

# OECD workshop and policy Dialogue on TBT

**the dti**  
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- **Modernising the South African approach to compulsory specifications**
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# Modernisation of the South African technical infrastructure

- In 2004 the dti issued a policy paper that identified the need to reform an approach to technical regulations
- Combined standards development, accreditation, conformity assessment and technical regulations in one government agency
- The SABS regulatory areas covered by the compulsory specifications include light, medium and heavy motor vehicles, vehicle parts and accessories, electrical and electronic products, canned meats, canned and fresh fishery products, gambling devices, and products affecting human and environmental health and safety.



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# Advantages

- Using one agency has work until recently
- Approach was to make standards compulsory.
- The advantages of this is that standardisation is a highly transparent process in which all interested or affected parties may be involved. Standardisation combines the advantages of stakeholder participation with the ability to reflect state-of-the-art technology.
- In addition, the use of standards is a far easier way to comply with the requirements of the WTO TBT Agreement, because the necessary information is more readily available for notification.
- There is confusion between the SABS's function of writing standards and the SABS's role in implementing compulsory specifications.
- There is a perceived conflict of interest in terms of the SABS being the standards developer, the regulator of compliance with compulsory standards, and the controller of all forms of certification marks related to relevant standards.



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# Disadvantages

- The disadvantage of the practice of using an entire standard as a technical regulation is that an entire standard is unlikely to be the most appropriate solution to the legitimate problem being addressed.
- This may lead to the imposition of unnecessary costs on businesses. Legislating compliance with the minimum specifications to guard against dangerous or unhealthy products is a better route.
- The SABS technical committees that develop voluntary standards were the same committees that develop compulsory specification.
- However, there was no mechanism to ensure that Government's demands for safety are specifically addressed when standards come to be called regulations.



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# Disadvantages

- One of the most significant shortcomings of the Standards Act in terms of regulatory activities is the requirement that the SABS regulator conducts conformity assessment in order to determine whether products or services comply with regulations.
- This requirement essentially denies other conformity service providers market opportunities.
- In addition, it masks the good work that the SABS has achieved over the years, so that most government departments do not recognise the value that this regulator can add to their activities. They see the SABS as a conformity assessment body.



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# Separate regulator

- In benchmarking the South African regulatory systems with others in the world, it became clear that the current practice of having a standards body as a regulatory body is not optimal or advantageous.
- Therefore a new approach to the regulatory work at the SABS is necessary.
- The framework is based on an internationally evolving best practice model for formulating and administering technical regulations.



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# The National Regulator for Compulsory Specifications

- The National Regulator for Compulsory Specifications (NRCS) Act, Act 5 of 2008 was promulgated in October 2009.
- Establishes the NRSC
- Responsible for the administration of compulsory specification i.e technical regulations
- Scope includes public health and safety and environmental protection issues through the enforcement for the safety and performance of products and services.



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# Best practice

- The new act makes provision for the use of South African National Standards (SANS) as the basis for the technical requirements of compulsory specifications
- Provides for the development of technical regulations if a SANS is not available
- Provides for a consolation process in addition to the standards process
- Provides for the acceptance of conformity assessment results from competent providers of the services



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# Best practice

- The consultative process by the National Regulator with relevant stakeholders for the development of a compulsory specification will take place through Stakeholder meetings and technical working group meeting from the stakeholders at specific stages of the development process
- Initial meeting with stakeholders to discuss the process intervention
- Second meeting with the technical working group from stakeholders to discuss the first draft compulsory specification
- Third meeting with the technical working group from stakeholders to discuss the second draft compulsory specification
- Final meeting with stakeholders to finalise the compulsory specification for notice in the Gazette for a two month comment period



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# Challenges

- Resistance to the split
- Careful management so that it does not impact negatively on exports
- Additional resources re COE, CFO, separate IT, HR, etc
- Under funded mandates such as trade metrology and national building regulations previous cross subsidised through conformity assessment work
- Ineffective compulsory specifications identified where the compulsory requirements did not keep up with the SANS
- Demands for new technical regulations – Energy efficiency



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# Thank you

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