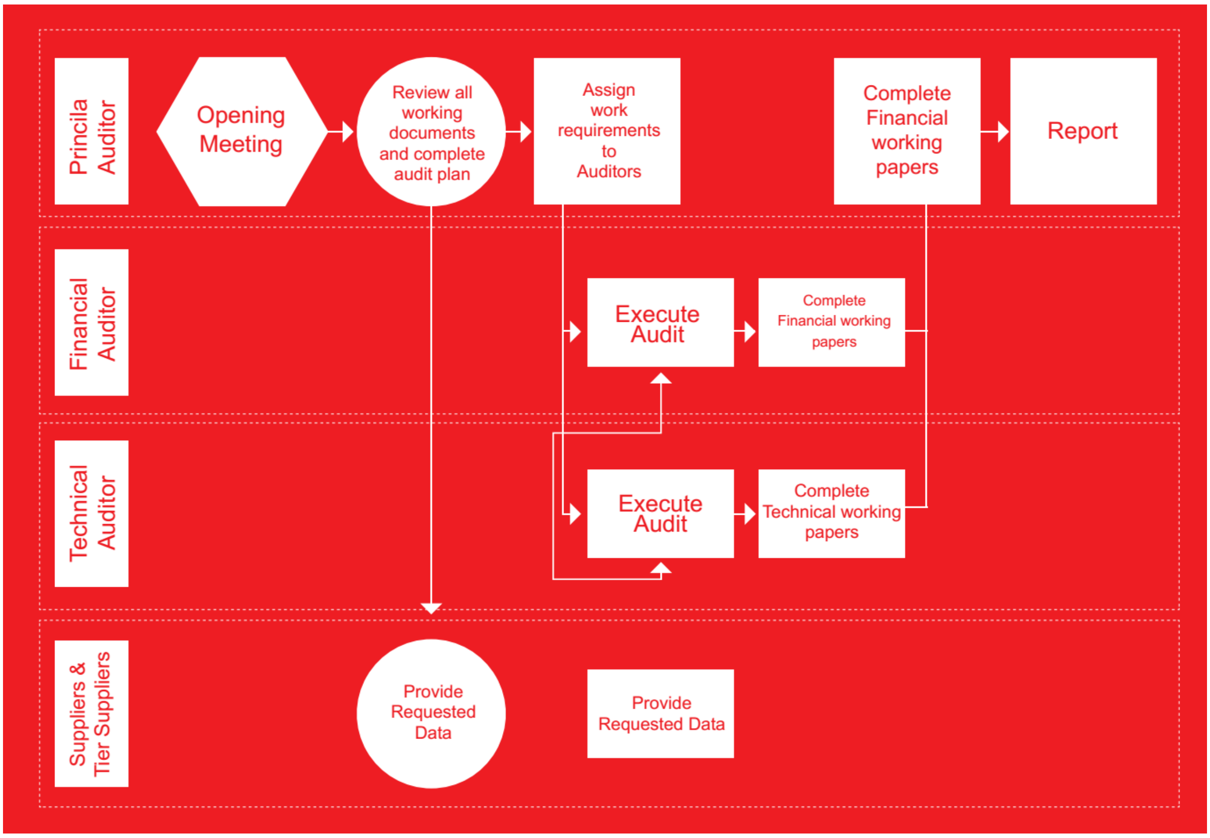


Figure 6: Local content verification timelines from 2011 to 2019

Figure 7 illustrates the local content verification process and the actors responsible for each step of verification. It is important to note that this figure is adopted from a document prepared and published on their website for public consumption in 2018. There are publicly accessible documents that detail the verification process, like the schematic illustrations in SABS presentations and the local content frequently asked questions on their website (SABSa, 2018).



Source: SABS Local Content (2018)

Figure 7: illustration of the local content verification process

Only Respondent 5 had raised issues with the process not being clarified as they were tier 2 supplier in the process, they were not the ones that had bid and awarded the tender. They also expained that the verification process was not mapped out during when the verifications were conducted.

Process for technical verification differs per designated product and verification procedures for manufacturing value chains will need to be established hence the delay in the implementation product verifications.

> Respondent 6 advised the technical aspects of verification are done by the internal technical experts within the SABS. There is a process of product scoping to determine the processes to be followed when handling different product. This ensures that the process is designed and tailormade to suit verification of that product. It is not a one size fit all process.

A major implementation challenge was raised in the 2014/15 Annual Report;

> "A major challenge faced so far in the roll out of local content verification is the lack of support from state-owned entities by not providing the necessary information to allow for the verification process as well as for setting baselines on past performance spend" (SABS, 2015, p. 39).

4.5.2. Capacity to conduct verification

The verification process has been faced with conceptualisation and implementation challenges of **cost** and also non-compliance by the procuring entities. The cost of verification has been a contentious issue since inception of the policy, with public debates on who should bear the costs between the state, procuring entity, policy custodians (**the dti**), and the successful bidder. The PPPFA is silent on who should bear the costs, although SABS 2016/17 Integrated Annual Report and all their documents concluded that the successful tender bidder must cover the cost, the burden still lies on the state to carry the costs as they will be offset against the bidding price (SABS, 2017).

Respondent 6 explained that the financial verification is done by the 12 the auditing firms' that have been pre-approved, including the SABS has 2 Charted Accountants that can perform that duty.

> The technical aspects of verification are done by the internal technical experts within the SABS. That's why the SABS says they have capacity to conduct verification because there is expertise within the organisation. Quality assurance of the report is done internally; assessment of the report is done by the internal approval committee that accesses the reasonable decision has been reached. The norms and standards are from the SATS 1286 technical

> specification document. However, there is also an NDA that is signed between parties (SABS and bidder) before verifications are done. This is done to ensure that the product information and IP are not shared only the outcomes of verification.

Respondent 7 relates the frustration of the process of verification being conducted by people who have not designated and produced the IN;

> There was an over reliance on **the dti** to explain the process and it doesn't empower the SABS as the process owners to answer the questions. It must be noted that the SABS are capacitated to handle different products. Although this leads to the process taking longer due to sampling of the products and the determining the necessary for the processes. There are issues that need clarity like the verification of different procurement processes and also the issue of handling of sensitive documents during verification. The issue that leads to non-compliance of the procuring entity, is the issue of buyers playing ignorance of the local content requirements and verification, and also post award requirements.

According to Respondant 5, they were verified as a supplier to the manufacturer, so they were not given feedback or an opportunity to see the verification results and validate them. This were the concerns also raised by Respondent 8. Respondent 3 explains that;

> The main challenge is not so much about the capacity of the institution but rather the challenges of financing the verifications activities. **the dti** had initially proposed that the bidders must cover the costs, but NT was not in favour as the bidders will add the cost of verification to the bid price. They had opted for the procuring entities to pay, which has resulted in the low uptake as they did not want to fund the process and also there are no guarantees that funds used to verify will be recuperated. It was also going to present challenges to the entities as they had not budgeted for this process and therefore, they will be accounting challenges. **the dti** in 2019 resolved to transfer R22 million for the institution to conduct verifications of local content.

Respondent 3 spoke about the capacity of the SABS, stating that the challenges of implementation lie in the funding of the verification. They emphasized that the SABS has the capacity and the human resources including a general manager who does not last long in the position due to operational and funding challenges. This compromises continuation in the implementations of strategies and the institutional memory.

> The SABS is capacitated in terms of staff by the general manager (GM) who has always been changed due to operational challenges of funding. They have 12 accounting firms that audit as and when required. The funds are now depleted. They said they cannot hire permanent staff as there is no guaranteed funding and also training of staff cannot be done. The main challenge is not so much about the capacity of the institution but rather the challenges of financing the verifications activities. **the dti** had initially proposed that the bidders must cover the costs, but NT was not in favour as the bidders will add the cost of verification to the bid price … They had opted for the procuring entities to pay. Which has resulted in the low uptake as they don't want to fund and also there are no guarantees of funds (Respondent3, 2020).

The number of tenders verified have been increasing over the year. Table 5 presents statistics of tenders recorded and verified by the SABS post award of the tenders. It must be noted that the SABS have their own sampling methodology as stated by Participant 6. There is an increase in the number of tenders reported to **the dti** and the SABS. In 2013/14, there was only 176 tenders submitted and in 2018/19 there were 1028 tenders that have been sent to **the dti** after the tender award. This shows an improvement in compliance by procuring entities. However, more efforts need to be made to ensure maximum compliance by all procuring entities.

Table 5: Verification statistics of tenders submitted to the SABS between 2013- 2019

Year	**Total Number of tenders recorded**	**Number of companies verified**	**Total value of the tenders**	**Value of verified tenders**	**Value of verified vs total value**	**Tenders verified post the dti transfer**
2013/14*	176	2	-	-	-	-
2015/16*	286	14	R 57,008,099	R2,553,164	4.5%	-
2018/19*	1028	32**	R 72,747,121	R2,657,975		82 tenders R56,699,601***

Source: (SABS, 2016; SABSb, 2019)

*not the actual number of the procurement tenders issued in the country, the numbers recorded are only those that procuring entities submitted documents to the SABS and **the dti** post the tender award.

** The number of tenders verified before **the dti** allocated funds to the SABS to conduct verifications

*** The total value of the tenders verified

- Information not available, it was not provided by the SABS
- Please note that there were no publicly accessible documents with the statics for the year 2017

the dti transferred R5 million to the SABS, which was used to conduct verifications of 32 companies and there was an additional R17 million was transferred which enabled the SABS to conduct 82 additional verifications. The funds transferred, as per the financial statements 2019 Annual Report resulted in 82 more verifications conducted by the SABS, the tender value of R56, 699,601 verified (SABSb, 2019). What is yet to be seen is how the findings from the verifications will be implemented. The procuring entity is empowered by the clause 14 of the PPPFA Regulations of 2017 to action the remedial actions against those that have falsely declared local content (National Treasury, 2017, p. 10);

> 14.(1) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-
>
> > (a) Inform the tenderer accordingly;
> > (b) Give the tenderer an opportunity to make representations within 14 days as to why-
> > (i) The tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
> > (ii) If the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and

(iii) The tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ

However, Respondent 3 warns that the above mentioned clause assumes that procuring entities do not default from procurement regulations as there is no remedial action to deal with a non-complaint procuring entity; “The legislation has gaps to deal with non-compliance of procuring entity, it is as if it was assumed that they will be compliant and that the naughty party is the bidders” (Respondent3, 2020).

4.6. Alignment of Network Institutions

Public institutions and government departments in South Africa are constitutionally mandated to determine, implement, manage and enforce public policies including the local content requirement and designation policy. According to Babalola (2020) public institutions are used by government as organisation of rules and regulations. They are used for ownership, sale, provision, delivery and allocation of goods and services by and for the government or its citizens (Babalola, 2020). Each institution is given a mandate with roles, powers and functions that it has to fulfil to deliver services to the citizens of the republic; in most instances, inter-organisational collaborative policy networks are necessary to fully achieve the policy objectives (Raboy & Podovani, 2010).

According to Kooiman (2003) “no single actor, public or private, has the knowledge and information required to solve complex…. societal challenges…no single actor has sufficient action to dominate unilaterally” (Kooiman, 2003, p. 11). Table 6 has details about public institutions that are constitutionally mandated to operate within the network of designation and local content policy. Davey and Gatenby (2007) define procuring entities as organs of state in national, provincial, and local government, and any other institution identified in national legislation to contract goods and services on behalf of the state. This includes constitutional institutions as defined in Section 239 (Schedules 2, 3A, 3B, 3 C and 3D) of the South African Constitution such as any functionary or any state institution that exercises constitutional power, i.e. the State-Owned Companies (SOC). SOCs are institutions that are legally created through the constitution by the government in order to conduct commercial activities on behalf of government (Department of Public Enterprise, 2014).

Table 6: Institutions within the network of designation and verification of local content

Institution	Constitutional Mandate of the institution	Role within the network
National Treasury (NT)	The National Treasury has the constitutional mandate "to ensure transparency, accountability and sound financial controls in the management of public finances…supporting efficient and sustainable public financial management is fundamental to the promotion of economic development, good governance, social progress" (National Treasury, 2016)	Custodian of all procurement policies including PPPFA. Publishes Instruction Notes detailing the local content threshold the designated products and sectors.
South African Revenue Services (SARS)	SARS customs and excise divisions are responsible for facilitating entry and exit of goods and people on the boarders of the republic and expediting the levying of duties on certain locally manufactured goods as well as on their imported equivalents (South African Revenue of Services, 2018).	SARS customs and excise divisions are responsible for facilitating entry and exit of goods.
Auditor General South Africa (AGSA)	AGSA was established by chapter 9 (section 181 and 188) of the South African constitution as an independent state institution "supreme audit institution" responsible for auditing and reporting on how government is spending Tax-payers money (AGSA, 2020).	They audit all government departments, state institutions or anyone acting on behalf of the government spending public finance to procure goods and services.
The International Trade Administration Commission of South Africa (ITAC)	ITAC is established by International Trade Administration Act, No. 71 of 2002, and came into effect on 1 June 2003 as a schedule 3A Public Entity. Their core functions are to conduct customs tariff investigations; develop trade remedies; and to control import and export. (ITAC, 2011)	They are a policy lever that the government uses to protect and foster economic growth by conducting tariff investigation to provide remedies for anti-dumping, countervailing measures and safeguards. Companies apply for increase or decrease of tariffs that impact on the prices of imported goods.
Procuring Entities	Procuring entities as organs of state in national, provincial, and local government, and any other institution identified in national legislation to contract goods and services on behalf of the state.	Procure public goods and services using the procurement regulations including PPPFA and financial management regulations PFMA/MFMA.

	This includes constitutional institutions as defined in Section 239 (Schedules 2, 3A, 3B, 3 C and 3D) of the South African Constitution such as any functionary or any state institution that exercises constitutional power.	
The department of Trade and Industry **(the dti)**	**the dti** has a constitutional mandate to facilitate transformation of the economy, promoting industrial development, investment, competitiveness and employment creation;	It has a mandate to implement LCR with preferential procurement of domestic value-added products and services. Commissions studies that recommends LC threshold for designated products and sectors. They also appointed the SABS as the verification agency.
South African Bureau of Standards (SABS)	SABS was established as a public institution that will act as a standards authority of the Republic in 1945 through an act of parliament (Act No.24 of 45 of 1945). It was enacted by Section 2 as a public entity to amongst other functions, develop, promote, and maintain standards of the Republic. The Standards Act, 1993 (Act No.29 of 1993) ensured continuation of the existence of the institution as a public entity, but act has since been repealed and replaced by the Standards Act, 2008 (Act No.8 of 2008).	They developed the SATS 1286 standards, which is the technical specifications for the measurement and verification of local content. They were subsequently appointed as the sole local content and designation verification agency by **the dti**.
CSIR	The institution was established by the Scientific Research Council Act 46 of 1988 which was subsequently amended by Scientific Research Council Act 71 of 1990 to be the "leading scientific and technology research organisation that researches, develops, localises and diffuses technologies to accelerate socioeconomic prosperity in South Africa" (CSIR, 2020).	With the current implementation plan, it only hosts the National Foundry Technology Network which is the custodian of the foundry programme.

Bekink (2006) explains that municipalities function closest to the local communities they have been constitutionally tasked with development and delivery of sustainable services. Procurement of these services in all the state procuring entities is guided by the principles of affordability, quality, accessibility, and value for money and also promotion of competitiveness and job creation by sourcing from local business (Bekink, 2006). These are the institutions procure goods and services guided by the national procurement rules as set by National Treasury, an institution mandated by chapter 13 of the constitution subsection 216 (1) “prescribed measure to ensure both transparency and expenditure control in each sphere of government” (Republic of South Africa,1996). The Public Finance Management Act regulate financial control in the national and provincial government and Municipal Finance Management Act financial control in local sphere of government.

Procurement, on the other hand, follows the competitive bidding contractual process and quotations as stipulated in the Preferential Procurement Regulations. Procuring entities are tasked with adjudicating, evaluating and awarding procurement bids in accordance to the preferential criteria stipulated in the Preferential Procurement Policy Framework Act (PPPFA) and regulations that promote equality. Each Instruction Note published by the National Treasury details post award and reporting requirements, instructing the procuring entity to “provide with copies of the contracts, the SBD/MBD 6.2 Certificates together with Declaration C submitted by the successful bidders” to **the dti**, for the SABS to be instructed to appoint the accredited verification body to conduct local content verification (National Treasury, 2016).

The SATS 1286: 2011 provides guidance to the bidder on returnable the documentations, submitted in the bid and also those that they are to keep and provide to the verification body conducting local content verifications. Participants confirmed that although procuring entities are mandated to comply with the post tender award requirements, most procuring entities do not comply with these requirements. Participants also agree that there is no alignment between network institutions to support the SABS mandate of conducting local content verifications.

> Respondent 5 said that there is no alignment, no formalised arrangement of the institutions, procuring entities are doing this for compliance.

Respondent 6 explains that there is no alignment, no formalised arrangement of the institutions, there needs to be a determination on how to deal with the verification findings. They follow all the processes, during procurement so that they ensure compliance to the regulations but do not include local content in the contracts signed.

Respondent 7 said that SOE's are reporting on tenders for local content, we need to establish payment structurers for verification, the procuring entity can pay for the initial verification but subsequently it should be paid by the bidders. Verification requirements should be included in the contracting phase and also the cost should be clarified. There is a need to establish standardised systems and templates for reporting.

Respondent 10 confirmed that there is no alignment with the network institutions to the overall mandate verification of **the dti**. If all network institutions were aligned, manufacturing incentives and grants, manufacturing investments would be aligned to the standards of SABS and geared towards enhancing the competitiveness of the country. The SABS must ensure that whatever products are supplied to procuring entity meet the SABS standards.

Respondent 4 commented on the role that South African Revenue Services can play in support of the SABS mandate of verification. They also identified the need of SABS to be development product standards;

SARS is very instrumental to the policy of designation and verification as they can assist with the product coding. There are many coding and description of products by industry which are different to what SARS records. Industry complicate the descriptions and there needs to be aligned so that we speak with the same voice. Another thing is that industry ends up blaming the government for the policies which were developed with the assistance and in consultation of the industry. Material components and commodity identification and coding could assist in dealing with import penetration. The lack of product standards is not helping as industry defines products and the standards used are not consistent. Curriculum at university of higher learning is not standardised and doesn't reflect national standards. The utilisation of

> international standards without relating to the equivalent national standards is also detrimental to the national standards.

Respondent 3 raised issues of alignment and empowerment of **the dti** to support the SABS;

> **the dti** has more responsibility as the custodians, it has oversight of the SABS, but it is not empowered. The legislation has gaps to deal with non-compliance of procuring entity; it is as if it was assumed that they will be compliant and that the naughty party is the bidders. Procuring entities have the compliance responsibility, they are informed in the Instruction Notes about the verification requirements, it is important that the remedial action lies with them. Some procuring entities comply with the local content in their bids, but they are not reporting to **the dti** and the sabs. The procurement bill has been presented to parliament; the bill will be published for public comment. It needs to be strengthened to empower the policies and it could also be helpful if there can be an institution that does the transversal procurement contracts and sourcing of products. They would also deal with punitive measures. There has to be of collaboration with ITAC and SARS to guard the ports of entry.

Respondent 9 justified the lack of insitutional alignment within the verification network to actors institutions having egos, preference and over reliance on private institutions, they further recommend the use of public institutions such as universities, Auditor General SA and research institutions such as the CSIR to assist with conducting verifications.

> There is a disjuncture on how public institutions relate and align themselves. There's too much reliance and trust on private sector companies that perform the same tasks. Decision makers in public institutions have egos and operate within their fiefdoms. Universities are public institutions that should be used to conduct verifications. The auditor general can be used for the financial verifications and the CSIR can be used for the technical verification of local content (Respondent9, 2020).

4.7. Institutionalisation the SABS

Steinmo (2008) concludes that the institutional theory is concerned with studying the structures of political behaviour in political institutions to discover the role institutions play in structuring behaviour, processes and laws that govern these institutions and shaped the political outcomes. New institutionalism approach to institutional analysis assumes that actors follow 'logic of appropriateness' as recommended by March and Olsen (1989) in the making of rules for social norms and social interactions. These actors are shaped and legitimized by societal norms, visions and values in their decision-making, processes and procedures that produce social and political outcomes of institutions.

The SABS was established as a standards authority by the Standards Act of 1945 and also continuation of existence by the Standards Act, 1993 (Act No.29 of 1993) which has since been repealed and replaced by the Standards Act, 2008 (Act No.8 of 2008). This was driven by a societal need for the country to develop quality standards that measure manufactured and imported goods. Goods and services were to be benchmarked against international standards to ensure that they are fit for use and consumption by the citizens of the Republic. Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. Many research participants illustrated the reliability of products that carried the SABS marked product which was seen to be world standards.

However, with the current troubles at the SABS, the local manufacturing industry does not see the reason for the SABS to test products, as they will not be able to export these products else where in Africa as most countries prefer international manufacturing standards. Most manufacturers test their products at the SABS as part of compliance, because most procuring entities specify that they require products that are manufactures acording to the SABS standards. The actors within the SABS although they are shaped and legitimized by societal norms, visions and values in their decision-making, processes and procedures, can be seen to have failed to produce social and political outcomes of institutions that realise these visions and values required by society.

In reforming institutions, it is necessary to formally change the institutional arrangement such as reorganisation of the administrative functions in the institution. Peters (2000) advises that the following attributes can also be measured in order to determine the degree of institutionalisation within state institutions;

> "the capacity of the institution to implement their decisions, capability of the institution to adapt to changes in the environment, capacity of the institutions to construct internal structures to cope with the changing environment, capacity of the institution to develop processes to manage their work load" (Peters G. , 2000, p. 8)

4.7.1. Capacity to implement decision

DiMaggio (1983) concludes that the dependance of the institution on government resources for the operations of the institutions determines if that institution will comply with the requirements, as non confirmance risks disruption in funding. The SABS has been established through an Act of parliament, with the powers and functions detailed in the Standards Act. However, one can sense that the IPAP and its objective has been imposed on the board and manangement of the institution. They had a task to align the strategic objective of the institution to those of the IPAP, this was iterated by Minister Rob Davies in his Ministers Forward in the SABS annual report and also the presence of the Dr Demana and also Mr Garth Strachan as board members of the SABS board. The SABS should not been seen to reitarate the policy objectives of this department but rather meeting the functions as stipulated in the Standards Act.

Mr Bahle Sibisi who served board chairperson from 2011-2014, reiterated the need for a constant review of programmes to ensure alignment with policy and regulatory actions to support industrial development (SABS, 2012). The SABS website refers twice to the alignment of the SABS to **the dti** objectives;

> "The South African Bureau of Standards (SABS) supports government's Industrial Policy Action Plan (IPAP), which promotes the localisation of production and addresses the current economic trends... The goals of the SABS are aligned with those of **the dti** and the country. These goals of the SABS encapsulate its mandate and together represent its purpose" (SABS, 2020).

According to Meyer (2010) autonomous and purposive individual and organised actors construct society in which instituions operate. These actors posses collective legitimate authority when they act beyond representing self-interest by managing rules of social environment constructing agency, activity and identity. The former CEO of the SABS, Ms Mehlomakhulu, had envisaged the institution to be autonomous, generaring income from the services rendered. However, this has not been happening as the SABS has been loosing monies and the testing has halted.

The SABS in accordance with the PFMA is a schedule 3B Entity. It is a government business enterprise as it generates income in provision of its service and substantially are funded by the government. These public entities operate on general principles and have less autonomy as they have limited financial borrowing powers. **the dti** as per the Standards Act of 2008 is the government shareholder for the SABS. Financial challenges at the SABS were accounted by the CFO Tina Maharaj to be resulting from revenue generation;

> "Firstly the SABS is not generating enough revenue, in the face of employee expenditure accounting for the majority or 70% of all operational expenditure. Namely the SABS had agreed to offer increasing benefits to central bargaining employees, to the value of R65m per annum, which has not corresponded with revenue generation, Maharaj said. Secondly the SABS is at risk of its cash resources being depleted by March 2021.The entity had been profitable between 2009 and 2016, but has been making losses since 2017. While the trend is expected to rebound in three years, the SABS does not have time before it reaches the day zero of its cash reserves. The company's losses have been eroding reserves, Maharaj explained (Omarjee, 2019).

4.7.2. Capacity to manage workload

Given the nature of the current societal problems, robust strategies, capable actors and governance systems which are integrated to be able to solve or at least mitigate the problem are required (Daviter, 2017a; Head & Alford, 2013). As stated in Ambe and Bardenhorst- Weiss (2013), policy is a function of institutions that participate and implement it, extending the range of policy actors and stakeholders involved in the policy process as it requires participation from procuring entities, the private sector, government, and its agencies (Ambe & Badenhorst-Weiss, 2012).

As illustrated in Figure 5, the SABS was the founding member of the International Organisation for Standards (ISO), the organisation has over 164 national standards bodies who are expects in standards “share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges” (ISO, 2020). The SABS helped in the development of market related international standards but has since been struggling with the development and maintenance of South African standards and also upgrading their laboratory infrastructure to handle all the societal needs.

> “Backlogs and delays of three to nine months in getting products tested meant companies were unable to fulfil orders within agreed-upon delivery times. The termination by the SABS of partial testing of products has also caused problems for industry. Partial testing is important for companies that have already had a product tested and just require a new component to be tested. The SABS also allowed its testing capabilities to deteriorate, which meant that industry could no longer rely on it to test its products” (Ensor, 2018).

> “SABS had lost 1 052 customers since its 2015/16 financial year, including 401 customers since April this year, resulting in a loss of revenue to the bureau of almost R50m in this period. In addition, the SABS had to refund 41 customers a total of R1.03m in this period. the peak in customer losses was in the SABS’s 2016/17 financial year, due to customers cancelling their permits and certificates with the SABS. The reasons for the cancellations included the suspension of SABS certification programmes by SANAS; customers moving to competitors; and expired certificates and permits” (Cokayne, 2018)

4.7.3. Capacity to adopt to changes in the environment

Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. In reforming institutions, it is necessary to formally change the institutional arrangement such as reorganisation of the administrative functions in the institution. Zucker (1987) suggests that the global environment often influences institutional environment and control over how resources flow is often translated through power or authority.

The institutional environment also reflects the pressures that influence the organisation that are generated externally, that are either created by the state through enactment of laws and regulations, economic conditions and in certain instances by professionals in that sector. The development of the structural arrangement and the production processes of an institution are influenced by the external environment and conform to the specifications of the sector, which the institution operates in. Hinings and Greenwood (1987) suggest that if public organisation have strong ties with govenrmnet then they are likely to support innovations required or supported by that respective government. (Hinings & Greenwood, 1987)

According to Zucker (1987) the willingness of individuals to let go of self-interest and working towards achieving the same institutional goals is is driven by the rules, leadearship and trust in the values of the instittution. Public institutions are constructed by powerful and reflect the interest of their actors (Meyer J. , 2010). Whilst DiMaggio and Powell (1991) argues that “Organizations tend to model themselves after similar organizations in their field that they perceive to be more legitimate or successful” (DiMaggio & Powell, 1991, p. 70)

Policy paradigms are applied to public policy to understand the dynamics of policy change resulting from ‘social learning’. Hall (1993) concluded that policy changes are driven by the theoretical and ideological changes. These changes constitute a dramatic change in the policy objectives and goals. Furthermore, these paradigm shifts are measured in three degrees of policy changes (Hall P. , 1993). The first order change is the normal basic changes in policy instruments, the second order change, is changes in policy techniques of attaining policy goals, these changes do not alter the policy goals as they do not occur in normal policymaking processes but rather result from implementation of policy. The third order change is rather radical change in the hierarchy of policy objectives and goals, which can also result from authoritative power shifts in the political system (Cairney & Weible, 2015; Hogan & Howlett, 2015). Table *7* details paradigm changes at the SABS since the establishment of the institution.

Table 7: Paradigm shifts at the SABS since 1945

1945 Third order change as the introduction of the Standards Act to establish the institution, in response to societal needs for standards organisation, changing how the country was developing and improving standards	**1993** It was a second order paradigm change to ensure continuation of the institution. Not much changes to the policy goals of the institution. The other change was for compliance and alignment to the legislative requirements of the country these changes were mainly about the language ensure that there is no repugnancy.
1993 It was a second order paradigm change to ensure continuation of the institution. Not much changes to the policy goals of the institution. The other change was for compliance and alignment to the legislative requirements of the country these changes were mainly about the language ensure that there is no repugnancy. This was done in line with New public management principles and governance prescripts of King reports	**2018** Although there were no changes to the Act that guides the institutional arrangements of the SABS and the policy objectives. One can view the actions of the Minister to dissolve the board and appoint three co-administrators was a third order change as there was a radical change in the governance of the SABS and there was also a turnaround strategy that was to be formulated.

4.7.4. SABS Institutional Arrangement

According to Alberti and Balogun (2005) it is important to understand institutional arrangements that enable political actors and adminstrative actors to manage and operate public instituions. It has been established that the SABS has attributes of a "totally pliable, internally weak and externally controlled governance and public adminstration" (Alberti & Balogun, 2005, p. 13). The Minister of Trade and Industry exercised his discretion as stated in the Standards Act of 2008 Subsection 9 and terminated the term of office for board members. By placing the institution under administration, he dissolved the board citing "institutional failures, in governance, finances, policy and operations". In February 2020, the acting CEO of the SABS who was appointed by the Minister to manage the institution, Mr Garth Strachan, also resigned after the parliamentary oversight visit. This again shows the external control of the **the dti** as an executive authority.

The resignation was said to be as a result of a “fallout with **the dti** Director General Lionel October around Strachan’s suggested “repurposed” version of the SABS” (Arnoldi, 2020). One can assume that the institution is internally weak as the Standards Act of 2008 had empowered the CEO to delegate authority to any experienced employee within the SABS, but there was no delegation from internal employees of the SABS. Instead the Minister deployed three adminstrators from **the dti**, meaning that the adminstrators of the institution are coming from external oversight insituion. Furthermore, there is an apparent political over reach as now there was a “fallout with the DG”, where as the Minister of Trade and Industry is the one granted the oversight authority over the adminstration of the institution. Unless the Minister of Trade and Industry had delegated his authority to the Director General, which the Stadards Act did not make provision for. Table 8 shows the criteria for strenghened public institution, the necessary institutional arrangement for functional public institutions. This criteria is juxtaposed to the arrangement and current state of the SABS.

Table 8: Criteria for strengthened public institution in contrast to the SABS

Criteria for strengthened public institutions*	**The state of the SABS in respect of this criteria**
The degree of consensus on the institutions’ underlying values and purposes	On record and official SABS documents accessible to the public, the SABS appears to have consensus on the underlying values and purpose of the institution. In fact, it is even aligned and geared to support the mandate of **the dti** for industrial development, producing industry standards and testing of manufactured products, and verification of Local content. However, the former CEO, in her CEO’s Overview in annual reports of the SABS had raised concern of the expectation of **the dti** with limited financial resources. She also talks about the incoherent policies that government produces.
The level of political commitment by leaders and followers to the values and to the original purpose	There is partial commitment from the state of the institution, the dire situation at the SABS was left for far too long, Minister Rob Davies had been at **the dti** for 10 years. The financial mismanagement at the SABS happened during his watch. The institutional value of accountability has been undermined during this time. The industry views the SABS as an institution that is defunct and cannot be trusted which can be seen to be against the institutional values of a SABS that has integrity,

	customer-centricity, high performance and quality service provision. The SABS has not been servicing its customers as there is a testing services backlog.
How far the institutions (including their purpose, operating structures and rules) perceived to be legitimate	The board was appointed by the Minister of Trade and Industry and the also the appointment of the SABS. There was compliance and alignment acts of the republic and alignment to the KING governance report. The board acted on the Standards Act prescripts and appointed the advisory committee.
The modernity-traditional ratio, i.e. in what ways the need for continuity and change	The institution has been battling with old infrastructure, there has been revamping of this infrastructure, but it has hasn't been fast enough to meet the technological needs for testing for the manufacturers.
The capacity of actors to perform according to its rules	The board was disbanded due to mismanagement and the institution was not meeting its own stipulated timeframes for testing.
Institutional reform is based on the following factors; diagnosis of the functioning of the pre-existing institution; institution is legitimised by the needs, values and their perception of the world; institution is seen to be adding value by helping solve a problem; the reforms are more sustainable when change is prompted from within the institution rather than imposed from outside	When the co-administrators took over the management of the institution, in reforming the institution they undertook a diagnostic analysis of the sabs to develop a strategy to take the institution forward. When the acting CEO resigned in February 2020, the co-administrator Jody Scholz was appointed to take over an ensure continuity of implementations of the plans. According to (Alberti & Balogun, 2005) the institutional change cannot be sustainable as it is imposed from outside the institution.

*the criteria for strengthening public institutions are quoted verbatim from the (Alberti & Balogun, 2005, p. 13&16)

Chapter 5: Conclusion and Recommendations

5. Introduction

This chapter concludes the findings of the research study on the institutional arrangement of the SABS. The aim of the research is to analyse the institutional arrangement of the verification network institutions for the local content requirements and designation policy in South Africa. The specific focus is on the South African Bureau of Standards, appointed to verify products supplied under the local content requirements and designation policy. This study is undertaken to understand the institutional arrangement, the procedural, methodological and institutional value choices that are in place to capacitate SABS to conduct local content verifications.
Several conclusions are drawn from the study and are presented below;

5.1. Trade Data

Trade data for the capital equipment was analysed, there is not much of an impact on the decreasing import data as a result of the implementation of LCR policies. Import data has been increasing since the implementation of LCR policies in 2011. Although the export data has significantly increased, it does not happen at the rate that corrects the trade balance. A similar trend is observed when analysing the individual commodity, valves and actuators, designated in 2014. Despite the implementation of local content requirements policies in 2011, the import data has increased, meaning that policy objectives are not being met. However, the export data has also increased, indicating policy impact of improving the export competitiveness of South African Manufacturers. It must be noted that the increase in exports and imports could not be accounted only designated products and the policy, but a collective effort of all the country's policies and economic activities.

The South African government uses local content and designation policy, leveraging on public procurement as an industrial development tool for strengthening the industrial base of the country, improving industrial competitiveness of South African manufacturers developing industrial capacity and capabilities. Verification of manufactured products and services gives the state the proof that the intended beneficiaries will be reached, and objectives of the policy will be met. Verification of local content could be another tool to that would ensure compliance to the policy and assist incentivising tender suppliers to comply with the legislated policies. There has not much verification of local content conducted by the SABS due to lack financial resources. Only 8 verifications of valves, actuators and associated products in 2018/19 reporting period. This was only done after the increased transfer of funds from **the dti**. This might not be enough to incentivise compliance to the local content requirements and reducing import content.

5.2. Institutional Values

Modern public institutions should diffuse national and world practices to achieve legitimacy and best operational practices. Legitimate state institutions are shaped by cultural and historical forces, social and economic realities, choices and actions of actors within the institution (Meyer & Hollerer, 2014). Institutional values include the legal mandate that established the institution, institutional values and norms, organizational culture, coercive controls (requirements), formal and informal reforms structures, functions of the institution (overlapping responsibilities).

The South African Bureau of standards was established as a public institution that will act as a standards authority of the Republic in 1945 through an act of parliament (Act No.24 of 45 of 1945). It was enacted by Section 2 of the Standards Act of 1945 as a public entity acting on behalf of the South African government to amongst other functions, develop, promote, and maintain standards of the Republic. The Standards Act, 1993 (Act No.29 of 1993) ensured continuation of the existence of the institution as a public entity, but act has since been repealed and replaced by the Standards Act, 2008 (Act No.8 of 2008). The standards Act, 2008 provides the purpose of continued service of the SABS as the peak institution and also to provide the establishment of the board of the SABS as per prescripts of good institutional governance of public sector entities.

The Standards Act of 2008 aimed to give guidance and stipulates good governance rules and structural arrangments that regulate human conduct tithin the SABS. It spells out the functions and powers of the institution, powers and functions of the role players, the establishment and composition of the board, appointment of the Chief Executive Officer and appointment of staff, good and sound financial management public institution as per the prescripts of PFMA, legal framework for the development and promotion of South African national standards. The legal mandate of the institution is to become the national standardisation institution of South Africa.

The institution is guided by the following values in support of the governments Industrial Policy Action Plan (IPAP), which is the government's plan for industrialization that promotes localization of products and services, protecting the local industries from penetration of low-quality cheap imports; Impartiality, innovation, accountability, integrity and quality.

Standards Act of 2008 states that the SABS can "perform in so far as it is not repugnant to or inconsistent with the provisions of any Act of Parliament, such functions as the Minister may assign to the SABS" (Standards Act No.8 of 2008; p8). This clause makes provision and qualifies the decision by the Minister of Trade and Industry to appoint the SABS to be the verification agency of **the dti**. Respondant 6 (2020) notes that there was no official documentations issued post appointment of the SABS as the verification agency by **the dti**. There was no MOU or any legal offical documentation detailing the mandate of the institutions to conduct.

There was consesus from all the research participants that the mandate to conduct verification by the SABS is **the dti** directive of local content requirements. They were appointed by **the dti** during the amendments to the procurement policy due to the expertise and the fact that the SABS prepared the SATS document, it was recommended that the SABS be the verification authority. The norms and standards for the institutions to conduct verifications are documented on the SATS 1286.

5.3. Methodological Values

It is critical that public organisations remain relevant in the ever-changing environment to maintain its relevance and productivity over time. Institutional change is necessary to improve service delivery and achieving the organisational mandate, goals and objective. In reforming institutions, it is necessary to formally change the institutional arrangement such as re-organisation of the administrative functions in the institution.

An authorised person appointed to position with authority can delegate authority, disposing of power authorising another to exercise the same power at all times subject to the conditions set and stipulated in the Standards Act of 2008. According to the Act the delegation and the authority is structured as follows;

Delegation of authority → Minister of Trade and Industry – has executive authority → the board – has oversight authority → the CEO – has the accounting authority

The Minister of Trade and Industry acts in the interest of the National Assembly and the country as an executive authority over the SABS. The Minister of Trade and Industry has the executive oversight over the financial performance of the institution, appointment and termination of service of the board, concurs with the appointment of the executive officer, and accounts to parliament about the performance of the institution. As prescribed in Section 6 of the Standard Act of 2008, the **board** of the SABS and the chairperson is appointed by the presiding Minister of the Trade and Industry. Mr Bahle Sibisi served as chairperson from 2011-2014; the forward by the chairperson noted the need for a constant review of programmes to ensure alignment with policy and regulatory actions to support industrial development. He further emphasised the expansion of the local content verification services, he also oversaw the development of the SATS 1286 local content and verifications standards.

During his tenure as chairperson, Mr Jeff Malobela established the Industry Advisory forum and the government consultative forum to ensure conducive environment for expression in the development of standards but notes that the "lack of commitment to implement good policies in the country" as the reason for the underutilisation of the local content verification unit (SABS, 2017, p. 15). During his tenure, he ensured that the board was subject to independent appraisal efforts in line with King III. However, it was during his tenure that the Minister of Trade and Industry exercised his discretion as stated in the Standards Act of 2008 Subsection 9 and terminated the term of office for board members. By placing the institution under administration dissolving the board citing "institutional failures, in governance, finances, policy and operations". Subsequently, appointing three co-administrators to "undertake the diagnostic analysis of the problems at SABS and develop turnaround strategy for the institution.

The CEO because of her proximity to information aware of the challenges experienced in the institution. In the CEO's overview section of the annual report, she noted that the challenges experienced with regards to local content verification was as a result of lack of support from the procuring entities; the SOE not providing the necessary information required for the verification process; and lack of clear policy direction and policy uncertainty from government. Government was cited as stakeholder that has ambiguous expectations that SABS must fulfil which results in the challenges experienced by the institution. It was during her tenure, the second term in office, that the Minister placed the SABS under administration in 2018. Ms Mehlomakhulu subsequently resigned.

The Minister of Trade and Industry appointed Mr Garth Strachan, Dr Tshenge Demana, Ms Jodi Scholtz as administrators of the SABS to be at helm of the institution, developing the turnaround strategy securing optimal governance, financial sustainability and operational arrangements. In their diagnosis of the institutional failure, they noted SABS's failure to deliver services "its legal mandate" funded by both the annual fiscus transfer from **the dti** and revenue generated from services rendered to public and private sector. This resulted in the R74 million in the SABS SOC limited subsidiary, decline in the operational performance and the Auditor general issuing a disclaimer audit opinion and a qualified opinion on SABS financial statements

5.4. Procedural Values

Public procurement tools may prove to be useful and effective if they have measurable targets and the process is verifiable, auditable and transparent. The SABS was appointed as the verification agency by **the dti**, to conduct verifications to provide assurance that products that are designated and supplied for public procurement are actually manufactured locally. The local content requirements verification process has been specified and communicated that upon award of the tender, the procuring entity has to submit information to **the dti** and the SABS. The SABS will then together with **the dti** and the procuring entity, conduct verification using either the independent registered auditor or the accredited verification body. There are publicly accessible documents that detail the verification process, like the schematic illustrations in SABS presentations and the local content frequently asked questions on their website.

This verification process has been faced with conceptualisation and implementation challenges of **cost** and also non-compliance by the procuring entities. The cost of verification has been a contentious issue since inception of the policy, with public debates on who should bear the costs between the state, procuring entity, policy custodians (**the dti**), and the successful bidder. The PPPFA is silent on who should bear the costs, although SABS and all their documents concludes that the successful tender bidder must cover the cost, the burden still lies on the state to carry the costs as they will be offset against the bidding price.

There has been a recorded increase in the number of tenders reported to **the dti** and the SABS. In 2013/14, there was only 176 tenders submitted and in 2018/19 there were 1028 tenders that have been sent to **the dti** post tender award. This shows an improvement in compliance by procuring entities, more efforts need to be made to ensure maximum compliance by all procuring entities. **the dti** transferred R5 million to the SABS, which was used to conduct verifications of 32 companies and there was an additional R17 million was transferred which enabled the SABS to conduct 82 additional verifications. The funds transferred, as per the financial statements 2019 Annual Report resulted in 82 more verifications conducted by the SABS, the tender value of R56, 699,601 verified. What is yet to be seen is how the findings from the verifications will be implemented. The procuring entity is empowered by the clause 14 of the PPPFA Regulations of 2017 to action the remedial actions against those that have falsely declared local content.

5.5. Institutionalisation of the SABS

Steinmo (2008) concludes that institutional theory is concerned with studying the structures of political behaviour in political institutions to discover the role institutions play in structuring behaviour, processes and laws that govern these institutions and shaped the political outcomes. New institutionalism approach to institutional analysis assumes that actors follow 'logic of appropriateness' as recommended by March and Olsen (1989) in the making of rules for social norms and social interactions. These actors are shaped and legitimized by societal norms, visions and values in their decision-making, processes and procedures that produce social and political outcomes of institutions.

The SABS was established as a standards authority by the Standards Act of 1945 and also continuation of existence by the Standards Act, 1993 (Act No.29 of 1993) which has since been repealed and replaced by the Standards Act, 2008 (Act No.8 of 2008). This was driven by a societal need for the country to develop quality standards that measure manufactured and imported goods. Goods and services were to be benchmarked against international standards to ensure that they are fit for use and consumption by the citizens of the Republic.

The SABS has been establlished through an Act of parliament, with the powers and functions detailed in the Standards Act. However, one can sense that the IPAP and its objective has been imposed on the board and management of the institution. They had a task to align the strategic objective of the instituiton to those of the IPAP, this was iterated by Minister Rob in his Ministers Forward in the SABS annual report and also the presence of the Dr Demana and also Mr Garth Strachan as board members of the SABS board. The SABS should not been seen to reitarate the policy objectives of this department but rather meeting the functions as stipulated in the Standards Act.

Given the nature of the current societal problems, robust strategies, capable actors and governance systems which are integrated to be able to solve or at least mitigate the problem are required (Daviter, 2017a; Head & Alford, 2013). The SABS was the founding member of the International Organisation for Standards (ISO), the organisation has over 164 national standards bodies who are expects in standards "share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges" (ISO, 2020). The SABS helped in the development of market related international standards but has since been struggling with the development and maintenance of South African standards and also upgrading their laboratory infrastructure to handle all the societal needs.

The research findings revealed that the SABS has been struggling to fulfil its mandate that justified the establishment of the institution. The same can be said about its mandate to verify local content, they have powers that have been delegated by an institution (**the dti**) that was also delegated certain (limited) powers and functions to perform certain tasks on behalf of the custodian of procurement policies (National Treasury). This has been observed to limit the powers that SABS has to act as a verification authority. One has to use combination of Act and policies to confer powers to the SABS to verify local content, i.e;

> National Treasury Custodians of procurement policies (PPPFA and PFMA/MFMA)→ **the dti** (empowered by clause 8.1 to designate sectors) → SABS (appointed by **the dti** to act on its behalf, verifying local content) →Procuring Entity (empowered by the PPPFA to procure public goods and

have been empowered by the PPPFA to perform remedial actions against the defaulting tender bidders)

Furthermore, the SABS has limited capacity to conduct verification, there is overreliance on the procuring entity as the party that has entered into contractual agreement with the bidder, to be the middleman, requesting the bidders to provide information to the SABS. There are issues with this arrangement as some of the procuring entities might have not contracted this process of verification into the agreement with the bidders. In certain instances, there is also issues of Non-Disclosure Agreements that have been signed between the bidder and the procuring entities which might be a barrier for SABS having access to information.

5.6. Recommendations

Research participants were prodded to comment on their ideal standards institution, the SABS and to recommend the institutional arrangement required to capacitate SABS. From participants' responses an ideal standards and verification institution should have the following characteristics; an independent, autonomous, trusted institution, leader in standards development that supports new technological innovations, an institution that has the required technical knowledge and skills, having appropriate infrastructure in place to conduct verification.

All this can only be achieved if there is an institutional reform to the arrangement of the SABS. These changes should be both incrementally and radically to ensure maximum impact of the institution. Alberti and Balogun (2005) small institutional change usually produce greater results than grand scale radical changes. The reform should focus on the overall institutional arrangement of the SABS and its legal mandate. Once the institution is functional with standard development and product testing, even the verification mandate will be functional.

There is a need for the alignment of the procurement policies and regulations in SA, empowering the SABS through provisions of laws defining the role. Clearly defining the mandate of the institution, how verification will be funded, and conferring the necessary powers and functions powers to conduct verifications. Furthermore, there should an introduction of enforcement of punitive measures against non-complaint procuring entities. What is also important is aligning other public institutions within the network of verification of local content and designation policies to support the SABS in their mandate. Alignment of public institutions like Procuring entities, SARS, ITAC, Judiciary, public research institutions such as the CSIR, custodians of public policies such as **the dti** and National Treasury, and institutions of higher learning to ensure that the SABS fulfils it verification mandate.

The National Treasury has tabled the draft procurement bill in the National Assembly; the bill is currently in circulation for public comment. The procurement bill aims to "regulate public procurement; to prescribe a framework for procurement policy envisaged in section 217(3) of the Constitution; and to provide for matters connected therewith" (Republic of South Africa , 2020, p. 2). The bill will be adopted and enacted into an Act of Parliament stipulating all the rules and regulations for procurement. Although the bill has focused on transversal procurement, it is not consistent in the procurement approach for local content and designation. For consistency and also achieving intendent policy objectives of local content and designation, it is recommended that the bill also include the local content and designation objectives into the transversal contracts.

In fact, the PPPFA should also be revised to align to the verification requirements, empower the SABS to conduct these verifications and provide legal enforcement framework with detailed punitive measures for the procuring entity. The Auditor General, has revised the mandate of the institution to include that the procurement officials and their managers should be held liable in their personal capacity for non-compliance to the regulations. The Procurement Bill has to empower the local content and designation policy custodians, implementors and the verification agency, and all the network intuitions with the appropriate methodological, procedural and institutional values to ensure alignment. If possible, the bill should recommend an establishment of commission that deals with enforcing procurement compliance including local content regulations.

There is a need for a more detailed study, where the researcher has access to all confidential documents and time required to fully explore the institutional arrangements of the SABS in order to diagnose and appropriately recommend the institutional arrangements necessary to have the above mentioned ideal Standards Institution that lives up to the constitutionally conferred mandate, and societally legitimized values and norms.

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Appendix A: Interview Questionnaire

Research Question

1. The main research question is to understand the **current institutional arrangements** of SABS, the legal powers, rules, procedure, and processes of the institution that are put in place to enable verification of local content.
    - What is the legal mandate of the SABS to carry out verifications?
        - What is the delegated authority transferred to the implementing agency?
        - How is power exercised within the institutions? Who makes the decision, delegation of power?
            - Which voices are listened to and why?
            - What are the degrees of power and autonomy does the institution have?
                - Expression of interest, different interest, organisational logic and understanding of the policy processes.
    - What are the governance arrangement, and structure?
        - Localisation of authority
        - Is it legally enforceable?
        - What are the guiding principles, norms and practices of policymaking?
        - How are decisions made?
        - What are the norms and values of the institution regarding verification? Is the institutional values, vision and mission embodied in methodologies and processes?
            - Are they translated to verification processes?
        - What are the punitive measures for non-compliance?
        - What are the rules that guide verification?
    - What are the procedures to conduct verification?
        - What are the operational frameworks and methodologies?
        - How have they been determined, and by who?
    - What is the process to conduct verification?
        - How does the institution plan and manage their activities is it efficient?
            - Is the institution able to coordinate with others effectively to fulfil their mandate?

        - Is it tailor made for the entire designated product?
        - Are there various processes for verification, given the different products and manufacturing processes?
2. The secondary question is to determine if the network verification institutions (the legal powers, implementation processes and procedures) are they aligned to support SABS to conduct verifications.
    - What is the legal mandate and responsibilities of network institutions implementing designation (verification)?
    - Do these institutions have any measures in their processes to implement verification?
        - Do they introduce due diligence in their processes?
        - Is the tendering and awarding processes geared up to support verification?
    - What the post- tender award requirements?
        - Is there any reporting to the verification agencies?

Appendix B: Interview Transcripts

Participant 1

CSIR campus 14 January 2020

1. What is the legal mandate of the SABS?

- Every country has to have standards and SABS is meant to be the standards authority where the bark stops
    - But it has no enforcement teeth
    - It is not effective in achieving its mandate
    - The authority or statutory location of the institution can be questioned
        - Should it not be reporting to SARS, Monitoring and Evaluation department, Reserve bank for it to have the necessary impact?
        - Enforcement and also the governance mandate

2. How is the power exercised within the institution, who makes the decisions?

- It is dependent on the authority and alignment
    - It is dependent on what decisions are being made

    - There are grey areas – not sure who is meant to be making decisions and having authority over that area or mater
    - They try to stick to their values
        - There is a need for the alignment to values and vison of the institution as they guide the methods and processes
        - They try and stick to what is published and what is in the public domain, but the vision is not that clear
            - They should try to produce the vision of verification to be a similar product to the PFMA
            - That it must be alive, changing with the times, having an impact on what is being bought, amendable and adaptable as it is being implemented

- No Verifications have been conducted by the SABS that included foundries
- Supply chain is south Africa is different to other countries
    - Castings are manufactured by foundries
    - OEMs become component assembly house instead of owning the overall value chain
        - They have testing facilities hence they own the products
- The credibility of the SABS lost its value
    - OEMs just do the accreditation as part of the required checklist for them to be able to supply their products
    - It exists legally in black and white for approval only
- They currently do not have correct personnel equipped to conduct verifications
    - This process requires that not a normal banking auditor can be used
    - It must be a knowledgeable person who understands the products
- The SABS is trying to standardize the processes for verifying different products
    - It won't work cos the products are different, and they require different manufacturing activities and value chains
    - There should be serious punitive measures for non-compliance
        - SARS tax rebates?
- What do we want to achieve as a country, that's what we should be asking ourselves?

- The NDP is outdated, it should be aligned with the vision of SABS
    - Waiting for 20130 to review the vision of the country will be outdated
    - There is partial embodiment –a discord between the vision and the mission
        - The nexus between values and mission of the institution
        - One standard operating procedure for verification of the country of origin won't work
        - Different products require different procedures
        - Costs of different processes to produce the same products – so the verification should also address that as processes affect quality of the products
        - Strengthen the processes to ensure certification
        - Process→ products →serial numbers

3. Are the network institutions aligned to support the SABS to conduct verification?

- Procuring entities –they are mandated by government to implement local content
- Suppliers- they try by all means to fight the system or make it work to their benefit
    - Maybe we should try to get foundries to supply directly to SOE cos since designation we have not seen orders cascading down to the down stream
    - Accountabilities of the manufacturers – there is no clear value chain accountability
- Support and alignment benefit of the institution given their mandate
    - Is SABS placed/housed correctly –governance is the key issue
        - SARS –research countries that use them as their verification agency
            - Trade wars
- There is a measure just that it is not implemented or partially implemented depending on their mandate
    - Aligned to local content but not supported in many instances
    - Transparency is required during the award of tenders and post tender reporting

Participant 2:

Mandate

- The SABS has focus areas for the standards publications
- Testing according to the national standards
- They are the only institutions with these functions
    - They are industries that complain about the sabs services
    - Solar PV sector complains about the backlogs
    - The costs of verification are too much, there's no transparency on how they came to the calculations
    - The SABS has the standards, but the SABS doesn't do tests for the standards, the timeframes and availability of SABS staff
    - The conduct of the staff- there is a complaint that the staff conducts verification -there are allegations that they conducted the verification at the hotel

Decisions

- There are regulation documentations that was meant to be published but there are no signatures since October
    - There are delays in decision making
    - The industry provided all the required information but there are limited communications
    - The decisions could not be made by employees who were engaging them on daily basis

Process of verification

- Similarly, to the other processes there are standards documents for verification processes
- However, if the SABS didn't have the sole rights to verification, competition would help the industry and also the SABS to clean-up their work

Alignment to the network

- There is no alignment
- The SABS mark doesn't carry weight as it used to
- Competence and expertise are no longer there at the institutions

- They are running the risk of losing even the international accreditation

Ideal SABS

- An institution that has integrity and is independent
- Existence of competition to help the SABS return to its former glory
- They used to be the leader of standards -even assisted with the development of international standards

Participant 3

SABS Mandate

- They were appointed by the dti during the amendments to the procurement policy
    - The dti is empowered to designate sectors
    - They are the crucial aspect of this designation policy as for the bids we rely on self-declaration by the bidders
    - Due to the expertise and the fact that the SABS prepared the SATS document, it was recommended that the SABS be the verification authority
    - This is a chance appointment and also learnt experiences from the BBBEE appointments of also the private sector as verifying agencies

Capacity of the SABS

- The main challenge is not so much about the capacity of the institution but rather the challenges of financing the verifications activities
- The dti had initially proposed that the bidders must cover the costs, but NT was not in favour as the bidders will add the cost of verification to the bid price …
    - They had opted for the procuring entities to pay
    - Which has resulted in the low uptake as they don't want to fund and also there are no guarantees of funds
    - The dti has to transfer the money for the verifications to be conducted …in 2019 - 22 million was transferred for the institution to conduct verification
- The SABS is capacitated in terms of staff by the general manager who has always been changed due to operational challenges of funding -retention of the GM
    - They have 12 accounting firms that audit as and when required

    - The funds are now depleted, they said they cannot hire permanent staff as there is no guaranteed funding and also training of staff cannot be done

Power and authority

- The executive manager has the highest authority, so they have a bottom down approach
    - When the certificates are to be issued, they have to first be discussed by the panel
- The dti has requests for verifications awaiting but due to lack of funds no verifications can be done
    - The SABS must write a formal submission for requesting funds
    - Since there are budgets constraints within govt… the funds are also cut down
    - These tenders need to be verified as it is very risky and defeats the purpose if they are not conducted
    - Local content is finding itself in procurement challenges such as corruption, non-compliance
- There are legal loopholes – law – regulations participants must abide by the rules
    - The technical specs
    - They don't understand the values
- It should be stipulated at the contract level as there are no guidelines and such requirements in the instruction note
    - They can comply at tendering and evaluation level
    - The IN needs to stipulate and guide the contract
    - There is no standard contract which includes LC
    - There must be a review and the on developing contracts
    - If large procuring entities such as the Transnet with all the legal resources fails to contract with the bidders correctly how much more about small entities

Alignment of network institutions

- Opening it up to other agencies similar to the BBBEE will not work -it was a lesson learnt

    - The dti has more responsibility as the custodians, it has oversight of the SABS, but it is not empowered…
    - Procuring entities have the compliance responsibility, they are informed in the IN about the verification requirements, it is important that the remedial action lies with them
    - The legislation has gaps to deal with non-compliance of procuring entity, it is as if it was assumed that they will be compliant and that the naughty party is the bidders
    - Some procuring entities comply with the local content in their bids, but they are not reporting to the dti and the sabs
    - The sabs have shared the norms and standards of verification with the dti even for different products
- Punitive measures – AGSA has revised mandate
    - Officials can be penalised and also their managers can be dealt with
    - This can also be done at the end of the financial year when audits are done
    - There has been no case that has been dealt with
- The procurement bill has been presented to parliament
    - Bill will be published for public comment
    - It needs to be strengthened to empower the policies and
    - It could also be helpful if there can be an institution that does the transversal procurement contracts and sourcing of products
    - They would also deal with punitive measures
    - There has to be collaboration with ITAC and SARS to guard the ports of entry

Ideal SABS

- Issues of funding for verification being dealt with
- Capacity issues with SARS, ITAC and industry association willing to assist in the policing of the industry as their members are hard hit in most cases
    - SARS and ITAC can provide with trade data as imports are still going up for water meters -few items bought locally but others being imported
    - SACTU follows up on tenders -the whole value chain and even following up with the letters granted

        - Suppliers know that they are under surveillance
        - The dti works closely with the associations as the dti is empowered to engage the procuring entities and post tender reporting
    - Jobs having stabilised in some cases verification and LC is working but corruption and vested interests people need to change
    - Non-financial verifications can also assist -per sector and product
        - Buyers being empowered to conduct due diligence
    - Also, alignment with SABS standards for products
    - Strategic sourcing through transversal contracts – sourcing through the top 20 products with the 80% of the spend
    - Priority of the function of the SABS depends on the interest of the leader …the LC thriving because of the leaders now
- There are no clear rules
- Formation of the procurement institution and ombudsman

Participant 4

Institutional values - Mandate

- SABS has a mandate to maintain and develop standards
    - Benchmarking standards
    - Complaints and different products
- Legally empowered to craft particular standards, they must review and amend these standards
- Values- ensure that there is competitiveness in sector
    - Not bias, neutral to servicing people
- Decisions -not privy to how decisions are made but due to protocols
    - The head of the units make decisions, the boards and the CEO they are accounting to the dti
- Voices – decision making takes forever
    - People are not empowered; it takes forever doesn't get the required urgent attention
    - Managers don't have the decision making powered

- Legally enforceable – SABS advocates that they had capacity but that never materialised
    - They never showed up for pre-tender briefing
    - There is a need to have the biting teeth
    - Expectations are not being met
    - Outsourcing diminishes the trust as it carried more weight that the knowledge within the SABS will be utilised
        - There is a knowledge disjuncture
    - Capacity, costing of verification was to be imposed to the contractor
        - The industry raised issues with outsourcing verification to accounting firms as they might not have the required skillsets and product knowledge
        - The dti imposing SABS process – as the verification is not meant to be commercial business, the dti should provide the funding for this

Procedural Values

- Processes – because of the intense study on the designation and the supporting documents and IN and an SOP was developed for the procuring entity
    - This was also based on the training received from the SABS and the dti
    - The expectation that SABS will sample the tenders that will be verified as due to capacity constraints they will not be able to conduct verification on all the tenders
        - Despite the reporting of awarded tenders there was a realisation that the time frames and even conducting verification is not even going to happen
        - The procuring entity even wrote to the SABS to get them to conduct verification and it never happened
        - They however pardoned the SABS due to the challenges they are experiencing
    - The SABS is supposed to randomly select contracts and ask the procuring entity to send letter (template provided by the SABS) to the

winning bidder for them to prepare for audit and all the required documents

        - The SABS has high level schedule that is detailed from start to end of the process showing all the steps and time frames
        - So, it can be said to be efficient

- Contracts- there are many buyers that one deals with during the procurement process
    - Some of the buyers plead ignorance of the regulations and are not implementing
    - Therefore, throughout the processes because of lack of buy-in the LC requirements can be left out

Network institution alignment

- SARS is very instrumental to the policy of designation and verification as they can assist with the product coding
    - There are many coding and description of products by industry
    - Industry complicate the descriptions and there needs to be alignment so that we speak with the same voice
    - The industry ends up blaming the government for the policies which were developed with the assistance and in consultation of the industry
- The dti must align with the various sources
    - Material components and commodity identification and coding
- The lack of product standards is not helping as industry defines products and the standards used are not consistent
    - The curriculum at university of higher learning is not standardised, lack of national standards
        - Utilisation of international standards without relating to the equivalent national standards
    - Technical expertise from the SOEs and RND for the new products
        - Strategic interventions at institutions creating new benchmarks

Ideal SABS

- Needs to prioritise finding the right people to execute the mandate
- Standards needs to be reviewed and crafting of new standards
    - Empower the people to do research on benchmarking

    - Standards division must support the new innovations with relevant standards
        - Working together with the innovation hub and TIA for new standards of new products
    - Alignment to ensure that all standards carry weight
        - Compliance to the international standards vs the use of the SANS standards
        - Get the right people to conduct verifications within the employ of the SABS who have the understanding of the standards
        - And alignment with the other units to improve product standards

Participant 5

Mandate

- The dti has given the SABS the mandate to verify local content
- The SABS determine the scope of the verification
- Verification is a measuring tool, spend of the tender labour and tarrifs
    - Given the information at hand, that is where they lack – linkages to the tariffs and the tender spending

Process

- Not established and was not mapped out during when the verifications were conducted
- They were verified as a supplier to the manufacturer, so they were not given feedback or an opportunity to see the verification results and validate them
    - When the verification was conducted there has been presentations on the process
    - There was an involvement of the third parties
    - The process can be seen not to have an impact
    - Everything was new and there was a fully-fledged thorough procedure
    - You have to contact them for feedback, and it was never provided
- Even interactions with the sabs, as this PE also needs their procurement tenders to be verified, they never respond, they had initiated and convened a meeting with the senior management of the SABS and also requested the dti intervention

- The PE has had interactions with the SABS on other services as they purchase industry and product standards

- There was only verification of the documentation- mainly financial and the survey of the invoices
    - There was no technical verification, although they came to site there was never a product or process inspection

Decision-making

- Actions and behaviour of the employees of the SABS reflects that they know the mandate of the SABS, but they are not sure on how to execute the mandate
    - It seems like they are trying to get off their feet
    - They don't enforce their processes
    - It is acting in a comfort zone
    - There should be engagements with the end users to improve on the processes
    - Govt-govt relations to enforce the designation rules and the principles rather than verification as the money would be used for service delivery rather than costs for policing implementation of the policy

Alignment to the network

- There is no alignment, no formalised arrangement of the institutions
        - PE are doing all this for compliance
        - They follow all the processes, during procurement so that they ensure compliance to the regulations
        - They need to be empowered as PE to understand products
        - They could be assisted if they could get reports of the products - notes from the verification reports so they could get knowledge of authentically manufactured products

Participant 6

Mandate

- There was no official documentation of the process to follow post the appointment of the SABS as the verification agency
    - The only reference could be the NT circular clarifying the completion of the SBD declaration documentation

        - The expectation of the bidder to have been audited and verified to be supplying local content but that has since been repealed as the SATS documentation were revised to remove the audit expectation
    - No MOU or official documentation that details the mandate
    - Although there were discussion and submissions by the SABS to lobby their appointment as they were best placed to be an agency since they had also developed the SATS standards
- SABS was involved in the development of the SATS 1286 technical standards for verification
    - They were subsequently appointed as the verification body for local content but there are no official documents except for the official announcement and communication through IN and the media that SABS has been appointed
    - there are so many gaps and even the clarity of funding would have been provided should there have been official documents
    - THERE ARE SO MANY GAPS THAT COULD HELP THE sabs conduct verification
- Powers – THE SABS HAS LIMITED or certain powers
    - There are no documentation clarifying which powers even on how to deal with non-compliance
        - They can verify LC but have no powers for remedial and punitive
        - If the PE has not included the requirement for LC in their contracts, some bidders may refuse to share information
        - The SABS hands are tied, they cannot litigate …sanctions
    - The mandate is not legally enforceable as they cannot litigate the powers lies with the procuring entity
    - The mining verification expresses the powers and functions of the sabs
        - They are appointed as the only verification body, but the minister reserves the right to appoint
        - Here the certification is issued upfront, the SABS conducts verification to certify local content of products upfront before any procurement

        - With public procurement the verification is done once tender is awarded
            - This is done to confirm the truth of declarations
            - Engineered products are difficult to verify similarly to the mining charter as the technical specification of the products varies
            - There might be a need to certify the manufacturer but due to the procurement policies, the suppliers will be referred to the manufacturers that they can supply products from
- Authority – the lack of formal arrangements affects the limitation of authority that the SABS has
    - The local content office provided statistic to the dti
    - The dti funded R22 million for the verification and they had guided the sampling by SABS to include certain tenders
- Governance- separate business unit which reported under the existing certification was created
    - There's no formal arrangement on reporting
        - Quarterly reporting to the dti on the tenders submitted to the SABS and verifications conducted
        - Also, as and when required the SABS provides reports are provided
    - Public procurement reporting on all tenders should be sent to the dti and the dti passes on to the SABS
        - This is not done so, therefore what is reported on is not a true reflection of public procurement
        - There is disjunction on what is reported and the actual spend
        - The AG will oversee what is being reported
- Process flow – the process of varication is available on the website
    - During verification the plans are explained to those undergoing verification
    - There are two aspects of verification – the financial and the technical verification of local content
        - Financial -is done by the 12 companies that have been preapproved, this are the auditing firms

        - Even the SABS has 2 Charted Accountants that can perform that duty
      - The technical aspects of verification are done by the internal technical experts within the SABS
        - That's why the SABS says they have capacity to conduct verification cos they have the expertise internally
    - Process of engaging the supplier -the supplier is afforded the opportunity to supply further information to dispute noncompliance
      - The dti and the procuring entity are informed of the outcomes and appropriate action can be taken by the procuring entity
      - At certain times verification outcomes are provided to the NT
    - Quality assurance of the report is done internally
      - Assessment of the report are done by the internal approval committee that accesses the reasonable decision has been reached
    - The norms and standards are from the SATS 1286 however there is also an NDA that is signed between parties (SABS and bidder) before verifications are done
      - To ensure that the product information and IP are not share only the outcomes of verification
    - Different products – scoping process to determine the processes to be followed
      - They will assess the design process, bill of materials and scope the work accordingly
    - Verification assists in building a database of components that can be sourced locally, build intelligence for new products, determine volumes and demand in support of localisation

Alignment to the network

- There is no alignment, no formalised arrangement of the institutions
  - There needs to be a determination on how to deal with the findings
    - Importers must be penalised, there has to be a way of informing SARS to be on the lookout for these products and assess how they came into the country

            - The eco system needs to be aligned – institutional arrangement for cohesive work
            - the dti must be able to use the database to determine new products to support development for new industries and products
            - NT must be able to give powers and procurement directions to the institutions

Ideal SABS

- Verification process used as a tool to gather intelligence
    - Improving the data gathering to build a credible database that assist in developing the models for the industry
    - Data → building technical spec→ product design →identify new products to be manufactured in the country
        - We will have an idea of what is available in the country, drive the localisation strategy
- Verification of public procurement happening before delivery of the products…post award
    - Try out different models of verification
        - Maybe five years verification of products and the manufacture
        - With annual subscription for verifications
        - Procurement dump → tenders = procuring entity→ BAS purchase orders
        - Improvement of the declaration model to 4IR

Participant 7

Mandate

- It comes from **the dti** to support industrialisation and localisation used for job creation
    - Containing the money from leaving the country
    - To inspire local production

Decisions

- Authority – capacity and turnover – the idea is good but there are factors affecting implementation
- Erosion of key people

    - Continuity and growth – experienced and no Proper staff turnover
    - It seems like there is policies without conception
        - No execution

Enforcement

- On paper the SABS looks like they have teeth
    - When the SABS conducts verifications, they break their own rules, they create loopholes
    - Application for exemption for the designation process
- Payments → the SABS wants the
    - The PE wants to comply, so the PE payed for the first verification
    - Practice notes must explicitly say who will cover the cost of verification

Process of verification

- It was explained to the PE and the use of third parties was also explained
- There are no punitive measures for non-compliance, even for the resistance from suppliers to provide information
- Who should be the arbiter of the illegal dealings of the industry?
- Availability of the study that was used to designate and how the agreement will be reached
- The process of verification is conducted by the people who have not designated and produced the IN
    - Argument of the principles SABS and the dti
    - Doubt studies and capacities
    - Neutrality information
- The SABS are capacitated to handle different products
    - Sampling of the products
    - The process is taking too long
    - So different procurement processes how will they be verified – quotation vs tenders …what is the selection criteria for verification
- Processes – auditors vs structuring within the organisation → hierarchy in PE
- There is also an issue of handling of sensitive documents during verification
    - There is also the issue of buyers playing ignorance

Alignment to the network

- SOE's reporting on tenders for local content, discipline is required
- Cost carrying structures -the PE can pay for the initial verification but subsequently it should be paid by the bidders
    - Verification requirements should be included in the contracting phase and also the cost should be clarifying there
    - Systems for reporting -no tools standardisation
        - There should be coding of the IN consolidation of products

Ideal SABS

- Opening up the industry to have more verification agency
- Inclusion of other professionals to refine the verification process

Participant 8

Mandate They implement the directive of the dti

- Auditing organisation for the measurement of the local content
    - Audit firms are used as the SABS has limited capacity and
    - Technical verifications are not done
- Auditing companies participating in the local content procurement processes
- Verification is conducted as and when
    - These verifications are based on the requests
- SABS has not conducted the verifications themselves, but was done through a third party who visited the company to conduct verification
- The structuring of the local content -ramping up based on the volumes to negotiate ramping up
    - The verifications to the lowest tiers →raw materials – issues with the suppliers
    - The contracts do not specify the levels of the tiers of the suppliers
    - The NDA -COSTING MARKET DYNAMIC
- Verifications are conducted as they provide assurance that their declarations made by the bidders
- Short delivery -specifications

- Verification is done to improve the GDP of the country by creating jobs export promotion, import reduction, improving competitiveness of the local suppliers
- Procuring entities could conduct due diligence but it would be tautology
    - There is shortage of capacity at the SABS

Enforcement

- Executing the dti directive → the also report to parliament
- Certain information is sensitive as it involves intellectual property and the NDA might not be enough for them not disclose the information
    - There is a concern as this is tricky as there is competition between industry players
- No certificate, reports are not shared with the participants they are sent to the customers
    - They were never afforded an opportunity to address the outcomes and potentially correct certain info captured incorrectly
        - Products were mixed up, the same products have different local content
        - These auditors are not clued up to the different products
    - Penalties have not been enforced
        - Consequence management and remedial action for repeat offenders have not been actioned

Process of verification

- Process is clear, tools and formulas have been explained
- Different auditing firms came to conduct the process
- The process might not be effective as verification only uses invoices
- The process is not efficient as the people who falsely declared can get away with it

Ideal SABS

- Knowledgeable about the manufacturing processes
- Verification of the manufacturers

Participant 9

Legal mandate of the SABS

⇒ As per the Standards Act, SABS has a mandate to ensure that standards are written and that it should monitor the implementation to ensure that the standards are compiled to.

- ⇒ Standards are voluntary and cannot be enforced

Enforcement

- ⇒ Not clear, standards are not as compulsory to comply to,
- ⇒ they are not able to monitor compliance as the standards are designed by the industry
  - o there is over reliance on the industry to monitor
  - o NCRS acts a regulatory body for compulsory standards
  - o Local content tenders should be linked to the standards that are developed by the SABS
    - ▪ Product specifications should be in line with the standards developed by the SABS
  - o With the SABS not approving standards and also testing products, it presents challenges to the local manufacturers
- ⇒ Previously the SABS mark used to be trusted as it meant that the products have been tested and they are of acceptable or high quality
- ⇒ Mandates are distorted and futile

Power

- ⇒ Not clear on how power is exercised
- ⇒ Sectors within the SABS, should have the powers to hire experts that can be trusted
- ⇒ Every employee should be given the authority to act within means
  - o Then escalated to the CEO should there be a need

Process

- ⇒ The SABS is already failing with conducting standards testing they should have not been burdened with verification
- ⇒ Clients must pay for verification of local content, but certain amounts should be refunded when they can meet certain qualities
- ⇒ verifications conducted by the SABS bulk of the money went to the verification of one sector
- ⇒ universities are public institutions that should be used to conduct verifications
- ⇒ the auditor general can be used for the financial verifications
- ⇒ CSIR can be used for the technical verification of local content

Network

- ⇒ There is a disjuncture on how public institutions relate and align themselves

- There's too much reliance and trust on private sector companies that perform the same tasks
- There is egos and fiefdoms that these institutions have

Participant 10

Legal mandate of the SABS

⇒ To verify all awarded local content tenders, includes all designated sectors

⇒ However, the payment of verifications and the costs were not clearly defined and agreed to before the implementations

- All the details are clarified as the policy is being implemented

⇒ Verification is supposed to be per tender, but it was not realistic.

- Maybe the criteria may warrant that the verification start at R500 000 tenders

LEGALLY ENFORCABLE

⇒ It is a catch 22 situation, as only procuring entity can implement the remedial actions, cancelling the contracts and changing the tender conditions

⇒ The dti only has an oversight role on the implementation of LC policies, they have no legal mandate in the implementation of procurement policies and regulations

- after the award of the tender, the SABS reports to both the dti and the procuring entity, not there is no legal enforcement tools form both the SABS and **the dti**
- Therefore, they cannot transfer enforcement powers they don't have

Powers

⇒ The SABS reports to the dti, to the technical infrastructure unit

- One gets the sense that the dti imposes their mandate on the SABS to implement their IPAP and therefore the SABS neglects their mandate of being a standards institution (testing and standards development)

⇒ The SABS does not carry weight anymore, this resulted in reliability and preference of international standards. This increases the cost of manufactured goods

Process

⇒ No idea of the details of the process and how verification is conducted

⇒ But the dti forwards the awarded tenders and the necessary information

⇒ The dti transfers money for the SABS to conduct verifications

- The SABS reports the findings to the dti

- ⇒ The flow of information doesn't reach other procuring entities

Alignment of network institutions

- ⇒ There is no alignment with the network institutions to the overall mandate of the dti
- ⇒ If all network institutions were aligned, manufacturing incentives and grants, manufacturing investments should be aligned to the standards of SA and geared towards enhancing the competitiveness of the country
- ⇒ The SABS must ensure that whatever products are supplied to procuring entity meet the SABS standards
  - o The bark must stop with the SABS
- ⇒ SARS should be safeguard against dumping of inferior quality goods and that affects the price of the locally manufactured goods as they become too costly
- ⇒ The sabs infrastructure should be upgraded to have the technological advancement there's no reliance on international standards
  - o There needs to be transference of skills to ensure that the SABS is able to conduct verifications
  - o There might be a need to restore the capacity that has been lost, there might be a need a to work backwards to rebuild the capacity to be a standards institution that it was established to be

Ideal SABS

- ⇒ The institution having appropriate infrastructure in place to conduct verification, develop standards and also testing of products
- ⇒ An institution that has the required technical knowledge and skills
- ⇒ An institution having financial support and also generating its own income through provision of their services
- ⇒ Having technologically advanced to ensure that there is testing of new products and support innovation
  - o Providing testing facilities and supporting product development

Appendix C: Research Participant Information Sheet

Dear Sir/Madam

My name is Ayender N Makhuvela and I am a Masters student in Public Policy at Wits University in Johannesburg. As part of my studies, I have to undertake a research project, and I am investigating Institutional Arrangement of the South African Bureau of Standards. The aim of this research project is to find out the institutional arrangement, the procedural, methodological and institutional value choices that are in place to capacitate SABS to conduct local content verifications.

As part of this project, I would like to invite you to take part in an interview. This activity will involve a single interview and will take around 30 minutes. With your permission, I would also like to record the interview using a digital device.

You will not receive any direct benefits from participating in this study, and there are no disadvantages or penalties for not participating. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential and anonymous as I will not be asking for your name or any identifying information, and the information you give to me will be held securely and not disclosed to anyone else. If you experience any distress or discomfort, we will stop the interview or resume another time.

If you have any questions afterwards about this research, feel free to contact me on the details listed below. This study will be written up as a research report, which will be available online through the university library website. If you wish to receive a summary of this report, I will be happy to send it to you upon request. If you have any queries, concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (non-medical), telephone + 27(0)11 717 1408, email Shaun.Schoeman@wits.ac.za

Yours sincerely,

Ayender N Makhuvela
1141114@students.wits.ac.za
0792207995

Supervisor: Prof Pundy Pillay
Pundy.Pillay@wits.ac.za

Appendix D: Research Participation Consent Form

Title of project: An Institutional Arrangement Analysis of the South African Bureau of Standards
Name of researcher: Ayender Ndzalama Makhuvela

I ……………………………………….. Agree to participate in this research project. The research has been explained to me and I understand what my participation will involve.

I agree that my participation will remain anonymous	YES	NO	(please circle)
I agree that the researcher may use anonymous quotes in her research report	YES	NO	
I agree that the interview may be audio-recorded	YES	NO	
I agree that the information I provide may be used anonymously by other researchers following this study	YES	NO	

……………………………………. (Signature)
……………………………………. (Name of participant)
……………………………………. (Date)