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Changing Ownership and Management of State Forest Plantations: South Africa

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For the

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**International
Institute for
Environment and
Development**

following the International Conference of the same title

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The conference was jointly organised and run by the Department of Water Affairs and Forestry of the South African Government, the UN Food and Agriculture Organisation and the UK Department for International Development. It is anticipated that this case study, together with several other country case studies and an overview, will be published as a book during 2004.

1. South Africa

1.1 Introduction

By the time of South Africa's first democratic elections in 1994, the forestry industry had emerged, in a comparatively short time span, as a successful sector making a significant contribution to the national economy. The SA industry is mature and includes two world leaders, Mondi and Sappi. SA also has favourable growing conditions and competitive yields, world-class forestry research and development and timber processing operations, potential growth in local and international markets, developing-nation status for trade access, good infrastructure and a strong global presence. The main factors that have underpinned the success of the forest industry in South Africa have been:

- ❑ Strong local demand for forest products combined with limited overseas competition due to early protection (essentially of the saw-milling industry) and the distance from competitors.
- ❑ Availability of suitable land to permit the rapid expansion of plantations yielding high-quality wood at internationally competitive cost.
- ❑ Supportive government policy that has emphasised self-sufficiency and industrial development through import controls and export incentives.
- ❑ The initial direct role played by the state in creating forest resources, which formed a basis for the subsequent development of processing industries.

Add map (of decided to have maps for all countries)

(Chalmers 2001)

OVERVIEW OF THE FOREST RESOURCES IN SA

Commercial plantations

South Africa presently has a commercial plantation estate of approximately 1.5 million ha or 1.2% of the total land area. Despite its relatively small size, the plantations are generally extremely productive, occurring where growing conditions are favourable and supported by extremely high standards of silviculture and tree improvement. Consequently the plantations support a large wood processing and value adding manufacturing sector, which makes a significant contribution to South Africa's economy.

From an effective base of zero in the 1940s, South Africa now produces 2.8 million tons of pulp or 1.63% of global supply, 2 million tons of paper or 0.76% of global supply, and 1.3 million m3 of sawn timber or 0.3% of world supply. In terms of South Africa's GDP, the forestry and associated processing industries generate US\$ 1 billion annually or 1.5% of GDP.

Plantations are concentrated in a relatively small area of the country, essentially in provinces where rainfall exceeds 800 mm per annum, specifically in Mpumalanga, Kwazulu Natal, Eastern Cape, Western Cape and Limpopo Province. In terms of the species: 52% of the total plantation estate is under pine, 39% under eucalyptus, just over 7% under wattle with the balance comprising other species such as poplar for match manufacturing. The historically state-owned plantations have primarily been geared to the production of sawlogs whereas the privately owned plantations were mainly established for the production of pulpwood.

Plantation companies also manage an estimated further 500 000ha of unplanted land consisting of wetlands, indigenous forests, grasslands and infrastructure which they are obliged to manage for biodiversity, watershed protection and a range of social benefits. South Africa's plantation area continues to increase. The pace of afforestation in recent years has however decreased from the late 1980s and early 1990s when it reached a peak of 45 000 hectares in 1991. Since 1996, new afforestation has proceeded at a level of around 11 000 hectares per year.

(Mayers et al 2001)

Natural closed canopy forest

Current estimates of the extent of South Africa's closed canopy indigenous forests are approximately 500,000 ha or only 0.3% of the total surface area of 122 million ha. Despite a significant reduction in forest area since the onset of colonialism, the original size of the resource was probably always only very small, due to climatic conditions and frequent bush (veld) fires. Nevertheless these forests provide significant environmental and social values, and are designated as protected areas in terms of current legislation (Mayers et al 2001).

Natural woodlands

Far more extensive in area and important in terms of their economic environmental and social value, are South Africa's woodlands. Woodlands are currently estimated to cover approximately 23 million ha, or 19% of total land area, which is probably only half its original extent. The contribution of South Africa's natural woodlands is not well understood; however from the perspective of energy use alone, estimates suggest that up to 20% of South Africa's total energy consumption is derived from biomass from the woodland resource. (Mayers et al 2001).

OWNERSHIP OF PLANTATION RESOURCES IN SA

Prior to the onset of the privatisation process in 2000, of the current area of 1.5 million ha, the state owned approximately 30%, two large companies (Sappi and Mondi) owned 47%, 22% was owned by smaller private companies and individual farmers, and approximately 1% was owned by many thousand small growers on the "out-grower" model (see 3.3). (Mayers et al 2001)

Since the onset of privatisation the following initiatives have changed the State's ownership position dramatically:

- ❑ 20% of the State's plantations have so far been transferred to private sector consortia. Well-established South African forestry companies are majority shareholders in both cases.
- ❑ A further 18% of the State's plantations have been earmarked for conversion to alternative land uses, including nature conservation and land reform.
- ❑ A further 45% of the State's plantation estate is currently subject to disposal tender processes (as at July 2002).

It is realistic to expect that within three years all the State's plantations will either be transferred to private sector management or subject to land-use conversion processes.

POVERTY IN SOUTH AFRICA

Although an upper-middle-income country, the majority of South Africa's 44 million population continue to live in outright poverty, or on the margins of poverty. Here they remain vulnerable to such shocks as death of an income earner through HIV/AIDS, or loss of a job in the extended family.

Most of South Africa's poor live in rural areas, in the former "Homelands" where, through forced removals and a systematic removal of rights, the population was concentrated during the apartheid period. Although the apartheid system ended in 1994, its legacy remains largely in place in terms of land ownership. Despite a framework for land reform being in place, progress in implementation is slow.

Although only 45.8% of the population are rural, 70% of the people classified as being below the poverty line live in rural areas. There are also more women than men living in rural areas, and female-headed households are more likely to be poor than male-headed households

The majority of poor rural households depend on multiple livelihood strategies including waged employment, welfare grants, pensions, income from local enterprises and land-based activities including crop production and livestock rearing. Despite living in rural locations agricultural production contributes only about 10% of total rural household income for black South Africans.

Rural poverty is increasing, with job losses in the formal sector (such as mining), along with public sector reform, including privatisation. The impact of job losses is particularly significant. As rural economies depend on migrant labour remittances there are few other alternative employment opportunities.

(DFID 2002)

HOW FORESTRY BENEFITS THE POOR

Employment

The forest and forest products industry employs over 200,000 people, of which about half work in production forestry and half in wood processing industries.

In recent years there has been a major trend amongst all companies towards outsourcing of forestry operations. More than 15,000 people are employed by contractors. The move from direct employment to contracting has been accompanied by some job losses as well as decline in wages and working conditions, resulting in an adverse effect on workers in the short term. The trend does however offer an important avenue for creation of new black-owned enterprises in rural areas.

Direct participation in timber growing

Approximately 19,000 households are involved in small-scale commercial timber production, mostly in KwaZulu-Natal province. Although accounting for less than 3% of the national plantation resource, the economic contribution made by small growers in certain rural communities is significant.

Direct access to forest products and other resources

Poor households living close to natural and plantation forests have access to land for grazing and water supplies and consume a wide range of forest products including firewood, building materials, wild foods and medicinal plants. There is also important social infrastructure associated with commercial forestry, including roads, housing and in some cases schools and clinics.

Participation in forest-based enterprises

South Africa's commercial and natural forests provide the basis for a wide range of small scale processing and retailing enterprises, including small-scale sawmilling, furniture manufacturing, firewood vendors, resin tappers, mushroom, honey and medicinal plant collection and sales.

(DFID 2002).

POLICY CONTEXT

Forestry policy

Democratisation, following the end of apartheid in 1994, required a fundamental re-working of Government policy across all sectors in South Africa. Following a wide-based consultation process the White Paper on Sustainable Forest Development was launched in 1996.

The policy's overall objective is to promote a thriving and sustainable forest sector, encompassing all components of forestry, not just commercial forestry. The policy specifically requires Government to

withdraw from the ownership and management of plantation forests under its control thereby allowing government to assume the role of regulator and facilitator, rather than participant in the forest sector.

In pursuit of its objectives the Government introduced a new National Forest Act in 1998. The Act provides for a range of legal instruments by which the State can engage with other role players in the management of State forests, both planted and natural.

(Mayers et al 2001)

Land policy

It is perhaps in terms of land issues, that South Africa's new democracy is most pressed to address the wrongs of the past. Through systematic dispossession, forced removals and other forms of abuse of power by the apartheid government, black South Africans were removed from their land and re-located in the so-called "homelands". South Africa's land policy (1997), supported by a body of legislation, consequently requires that where land acquisition can be shown to have been initiated, or effected through discriminatory legislation, or other unjust means, such land is subject to possible restitution. In addition, where land is held in trust by the state (as in the case of the former homelands) the State is seen to be holding that land on behalf of underlying land rights-holding communities. Occupants must be treated in law as land owners pending the eventual transfer of the land and title to them. In both cases, legislation prohibits the sale or transfer of land where claims are possible, or pending, until that claim has been adequately researched and either validated or rejected by the Land Claims Commission.

The objectives of the three components of the land reform programme are:

- ❑ *Land Redistribution* to assist poor and disadvantaged people, with Settlement/Land Acquisition Grant, to buy land
- ❑ *Land Restitution* to return land or compensate victims for land rights lost because of racially discriminatory laws passed since 1913.
- ❑ *Land Tenure Reform* aims to bring all people occupying land under a unitary legally validated system of landholding. It will provide for secure forms of land tenure and help resolve tenure disputes.

The land on which SA's forests are situated is State land held by either the Land Affairs or Public Works departments or the Ingonyama Trust in KwaZulu-Natal. The Forest Act of 1998 allows the private sector (and community groups) to participate in the management of State Forests, subject to the consent of the relevant land owning Department. The State acknowledges that there are underlying land rights to forestry land which will be recognised in time through either Land Restitution claims or other Tenure Reform legislation. (Mayers et al 2001)

Much of the land on which the State's plantations were established was cleared of its resident population through the use of racially discriminatory legislation in the past. As a result there are many land rights claims lodged on the plantations which are currently – albeit slowly - being resolved. This process provides a major part of the legal framework within which the forestry privatisation process has been constructed. The slow pace of land reform in South Africa remains a cause for widespread concern.

Water resources policy

South Africa is a water-scarce country, and the Government estimates that the limits of economically useable, land-based fresh water resources will be reached in the first half of this century. In response, a national water supply and sanitation programme is being developed and the government is restructuring water charges and establishing catchment management authorities.

A new National Water Act was promulgated in 1998. The Act guides responsible authorities in the issuing of water use licences. Forestry is subject to this legislation in that all tree growers require licences for new afforestation over 10 ha, although existing plantations do not need to be licensed.

(Mayers et al 2001)

Government is faced with the challenge of balancing the need of all water users as well as those of the environment. It is argued that the forest industry's water consumption is intense. In certain catchment areas that are under stress there will be no new forestry developments. Furthermore, the government's objective is to use water levies from water users (such as forestry) to accumulate funds to finance future water developments to alleviate water shortages in certain areas.

(Chalmers 2001)

Environmental policy

The White Paper on Sustainable Use of South Africa's Biological Diversity (1997) issued by the Department of Environmental Affairs and Tourism (DEAT) emphasises strict management of invasive alien plant species, and makes specific reference to commercial forestry plantation species.

The National Environmental Management Act (1998) provides for a national environmental management system that will integrate with the system of national standards for sustainable forest management provided for in the National Forests Act.

(Mayers et al 2001)

Labour policy

The Congress of South African Trade Unions (COSATU) are political alliance partners with the ruling ANC Government and have had significant influence on Government at macro and sector levels. COSATU-affiliated Trade Unions have engaged strongly with Government in the design and implementation of its forestry privatisation process.

Organised Labour is also actively engaged with the Department of Public Service Administration around the wider reform and restructuring of the Public Service as a whole. Central to this current debate is the question of overstaffing and retrenchment which impact directly on the rationale for privatisation of State assets and services.

1.2 The creation of a national forest estate

A BRIEF HISTORY

1876 TO 1910

Establishment of South Africa's first plantation was in 1876, in the former British-governed "Cape Colony". Plantations were established as an alternative to the fast disappearing small area of natural forests, and expensive imported timber. With a growing economy, the Boer War, and a rapidly expanding mining industry there was an increasing demand for construction timber. By 1910 the plantation area of the Cape Colony was 120,000 ha, nearly all of which was under State Control.

1910 TO 1950

Following the unification of the different South African republics in 1910, the Government of the Republic of South Africa, set about creating a national forest estate. Initially the policy was driven by self-sufficiency and employment creation (for unemployed whites during the 1930s depression years). As in many countries, the reason for the private sector failure to create the resource was the cost, risk and length of investment required for softwood sawlog production. The period also saw expansion of sawmilling processing capacity, again primarily under state control.

Throughout the Second World War, and immediate post war years, government continued to expand the forest estate and establish processing facilities. The period also saw the emergence of significant private sector interest in the industry. Private sector processors built sawmills and the area of private sector plantations grew rapidly. By 1950, the area of plantation in the country had reached 693,000 ha, of which 73% was in private hands by 1955. A system of incentives and guaranteed prices provided ideal conditions for the industry's development.

1948 TO 1972

Under the National Party Government, who came to power in 1948, a 1956 Government Commission into Socio-Economic Development recommended that forestry be used as a regional economic development instrument in the areas that were to become the racially-defined "homelands". 250,000 ha were identified for forestry purposes and during the 1960s and 1970s large scale plantings began in the Transkei, Ciskei, KwaZulu, Kangwane, Lebowa and Venda. Implementation of the initiative became the responsibility of the different homeland administrations, resulting in 150,000 ha of the allocated area being established. These homeland Governments used the process as a vehicle for job creation in rural areas resulting in high levels of overstaffing and a lack of commercial focus, which have been carried through to the present day.

The period of the 1950s to 1970s also saw the emergence of pulp and paper as a growing element of the South African industry. New afforestation by the private sector in the RSA focussed on the pulp market. By 1972 South Africa's combined plantation area (including the homelands) had reached 1.025 million ha, of which 75% (684,000 ha) was in private hands.

1972 TO 1994

In 1972, in response to growing concerns over the impact of uncontrolled afforestation on water resources, an Afforestation Permit System (APS) was introduced. The APS restricted afforestation in stressed catchments and prohibited tree planting in sensitive locations such as wetlands and close to water courses. These conditions remain essentially in force today. Further afforestation did however occur so that by 1994 the plantation estate had risen to 1.4 million ha, with nearly all the additional planting coming from the private sector in support of the growing pulp and paper industry. Expansion of the pulp and paper industry, particularly towards export markets, was encouraged by Government through tax incentives and a General Export Incentive Scheme. All these incentives have since been removed.

By the time of South Africa's first democratic election in 1994, the forest industry had emerged in a relatively short time as a major contributor to the national economy, able to compete internationally.

(Mayers et al 2001)

MANAGEMENT OF STATE-OWNED PLANTATIONS

As a result of South Africa's unusual historical background, South Africa's privatisation policy and strategy has had to accommodate two very different State-owned plantation estates: those of the Homelands, and those of the former RSA.

Homeland plantations

In the homeland areas a variety of different administrations established and managed plantations according to the resources available to each. Two types of resource were established:

- Large softwood plantations of at least 300 ha each, were established to supply sawmilling companies. Private sawmilling companies were offered long-term "evergreen" supply contracts at favourable prices to encourage investment in processing in rural areas.
- Smaller hardwood pole plantations were established to supply communities with building materials and firewood.

The quality of the resource in the homelands became quite variable, ranging from excellent to very poor depending on whether the plantations were planted on suitable sites, were well-managed from a silvicultural and managerial perspective and were subject to conflict over land rights with local communities.

The entire homeland plantation resource (some 155,000 ha) was transferred to the National Department of Water Affairs and Forestry (DWAFF) following reunification in 1994.

RSA plantations (SAFCOL)

In the Republic of South Africa (RSA) the State-owned plantation resource was being managed by the well-resourced National Department of Forestry. The plantations were entirely managed to supply industrial processing operations, predominantly softwoods for sawmilling although some hardwood poles were grown to supply the mining industry. The scale of planting was larger, and management standards, site selection, and silvicultural standards were high.

These operations were transferred from the Forestry Department in 1992 to a specially created State-owned company (SAFCOL) as a prelude to privatisation. In addition to managing approximately 262,000 ha SAFCOL also owned and operated 5 sawmills and 2 telegraph pole manufacturing plants.

UTILISATION OF STATE-OWNED PLANTATIONS

Sawlogs

In combination, the State-owned plantations of SAFCOL and DWAF produce about 4 million cubic metres of sawlogs, representing 66% of the national supply. This resource supports a significant value adding sawmilling industry. The sawmilling industry as a whole utilises 4.4 million m³ of logs to produce 1.87 million m³ of timber. About 60% of sawn timber production is processed into a range of final products, 4% is exported, with the balance going into structural timber and the construction industry. In addition to sawlogs, pine thinnings in many parts of the country are supplied to the pulp mills or board manufacturing plants. Sawmills range in size from large operations with a log intake in excess of 200,000m³ p.a. to small-scale mills, with an intake of less than 5,000m³ p.a.

(Mayers et al 2001)

Pulp and mining timber

Traditionally state-owned plantations in certain areas have produced hardwood timber for the mining industry. This timber is increasingly being diverted to pulp mills as mining operations find substitutes for timber. There is also a pattern of conversion from pine to gum production, particularly in areas such as the KwaZulu-Natal coast where plantations occur in close proximity to the pulp mills and low transport costs mean that pulp production is a much more profitable land use.

Poles

The South African pole market is estimated to consume 750,000m³, split equally between gum and pine. It is estimated that approximately 25% of the poles are sourced from state-owned plantations. The markets for treated and untreated poles include transmission and telephone poles, agricultural uses, particularly in terms of fruit farming, and construction.

(LHA Management Consultants 2001)

Local construction

In certain parts of the country, particularly the Eastern Cape, rural communities have depended heavily on state-owned plantations as a supply of building materials. The main products sought are poles for construction and lathes used for traditional wattle and daub construction. Either *Eucalyptus* sp. or wattles (*Acacia mearnsii*) are the preferred species. The latter is widely sourced from naturally occurring "wattle jungles" which tend to be escapee plants that have invaded communal areas from state forests or private farms.

Eucalyptus poles are sourced either from the large commercial plantations which often had gum compartments within them which were managed for community use – or from the community woodlots which were planted for that purpose.

Firewood

State-owned plantations provide an important source of firewood for neighbouring communities. Traditionally communities have had free access to collect headloads of deadwood and the right to continue this practice is enshrined within the New Forest Act.

State-owned plantations also support an important firewood industry, whereby traders collect firewood by the truckload and sell it into local markets. For this use consumers are charged a fixed rate per truckload.

Non-timber forest products

State-owned plantations are also known to supply a number of other non-timber products. On a commercial - albeit small - scale there are resin-tapping operations on coastal *Pinus elliottii* stands, collection of *Casuarina* sp. needles for processing into turpentine substitutes, mushroom picking, and collection of ferns and other flowering plants for the florist business.

At a more household level the state-owned plantations (and their associated adjoining indigenous forests) provide an important supply of medicinal plants for traditional healing, thatching grass, access points for water supply and open areas for cattle grazing.

Environmental and social benefits

State-owned plantations and their associated indigenous forests (where they are well managed), play an important role in catchment protection, soil conservation and maintenance of stream flow and water quality. High standards of management are reflected by the fact that the entire SAFCOL estate has been granted certification in terms of FSC and management within DWAF has made good progress towards certification prior to the privatisation process.

There is also evidence to suggest that the state-owned plantations have played an important role in directly protecting the indigenous forests from over-utilisation. From the way in which the plantations were established they often form a physical barrier of access to the indigenous forests and furthermore provide alternative supply of products, which takes pressure away from the natural resource.

The importance that both plantation and indigenous state forests play in providing facilities for access for "recreational, cultural and spiritual use" is also recognised within the Forest Act. The public at large has rights of access to any state forest for the above purposes subject to reasonable management control to protect against fire and to secure health and safety requirements.

SECURING LOCAL USE RIGHTS

Local access and use rights to state forests have been enjoyed by neighbouring communities for many years. Although a tariff system existed in the past for charging for certain products, it has traditionally been unevenly applied.

Although it has been difficult to determine the historical status of community access and use rights, or their extent and frequency, it has been recognised that these benefits should be enjoyed into the future even under a privatised scenario. These benefits are protected by virtue of the fact that the plantations will remain as state forests even after they are privatised, and therefore they will remain subject to the National Forest Act. The Act provides for:

- free access for cultural spiritual and recreational use
- licensing arrangements for any commercial use on a state forest (including commercial-scale firewood collection or harvesting of any other product)
- an exemption arrangement whereby local communities are exempted from needing a licence to collect forest produce as long as it is for domestic household consumption.

DIFFERENT PERCEPTIONS OF PLANTATION FORESTRY

There is a small but articulate “green lobby” in South Africa who would see plantations as green deserts. They would see these “blanket plantations” as having replaced the more biodiverse grasslands and some would claim they also replaced the indigenous forests. Although plantations very rarely replaced anything other than grasslands, it is the case that South Africa happens to have very rich biodiversity in the grasslands.

The more well-researched and vocal “anti-forestry” environmental lobby is concerned with water supply rather than biodiversity. It is true that plantations consume a lot of water – whether this is the best use of this water is still a matter for debate.

Although this issue has not been specifically researched, it is likely that rural communities have a limited interest in the plantations other than for jobs, and some access to firewood and building materials. To explain to people the benefits of rent, a share in profits, access and use rights – does not capture peoples’ attention in the way that “jobs” do. Obviously rural communities are active in plantations in many ways so the true value to communities would need to be explored at a “user-group” level. Those that collect a specific product such as fuel wood, water or medicinal plants will have a strong view. The cultural and spiritual value of a particular forest will vary from case to case.

The forest industry themselves would obviously give their own view that plantations are an engine for economic growth and job creation in otherwise very poor rural areas with few other opportunities. The forest industry would be unlikely to claim that plantations are anything more than a crop in the ground.

Public opinion overall in South Africa would either be indifferent to plantations, or support them from an economic, leisure or tourism point of view. Plantations (and their close association to indigenous forests) certainly form a backdrop to many tourism activities such as hiking, fishing, camping and hunting. But having said this most plantation managers would like to see as few people as possible in their forests for management reasons.

1.3 Profile of the private sector

LARGE INTERNATIONAL PLAYERS

Sappi Forest Products owns and manages 490,000 ha of plantations in Southern Africa. In 1998 these plantations supplied 50% of the fibre required to produce 1.8 million tons of pulp. Sappi’s South African activities are however only part of its total operations. A series of major acquisitions in the 1980s and 1990s have made Sappi a world player, currently manufacturing 5 million tons of paper and three million tons of pulp in plants on three continents. 85% of its sales and 70% of its US\$6 billion assets are outside of South Africa.

Mondi is jointly owned by Anglo American, De Beers and AMIC and manufactures pulp, paper and solid wood products. Mondi manages 440,000 ha of plantation. Some 40% of its production is exported. Since the late 1980s Mondi has been acquiring shares in international companies to develop a global presence.

(Mayers et al 2001)

MEDIUM-SIZED PRIVATE SECTOR PLAYERS

There is a significant drop in scale between the companies mentioned above and the medium-sized players. Nevertheless there are an estimated 1,800 (primarily white) private commercial growers who own around 364,000 ha (24% of the total area), making them collectively significant.

This group includes some companies who grow timber to supply their own processing plants, including Masonite which owns 18,000 ha feeding a hardboard mill and Hans Marensky which has recently taken over 60,000 ha of State plantations to supply its sawmills in the Eastern Cape.

(Mayers et al 2001)

SMALL OR MICRO-GROWERS

There are nearly 19,000 small or micro growers in South Africa, holding woodlots averaging two hectares, totalling around 43,000 ha in extent. Just over 12 thousand of these growers are participating in company-sponsored outgrower schemes, including Sappi's Project Grow and Mondi's Kulanathi. Nearly all these growers are located in KwaZulu-Natal Province due to proximity to the pulp mills and a traditional land tenure system which lends itself to the allocation of plots to individual households for tree growing.

(Mayers et al 2001)

1.4 Regulatory and incentive framework for private sector forestry

REGULATORY ENVIRONMENT

As indicated in section 1.4.1, Government introduced a new National Forest Act in 1998. The Act seeks to create an enabling environment for the sustainable management and development of forests. The Act created a framework for privatisation of State Forests and it also requires the Minister to develop criteria, indicators and standards (C, I and S) for sustainable management of all forests.

There is an ongoing consultative process to develop the C, I and S for different forest types. Those that will apply to commercial forestry plantations are close to finalisation. The process has received widespread support from the private sector which is not altogether surprising when South Africa boasts that 85% of its plantation area is already certified, the highest of any country in the world.

The most direct regulatory instrument governing forestry is the water use licence issued in terms of the new National Water Act of 1998, referred to previously in 1.5. It is currently the perception of the private sector that one of the most urgent interventions required from Government in terms of forestry is to improve the administration of this licensing process. It is claimed by Forestry SA that the cost of applying and the time it takes to process an application are major barriers to forestry development, for both large and small growers. It is an irony that the same government department that is responsible for administering this legislation also holds the forestry portfolio.

INCENTIVES FOR FORESTRY

There are currently no direct government incentives for forestry per se. Forestry is subject to general income tax provisions, which allow companies to write-off income from other activities against their forestry (or any agricultural) interests.

Forestry SA has expressed the view that the private sector is not looking for direct incentives from Government. Where these existed in the past they created distortions in the market, reduced efficiency and a lack of competitiveness, which was not good for the long-term interests of the industry (Forestry SA: Mike Edwards).

Forestry SA's 2025 Vision sees potential growth in exports of 2.7 times, expansion in its afforested area of 1.1 times and employment growth of 1.1 times and an increase by 1.2 times the forest industry's contribution to GDP. The level of growth is ultimately constrained by the availability of suitable land and water for expansion in SA. (Forestry SA: Mike Edwards). However in order to achieve these goals government and industry must work together to address the following issues, namely:

- Streamline the water licence permitting system;
- Use the privatisation process to bring greater efficiency and representativeness into the industry;
- Facilitate partnerships between communities and the private sector by addressing such barriers to forestry development as provincial politics, land tenure arrangements and water use licences;
- Provide "bio-security" in terms of controlling the import and spread of tree diseases;

- ❑ Research into the hydrological impacts of forestry in order to put it on a level playing field with other land uses;
- ❑ At a macro-economic level, create a flexible and employment-friendly labour market and an investment-friendly tax regime;
- ❑ Invest in transport infrastructure; and
- ❑ Raise the profile of forestry as an important sector in the economy.

1.5 Changing demands on state-owned plantations

Government has made its intentions clear regarding its commitment to privatise its state-owned plantations. Therefore, in considering the future demands on these soon-to-be privatised plantations one must consider the pressures facing the South African Forest Industry as a whole and consider how these plantations in particular may be affected.

The industry's future success, and the direction it takes, will be fundamentally determined by its ability to respond to:

- ❑ International Market trends
- ❑ Domestic economic factors
- ❑ Forest policy and legislation
- ❑ Policy changes in other areas.

(Mayers et al 2001)

INTERNATIONAL MARKET TRENDS

Since the 1950s and 60s the South African forestry industry has moved away from a focus on self-sufficiency and meeting domestic demand towards an international market focus. The pulp and paper industry has led this movement, followed more recently by the solid wood processing sector. With increasing international exposure South African companies are experiencing the following pressures:

- ❑ Price volatility
- ❑ Price competition with countries whose industries are heavily subsidised by Government (such as Canada) or whose resource is under-valued (such as the former Soviet Union).
- ❑ Shifting trade patterns (for example the declining market of Japan and the strengthening market of China)
- ❑ Requirement for certification, particularly from Europe and North America.
- ❑ Exchange rate fluctuations, which have had an extremely beneficial impact on South African exporters for the last eighteen months, but which are now having the reverse effect with the Rand recovery.

The net effect of the above at plantation management level is to keep silvicultural standards high, operating costs low and provide for certification to meet ever-changing market requirements. This will apply equally to both state and privately-owned plantations.

DOMESTIC ECONOMIC FACTORS

Investment in pulp plants

Established companies admit that S.A. is one of the countries in the world that produces the cheapest pulp, most of which is exported. So, there has to be an opportunity to build more pulp plants in S.A. in the future but a limiting factor in forestry is that forests cannot be more than 200km away from the mills or it is uneconomic to transport logs. There are areas in the country that could sustain increased afforestation, such as the Eastern Cape, but there are no pulp mills in the area. The expansion of the

forestry needs to be done in conjunction with the industry investing in plant. The land in Eastern Cape, however, is mostly communally owned and using it for forestry requires complex negotiations around benefit flows within the community and between the community and the private sector.

(Chalmers 2001)

The sawmilling industry

Due to inefficiencies in the past caused by the market distortions of the “evergreen” timber supply agreements with Government, the sawmilling industry in S.A., by the early 1990s, had become something of a “poor relative” to the more profitable, more efficient and more capital intensive pulp and paper industry. It has also spent much of its time and energy locked in acrimonious disputes with the government over the supply of logs.

Because S.A. sawmillers traditionally purchased their logs at below export parity prices there was no incentive to maximise efficiency in order to be profitable. Sawmills in other wood-producing countries have consistently had recoveries of 10% to 15% better than those achieved by their S.A. counterparts. However, following the creation of SAFCOL in 1992 with its commercial orientation, and the introduction of the Forest Act in 1998 (with a clause prohibiting any log supply agreements on a longer than five year notice), most of these evergreen contracts have gradually been renegotiated into a more commercially realistic format. Some however are still being challenged in court.

(Chalmers 2001)

Log prices and labour costs between them represent up to 80% of solid wood processors' costs. As a result of the renegotiation of the evergreen contracts, log prices from Government forests have risen from well below world parity to parity level. In reaction to increased log prices the following efficiency improvements have occurred to maintain profitability:

- ❑ **Improved recovery within sawmilling operations.** Sawmilling companies are investing in higher levels of technology to extract maximum value from increasingly expensive logs. These investments are commensurate with the scale of operations in S.A. which tend to be small be international standards.
- ❑ **Integration between plantation management and sawmilling.** The privatisation process has facilitated this in terms of State-owned plantations, however similar trends have been observed within the private sector. Integration enables reduced costs of production at plantation level to be passed on to sawmilling companies.
- ❑ **Contracting-out of forestry functions.** Contractors are now involved in transport, harvesting and routine silvicultural operations. Contracting out is significantly cheaper, with workers being paid an estimated 60% of the rates paid by the corporate sector and 25% of what is paid by the State. Companies also enjoy a reduced exposure to labour unions and no longer need to provide infrastructure and services traditionally associated with “worker villages” such as housing, schools, clinics and transport.

FOREST POLICY AND LEGISLATION

Obviously the policy of privatisation of State-owned plantations will have an enormous impact on their future management and the role they play in the forest sector. However Government's privatisation objectives require state-owned plantations to deliver significant social as well as economic benefits in the future. Government's privatisation objectives are discussed in more detail in section 7.1 but include.

- ❑ Improved efficiency and investment.
- ❑ Broadening ownership to include the previously disadvantaged.
- ❑ Recognition of underlying land rights.
- ❑ Certification.

POLICIES CHANGES IN OTHER AREAS

As indicated in paragraph 1.5, the two policy sectors that are expected to have the greatest impact on what is expected of State-owned plantations are water policy and land policy. In terms of water, the debate rages on, on the fairness of permits that are needed to plant and levies that will be paid by the forestry industry, compared to other industries such as agriculture. Industry players argue that water levies are additional costs to their production inputs and they should be weighed up against the many benefits of forestry.

In terms of land the following issues are relevant to the future of the industry:

- In terms of land restitution, the outcome of settling all current claims on State Forests will determine the long term role of communities in the future of the industry. If communities can receive tangible benefits from forestry then this would create a stable platform for long-term management of the resource and may encourage the release of more communal land for afforestation. If communities do not perceive any tangible benefits, and challenge the lease agreements in court, then the long-term sustainability of many of the plantations is at risk.
- In terms of land tenure reform there has been a vacuum in legislation for the past eight years. A new Tenure Reform Bill is now in circulation, which deals with the upgrading of informal tenure rights. This could have a direct impact on plantation managers, as it will recognise patterns of resource use and occupational rights as real rights. The current position is one of uncertainty. There is not yet clarity on who will come forward claiming what rights. Uncertainty is always a disincentive to investment, so from a forest management perspective managers will be likely to adopt a “wait and see” approach and behave cautiously in terms of investment and developing third party activities within the plantations.

1.6 The approach to privatisation

EARLY MOVES TOWARDS PRIVATISATION – COMMERCIALISATION AND CORPORATISATION

South Africa’s new forest policy provides a clear impetus and direction to government’s intention to divest itself of the plantation under its management. However, thinking around the process of privatisation predates this by a number of years.

From the late 1970s onwards, debate took place within the former RSA’s Forestry Department about the merits of increased private sector participation in state owned plantations. Prior to the democratic elections of 1994 a route to privatisation had been envisaged for the RSA’s forest assets, which followed the model adopted in several other countries, entailing three distinct steps:

- Commercialisation – involving the adoption of private sector accounting practices and other working procedures while retaining the plantation operation within the formal public sector and under the mandate of the national forest authority.
- Corporatisation – involving the excision of the commercialised operation and its workforce from the formal public service, and their transfer to a specially created, wholly state owned company i.e. corporatisation
- Privatisation – through the sale of shares in the corporation to the private sector

This three-stage process represents a gradual transition from public sector efficiency levels to those of the private sector. It is intuitively attractive, as in principle it allows for inefficiencies to be removed without drastic or rapid change. It also gives government an opportunity to prepare the assets for sale, which should result in an improved sale price.

In South Africa commercialisation began with the RSA’ s Forestry Department adopting a “trading account” in 1985. This entailed the introduction of commercial accounting systems and budgeting practices enabling the Department to identify timber income and production costs separately. The Department was also allowed to retain revenue rather than returning it to the national exchequer.

Formal steps towards corporatisation began in 1989 with the presentation of a draft bill on the creation of a National Forestry Corporation. Following consultation with the forest industry legislation was introduced in 1992 to corporatise the RSA's plantation assets. In September of that year SAFCOL was incorporated as a public company and a board appointed. In 1993, agreements were reached between SAFCOL and government for the transfer of assets and staff, the processes commenced commercial operations and set about establishing the processes necessary to sell off (either all or part) of the government's shareholding.

(Mayers et al 2001)

POST 1994 DEVELOPMENTS

Following South Africa's first democratic elections in 1994, the plantations of the former homelands returned to central government administration under DWAF. Much debate subsequently followed about whether and how to combine the privatisation of these assets with the SAFCOL process. After a lengthy deliberation, in late 1998, government formally approved an approach to privatise all its plantation assets (both those managed by SAFCOL and DWAF) in a single process. This involved a phased approach to privatisation entailing dividing all the plantations under its ownership into three general categories:

- ❑ Category A - The entire SAFCOL estate (386 476 ha) combined with distinct elements (amounting to about 70 000 ha) of the former homelands plantations so closely associated with particular SAFCOL assets to make their combination logical.
- ❑ Category B - The balance of the commercially viable plantations remaining under DWAF's management extending over approximately 70 000 hectares.
- ❑ Category C - Approximately 110 small scattered plantations (or woodlots), extending over 17 000 hectares established to provide communities with building material and fuelwood.

In terms of sequencing, it was decided to concentrate initially on the DWAF Category A assets in combination with SAFCOL. The combined SAFCOL/DWAF Category A assets were divided into seven 'packages', each representing a logical business unit. Investors were then invited to bid for a 75% shareholding (of which at least 10% needed to be black owned) in any combination or all of the seven packages. Specially created companies, namely, "Special Purpose Vehicles" (SPV), one for each package were established to facilitate the sale of assets through a sale of shares. Minority shareholdings in each SPV are held by government (6%); workers (9%) and the National Empowerment Fund (10%).

Government also determined that land associated with the plantations should remain in public ownership. Investors were consequently not offered title to land, rather the use-rights to it through the mechanism of a long-term lease.

(Mayers et al 2001)

Table 1.1. .Status of the “Category A” assets offered to bidders during 2000 – 2002

Package	Total lease area (ha)	Total planted area (ha)	Present Status (2002)
Eastern Cape North	75 487	57 715	Sold to Singisi Forest Products Consortium Aug.2001.
Komatiland (Mpumalanga and N. Province)	209 372	139 082	The package is to be re-tendered for the third time.
Amatola (Eastern Cape South)	25 417	4 399	Rance appointed as a preferred bidder – negotiations at a final stage
Mountain to Ocean (Western Cape)	161 912	87 978	A 20 year Exit Strategy established to withdraw forest production in the area. Viable areas subject to tender process.
Kwazulu Natal	43 946	32 652	Sold to Siyaqhubeka Consortium Sep 2001
TOTAL	516 134	321 826	

Notes: Originally 7 packages were put out on tender. Komatiland was originally split into the Northern Province and Mpumalanga. No successful bidder was identified at the first attempt so the two packages were combined and re-offered as Komatiland.

The Southern and Western Cape packages were also originally put out as two separate packages. After no bidders were found for these it was decided to re-combine them as the Mountain to Ocean (MTO) package. In so doing a large areas (almost half) was identified as unsuitable for forestry in the long term and this area will be clearfelled and converted to other land uses.

1.7 Balancing acts – reconciling public policy objectives and private sector investment

OBJECTIVES OF PRIVATISATION

South Africa's new forest policy, captured in the White Paper (1996) calls for radical changes in the way forests are viewed, valued and managed. Central to this is a fundamental shift in the role of government away from managing forests itself and towards a new role of creating the conditions and policies necessary for others to manage forests in the national interest and regulating their actions. This change acknowledges that the private sector, not government, is best placed to manage forests. (Mayers et al 2001)

The policy of withdrawal by the state from the direct management of commercial forestry plantations, reflected in the 1996 Forestry White Paper, is a logical starting point to consider a privatisation process. The privatisation concept however also mirrors a wider national programme of economic reform and liberalisation in post-apartheid South Africa, which is driving privatisation initiatives across several sectors. These include transport, manufacturing industries (including defence), telecoms and public sector infrastructure development and management (including roads and hospitals). Privatising forests is therefore seen politically as one of several such processes taking place within this context of economic reform.

However, there are several forestry-specific issues that have formed the basis around which a forestry privatisation policy has been formed, which are common to a number of such privatisation processes internationally, specifically:

- ❑ A belief that privatisation offers opportunities to attract investment and expertise needed to revitalise assets which are perceived to suffer from chronic under-investment. The reality, particularly in terms of the homeland plantations, is that they have not suffered from a lack of resources, but rather an institutional inability to spend the resources efficiently to achieve economic sustainability and growth.
- ❑ A fiscal imperative to reduce the burden on the state of subsidising inefficient (relative to the private sector), or even loss-making government plantations. Whilst SAFCOL was able to make an operational profit within two years of its creation, it is argued that there are many efficiency gains still to be achieved. The Homeland plantations, however have historically been managed at a significant loss to the state; and
- ❑ A recognition that continuing to manage plantations potentially conflicts with the performance of government's regulatory role. Whilst there can be an institutional separation between regulation and operation within the state, the reality is that the institutional importance of one function over another is determined by budgetary allocation and organisational structure. If Government's forestry functions are weighted heavily in favour of its operational responsibilities, there is a tendency to see "small" regulation and policy-making functions as "add-ons" to the organisation, rather than its core.

In addition to these commonly occurring privatisation objectives, the South African government was also aware that privatisation offered a unique opportunity to achieve a number of its other White Paper policy objectives in a meaningful way. These included the need to:

- ❑ Achieve a wider more representative pattern of ownership in the forest sector, particularly amongst South Africa's historically excluded groups.
- ❑ Consolidate forest resources often artificially split along former Homeland boundaries, a separation which resulted in inefficiencies and distortions in resource use to the detriment of the industry's rational development.
- ❑ Improve efficiency in processing industries by increasing effective competition for raw material supplies. South Africa's sawmilling industry has been characterised by long-term structural inefficiencies resulting in large part from the distorting influence of government as a major forest owner.
- ❑ Formally recognise the land, access and use rights of rural communities, many of whom were dispossessed of these rights when these plantations were established. Restitution of land, and the recognition of rights, are key issues in South Africa, which, as will be seen, have fundamentally shaped the approach to privatisation.
- ❑ Facilitate black empowerment through direct participation in forestry operations, training and skills development, affirmative action in management, and entrepreneurial opportunities through outsourcing, partnerships, procurement and easier access to financing.

(Mayers et al 2001)

MANAGING TRADE-OFFS WITHIN THE PRIVATISATION PROCESS

For each policy objective that Government seeks to achieve it may find itself trading off against another. Whilst not all objectives contradict one another it is certainly not possible to maximise achievement on all. For example, attracting large-scale foreign direct investment may conflict with encouraging local black economic empowerment and small enterprise development. As far as the private sector is concerned it will deal with all the risks and burdens on the transaction simply in terms of the price they are willing to pay. If Government seeks to overload the transaction to the point at which the bidder discounts the price to zero then the chances of their not being a transaction at all become high. It is certainly the case in the South African experience that government ultimately accepted financial bids significantly lower than the values placed on the assets by a standard valuation that did not take account of the public policy issues.

The trouble for Government policy makers is that the trade-offs between these objectives become political. For example, the Trade Union movement will place emphasis on maintaining job security in the process, the Department of Land Affairs will place emphasis on securing land rights and empowering rural communities, State Treasury will place emphasis on maximising the financial return to the State from the sale. The bidders on the other hand will seek the lowest price based on the least onerous “cleanest” business model for them.

The two Departments responsible for the transaction, in this case the Departments of Public Enterprises and Water Affairs and Forestry, find themselves playing “piggy in the middle” trying to facilitate a workable solution between all of these parties with strong vested interests. The final solution needs to be politically acceptable, economically sustainable, legally implementable and “value for money” for the State.

Within the transaction there are a number of legal instruments in which compliance with the various terms and conditions of the bid can be located and enforced:

- ❑ The transaction documents: such as sale of business agreement, shareholders agreement and sale of shares agreement. These deal with the business-specific issues.
- ❑ The lease agreement that governs the use of the land.
- ❑ Legislation: including the Forest Act, Companies Act and land tenure legislation that provides a regulatory framework that does not need to be duplicated across into the other transaction documents.

BID EVALUATION

The bidding process itself is an important policy instrument because it weights different bidding criteria and ultimately enables government to select the preferred bidder whose bid best reflects Government’s multiple objectives. This need not be the bid with the highest price.

In South Africa bidders were presented with Government’s objectives and were required to submit bids against a set of qualitative and quantitative criteria. Whilst the range of bid criteria potentially makes for a complex bid evaluation, the approach represented an efficient market based means of striking a balance between public and private sector objectives.

SPECIFIC TRADE-OFFS AND HOW THEY WERE MANAGED

Secure tenure rights for bidders vs. protecting underlying land ownership and informal tenure rights

One of the most challenging aspects of the privatisation process has been to secure reasonable tenure security for the bidder to encourage investment, whilst at the same time protecting communities underlying land and other informal tenure rights. The first decision that had to be taken was to lease out the land rather than sell it.

Once it was established that the land would not be sold it was agreed that a lease instrument would be required. This was provided for in the Forest Act 1998. The lease was constructed through extensive consultation with Department of Land Affairs and through reference to international best practice. The New Zealand Forest Licence was used as a template for the original drafts, as it also accommodated a land claims process in conjunction with privatisation. The eventual draft lease provides the following key features:

- ❑ An indefinite period with a thirty-five year notice by the landlord, such notice not being able to be served for the first thirty-five years (thereby making it a minimum seventy year duration).
- ❑ The tenant is required to pay a market-related rent for the use of the land. The rent does not take account of the condition of the trees but assumes “bare afforestable land” value. This rent is held by DWAF in a Trust fund until the underlying land owner is identified. At this point any accumulated rent and all ongoing payments will be transferred directly to the land owner.

- ❑ The tenant gets full undisturbed possession of the land subject to the requirements of the Forest Act to allow public access for cultural, spiritual and recreational purposes.
- ❑ The Tenant is issued with a Licence to operate

The forest Act requires a licence before any party performs any defined “licencable activities” in a State Forest. These activities include silvicultural operations, eco-tourism, quarrying hunting and so on. The leaseholder is granted a blanket licence for all these activities – whereas normally a member of the public gets a specific licence to undertake a specific activity. So, once the leaseholder has the blanket licence, it can then issue licences to third parties. Communities however do not need this licence as they are exempted, as long as they are carrying out the activity for household rather than commercial purposes.

These key lease features are presented to the bidders as “non-negotiable. In the event of a successful land claim, the claimant receives title to the land and becomes the direct beneficiary of the rent. However, the claim is settled on condition that the claimant allows the lease to remain in place over the land, which provides adequate security to the private sector operator. The claimant can challenge this award in the Land Claims Court. If they win and they seek restoration of the land without the lease, then the State must compensate the bidder for any losses incurred.

Short-term job losses versus long-term economic sustainability and growth

Unlike many countries, such as Australia and New Zealand, privatisation is not being forced upon South Africa as an urgent step required to abate impending economic crisis. In South Africa Government has a little breathing space still and therefore the political pressure to privatise is not as great. This makes it harder to implement because there are strong political forces that oppose privatisation which are closely aligned to the ruling ANC Government.

The negative impact of short-term job losses is likely to be more real to many (in an economy where unemployment is reaching 40%) as compared to promises of long-term sustainability and economic growth. In order to mitigate negative social impacts of this the following mechanisms were employed:

- ❑ A condition of the transaction, captured in the sale of business agreement is that all SAFCOL workers will be transferred across to the new employer on existing terms and conditions of employment.
- ❑ An industry norm number of DWAF workers will also transfer across with any former homeland plantation, and they will be taken on at SAFCOL wage rates and terms and conditions of employment. Any DWAF worker transferring will receive a transfer package to compensate for the difference in salary between what they currently earn in DWAF and the SAFCOL rate. This compensation is calculated over three years and paid as a lump sum at the time of transfer. A variation on this model is expected for the Category B plantations.
- ❑ Employee Share Ownership Plans (ESOPS) to ensure that employees have a real stake in the plantations are also promoted in the restructuring. Noting that both workers and management contribute to the success of the enterprise an attempt is being made to ensure that employees, and not just management, will have an equal opportunity to acquire shares. No ESOP has yet been established.
- ❑ There will be a moratorium on retrenchment of transferred workers by the new company for three years (again captured in the sale of business agreement).
- ❑ Bidders were required to present human resource development plans that addressed affirmative action and effective human resources development planning. This was a criteria used in bid selection.

Any DWAF worker who could not be transferred was either re-deployed to a Category B plantation (thereby making the over-staffing there even worse) or they left the public service via a voluntary severance instrument, retirement or early retirement (standard in the public service). A new Public Service Framework Agreement (2002) now allows for employer-initiated retrenchment in the public service; this was not available at the time, and it is likely that this will be implemented in terms of the Category B privatisation.

Any worker leaving the public service voluntarily or otherwise is eligible to participate in a Social Plan. This is currently delivered in the form of a package of training and counselling services to help workers deal financially and psychologically with unemployment and also re-train for re-employment or self-employment. Most workers to date have elected skills that are suitable for self-employment at a micro or household level.

Whilst it is too early to determine the success and impact of the Social Plan Framework, the impression is that there is still much to do to manage the short-term negative impact of restructuring. Additional long-term support is needed to assist these workers to maintain their activities sustainably into the future.

Black empowerment versus established white-owned enterprise (small vs. large).

The way in which the assets are packaged and offered immediately signals the scale of the investment required to participate. The Category A process combined groups of plantations into large blocks in order to attract large scale investment in both forest management and down stream processing. Immediately this creates a barrier to smaller investors unless they can form consortia amongst themselves or with larger companies (which incidentally did happen). It was partly to address this concern that certain DWAF plantations were held back from the Category A transaction in order to allow for a smaller scale of investor to bid for smaller forests in their own right.

Due to the scale involved, black empowerment on the Category A and SAFCOL transaction was dealt with by requiring that a minimum of 10% of the shares of the bidding company must be black owned. This requirement was interpreted by bidders in a number of ways. Singisi Forest Products created a Community Trust through consultation with the community as their black empowerment partner. In the case of the preferred bidder for the Komatiland transaction, (at the time of writing this bid was subject to dispute), the bidding consortium was 100% black owned including a number of small forestry-related companies and entrepreneurs.

In addition to the above, Government has retained 10% of the shares with the intention of transferring them to the National Empowerment Fund (NEF). This has been established to facilitate access to state assets by the previously disadvantaged. The NEF Trust is capitalised primarily through receiving shares of all State-owned enterprises undergoing restructuring. It is envisaged that the Trust will promote empowerment through marketing investment units to historically disadvantaged individuals. The Trust is currently being established.

Following on from the success of the Singisi community trust, Government is keen to support the establishment of community trusts in association with other transactions, including the remaining SAFCOL transactions in addition to the DWAF Category B and C processes. It is envisaged for the Category C transactions (community woodlots) that the assets will be taken over by Community Trust structures. DWAF will support business-planning for these plantations and a Forestry Enterprise Development Office is being established to facilitate further afforestation on communal land and to assist communities to build the capacity to take a stake in and manage forestry related enterprises.

Enforcing environmental management standards

The lease gives clear emphasis to creating an incentive structure conducive to sound management. The incentives reflected in the lease are the duration of the lease and the nature of free undisturbed possession. The tenant has rights almost as strong as freehold. The lease is also a mortgageable asset so there is an incentive for the leaseholder to maintain it as it is an asset.

It was however widely believed that this needed to be supported by regulations requiring minimum management standards. In determining what these should be and how they should be monitored two main factors were considered. Firstly, the need to strike a balance between achieving good management and maintaining an "arms length" relationship with investors necessary to allow them to go about their business in an unfettered manner. Secondly, the need to introduce a system and procedures for monitoring and enforcing minimum standards, which is effective, but also practical and cost effective to implement.

What was adopted was to require the lease holder to obtain certification from a body approved by government. Certification against approved standards is now mandatory within two years of commencement of the lease. National standards for sustainable forest management, required under the National Forests Act, are in the process of being developed.

Despite growing international scepticism regarding the value of certification systems for marketing forest products, in South Africa it would appear that generally people are not cynical about using certification as a monitoring tool. It is accepted as a neat, cheap option for government which is likely to give as good an impression of performance management against sustainability criteria as anything Government could set up for such a purpose.

There is however a growing discomfort around Forest Stewardship Council (FSC) in particular (as expressed by Mike Edwards of Forestry South Africa). FSC are seen to be constantly “raising the bar”, or “moving the goalposts”. It is very unlikely, for example, that any small scale operator on a Category B plantation could get FSC certification in terms of how this is currently perceived. What is therefore needed in SA is a more tailor-made solution to deal with the smaller-scale, less well-resourced plantations and their managers.

From discussion with forest managers, most say that certification is just good forestry. There is however some cynicism about the credibility of some of the auditors appointed who may only have a very limited understanding of the criteria and indicators and focus in on very peripheral issues of particular concern to them.

Whether the criteria and indicators used reflect the aspirations and needs of SA is difficult to determine. At the end of the day, what most South Africans are concerned with is jobs. Other forest values at this stage are probably perceived by most as luxuries.

One specific environmental issue that remains unsatisfactorily concluded is the management arrangements for blocks of indigenous forests, which are closely associated with the plantations. At the time of determining the lease area it was decided to excise out any block of indigenous forest that was large enough to be considered its own management unit. All other smaller areas were left in the lease to be the responsibility of the tenant. It would appear that the criteria used at the time might have resulted in a number of indigenous forest areas being excised out of the leases which should have been left in. Negotiations are now taking place with tenants and prospective tenants to either have these areas put back into the leases or to manage them on contract through side agreements to the leases.

1.8 Best bet practical instruments and processes

CREATE A ROBUST POLICY AND LEGAL FRAMEWORK FOR PRIVATISATION

South Africa's commitment to move away from direct management of the forests is intertwined with its broad commitment to the transformation of the public service and the restructuring of the economy as a whole. It is therefore important to have a clear sectoral forest policy framework, but furthermore that this policy is firmly aligned to macro economic policy and political planning.

Once policy is in place it is necessary to construct an enabling legal framework for implementation. A new Forest Act process in South Africa created an opportunity to construct a “clean slate” approach rather than having to amend existing legislation.

Policies and legislative frameworks of other relevant government departments, such as land reform, are also critical in order to develop a complimentary, rather than a conflicting, process. The land reform process, the restructuring process of the public sector as a whole and Government's macro-economic policy on disposal of state-owned enterprises, have between them created the very specific context within which this particular forestry privatisation process is taking place.

CREATE THE CAPACITY TO MANAGE THE PROCESS EFFECTIVELY

Many privatisations fail to achieve their objectives, not because they were wrongly conceived, but because they were poorly executed. Such a process as that experienced in South Africa has depended on the following:

- ❑ Access to technical expertise in a number of core areas such as forestry management, wood processing, finance, legal and project management. Such expertise often needs to be brought in specifically for the process.
- ❑ Process management expertise. The responsible Government Department does not necessarily need all the expertise in house to deliver the process, but they do need enough expertise to manage the experts that are brought in against a timetable and a budget.
- ❑ Clear governance arrangements. Governance of the transaction has been difficult in South Africa. There are two Government Departments involved (Public Enterprises (DPE) and Water Affairs and forestry (DWAF)). Although they share common objectives, they have not always been successful in recognising each other's timetables and constraints. In addition, the Board of the state-owned enterprise, SAFCOL, also has a direct interest in the outcome of privatisation and has naturally sought to influence the process. The challenge for DWAF and DPE is to maintain objectivity and weigh up what is in the State's interest as oppose to what is in the interests of SAFCOL management. This would however appear to be a very common characteristic of privatisations worldwide
- ❑ A mature, transparent and accountable civil service culture. Good governance (as opposed to power relations in governance) has caused severe problems in South Africa. Certain Government officials have been accused of misconduct in the transaction processes. Such allegations have attracted a great deal of media attention and have resulted in the decision by Government to re-tender the Komatiland transaction. This wastes time and money and damages the credibility of Government and the process.
- ❑ A dedicated budget against a reasonably flexible timetable. South Africa has been fortunate that much of the process has been donor funded. It is particularly fortunate that the donor has been willing to enter into a long-term relationship with the key Departments involved as the timetable for the process has proved to be far greater than anticipated, as has the cost. Donor funding is in itself useful, but its value often lies more in the ability to spend it responsively than in the actual amount available.

SECURE POLITICAL BUY-IN

Civil servants in line function positions are able to administer a process of this nature up to a point. However, at various points within the process political interventions are required to break deadlocks around key policy issues and to engage with key stakeholders. Without political champions and civil servants champions who know how to engage with their political masters, it would be very difficult to bring such a process to a conclusion.

PROVIDE ADEQUATE TIME AND SPACE FOR CONSULTATION WITH AND "BUY-IN" BY OTHER RELEVANT STAKEHOLDERS

Groundwork must be done timeously to accommodate all relevant stakeholders, secure buy-in and identify possible risks up-front. The principles that underpin such an interaction should be embraced by all involved. The following issues are key to a successful process:

- ❑ Consultation with other government departments such as Land Affairs (DLA) needs to take place at several levels and over a long period of time. DLA has a decentralised structure so agreements reached at a national level on how to implement the process need not necessarily be agreed to by officials operating on the ground. For this reason provincial forums were established in each effected province to meet regularly to discuss land issues around forestry. These forums come together quarterly in a national forum.

- ❑ Consultation with bidders up front about Government's expectations is important to get bidders thinking along the right lines. It is in the interest of the private sector to have previously disadvantaged individuals or communities as business partners. The process should allow the private sector to come up with creative ideas on how these partnerships will be established. This needs adequate time.
- ❑ Trade unions (organised labour) should be involved in the process from the beginning and agree on the implementation plan up-front. They are a powerful political force in South Africa, and as a result there is an existing culture of engagement and bargaining forums were already in place.
- ❑ National Treasury needs to be constantly kept informed about the process from its inception to the final point of deciding on a preferred bidder. If Treasury's position on any issue is not taken into account they are likely not approve any final decision made.

INSTITUTIONAL CAPACITY-BUILDING SUPPORT TO FACILITATE PARTICIPATION BY PREVIOUSLY DISADVANTAGED GROUPS

Communities and small enterprises need to be well organised and have access to independent advice if they are to participate effectively in partnerships and negotiate favourable terms for themselves. Communities and small enterprises can organise themselves quickly when the benefits have been presented to them clearly, but they will need short term assistance in the form of access to experts such as lawyers and transaction advisers, or for business management training. For such processes donor funding may be appropriate.

However, for long-term sustainability and human resources development, institutional support can be provided by the well-established private sector partner within the consortium. Sound institutional arrangements and provision for institutional development and support (once community-based legal entities have been established) are key to ensuring that they play a developmental role and that trustees remain accountable to their members on management and the distribution of benefits.

CREATE THE CAPACITY TO MANAGE GOVERNMENT'S POST-TRANSACTION RESPONSIBILITIES

Whilst the privatisation process is about Government withdrawing from a function, the process itself leaves behind a number of residual responsibilities which have to be executed. These responsibilities are in terms of the transaction documents, the lease and the Forest Act.

In order to execute Governments' responsibilities in terms of the lease agreement, DWAF has created a dedicated Land Management section. The sole responsibility of the team is to manage the terms of the lease in terms of financial management, performance monitoring, and dealing with such issues as rent review or applications for a change of use. This unit sits within the Directorate: Regulation which has the over-arching responsibility of overseeing the implementation of the new Forest Act.

The Department of Public Enterprises has the responsibility for overseeing the implementation of other transaction commitments and for setting up the long-term share allocation arrangements such as the ESOPs and the NEF referred to in 7.2.2. They also have the responsibility for monitoring compliance with bidders' investment commitments.

1.9 Conclusions and way forward

KEY LESSONS LEARNT

These lessons have already been discussed in previous sections, but to summarise and emphasise the key ones are as follows:

- ❑ Set clear, politically acceptable objectives through consultation with key stakeholders and reference to sector and macro policy;
- ❑ Communicate the objectives clearly and early to potential bidders and take feedback on their reaction to determine the feasibility of achieving an acceptable transaction;

- ❑ Maintain dialogue with key stakeholders as the process unfolds, and as delays inevitably arise;
- ❑ Use the various instruments within the transaction to achieve the multiple objectives:
 - ⇒ Use the bid process as a market instrument and evaluate bids (transparently) to select a preferred bidder
 - ⇒ Use the sale of business agreements to secure commitments to economic development including down-stream processing
 - ⇒ Use the lease as the central instrument for transferring use rights over State forest land from the State to the private sector (and avoid loading the lease with other issues that can be covered elsewhere)
 - ⇒ Use existing legislation to regulate. Do not over-regulate by encumbering the lease, try to allow the leaseholders to operate on a level playing field with other private companies, all of whom must operate within the law;
- ❑ Provide incentives for sustainability rather than regulate for it. If you use the lease to provide the private sector with long-term security to yield a return on its investment and the right to trade its investment then it has an incentive to manage the resource to its full potential rather than deplete it;
- ❑ A requirement for certification in the lease enables government to transfer much of the cost of monitoring and reporting on sustainability to the private sector operator;
- ❑ Create adequate capacity to manage Government's residual responsibilities in terms of the lease and other transaction commitments.

IMPACT OF PRIVATISATION: GAINS AND LOSSES

The true success of any privatisation can only be measured many years after the process has been implemented. South Africa has only just started. However, it is felt, by those close to the process, that the transfer of management responsibility from the State to the private sector has been conducted in an inclusive and appropriate manner and that the transactions that have arisen from the exercise provide a robust platform for long-term sustainability.

Expected gains

Added impetus to industry development. From listening to representatives of the forest industry it would seem that there is an up-beat tempo around privatisation (although this may be somewhat dampened by the recent scandals associated with the Komatiland transaction). It has been said that the sawmilling industry "is interesting again" – after several years of downbeat performance. By moving away from a conflict-ridden set of relationships between government and private sawmillers to an integrated one where trees are grown to meet the specifications of improved technology, companies are really starting to think bigger scale and global. If these expectations are achieved then the process will have laid a foundation that could have a significant impact on the SA economy and contribute local economic development in the areas where forests occur.

Reduction in public debt. Government (at least in terms of the homeland forests) is driven in a large part by the need to unburden itself from the financial liability of loss-making operations. It looks very likely to achieve this objective. One could therefore argue that whatever the public gains from the reallocation of budget away from forestry to more essential service delivery is a gain from privatisation.

Employment. It is obvious that the short-term impact of the process on jobs will be negative. Salaries will drop, numbers employed will drop and terms and conditions will be less favourable. However, (at least in terms of the homeland forests) if Government had carried on as it has done in the past, there would be no forests left in 10 years time. Forests are constantly being lost to fire and Government does not have the capacity to protect them. Therefore those jobs that exist now are not sustainable. At least in a well-managed privatised scenario there will be a sustainable level of employment and the likelihood of greater opportunities for enterprise development around the forestry operations.

Increased productivity and efficiency. It has been calculated that the homeland forests could easily increase productivity by 50%. If you increase the volume of timber coming off the plantations then this will feed increased processing capacity and will provide increased job opportunities.

Further afforestation. It is hoped that privatisation could be a key to unlock communal land for commercial afforestation in the Eastern Cape. If communities accept the lease agreements and the rental flows and learn to understand the business of forestry through participation in company ownership then they may be willing to make more land available and extend the plantation area. This would have significant benefits in terms of jobs and income to communities.

Social capital. It is argued that even though the rental flows from forestry will be small (when looked at in terms of the needs of communities) the institutional capacity created to manage these income streams will provide a useful platform upon which other local economic development initiatives can be managed.

Recognition of land rights. By recognising land rights and channelling income to communities the process is addressing to some extent some of the injustices of the past. Furthermore, it is hoped that in future communities will be empowered to negotiate their own deals with forestry companies.

Black empowerment. If black people own forests and the companies which manage them, then once again a contribution will have been made to addressing the injustices of the past.

Losses

The short-term job losses referred to above will be where communities feel this process hardest.

There will certainly be a **reduction of forest area** in the short to medium term as government pulls out of non-viable operations. What worries DWAF is the rate of destruction of Category B plantations at present and the likely long-term scenario for these. The negative spiral of job losses will be felt in such cases. This is however a management issue rather than a privatisation one.

If the **quality of management** deteriorates under the private sector then the privatisation will be judged a failure. The likelihood of this depends on the calibre of successful company and the viability of the plantation. Market conditions have not been kind to the South African process. How easy it is to privatise forests depends in large part on world markets. The world market for forestry is not strong at present and South Africa's developing nation status, and the Zimbabwean land crisis has made international investors wary of investing in South Africa. This has limited the level of international interest. With few bidders there is less choice and the quality of private sector operator that one ends up with is likely to be lower.

The smaller the forest and the less well-resourced the company then the higher the likelihood of poor performance. Certification for many of the Category B plantations already looks like an unrealistic expectation – especially as the bar is being raised by FSC. There is a direct trade-off here between empowerment of small emerging enterprises and security in terms of financial and technical capacity to manage forests. For this reason, joint ventures are being sought between large and small companies.

THE WORK REMAINING

The privatisation experience which has been drawn on in the above discussion relates to the disposal of SAFCOL and DWAF's Category A plantations. The category B and C plantations remain. The key issues facing the B and C plantations are summarised as follows:

The Category B plantations include fourteen forest packages covering approximately 70 000 hectares with an average plantation size of 1,300 ha. The main reason for leaving these ones out of category A was due to their generally smaller size, their distance from SAFCOL plantations and their links to specific small sawmiller processors.

Their disposal offers an opportunity for smaller emerging investors to bid for assets who may have otherwise been excluded from first phase due to the size of the packages on offer. Whilst it should be acknowledged that a number of these plantations are unlikely to be viable, many do present a genuine

opportunity to promote local economic development and long-term sustainability. In some provinces significant downstream initiatives and small businesses have been established, and depend entirely, on the continued existence of these resources.

Various approaches are therefore being explored to dispose of these plantations in a manner that will facilitate partnerships between provincial, local governments, communities, workers, small emerging forestry businesses and large established companies. Already government is engaging with the private sector and local government to seek sustainable long-term solutions in each case. Government plans to facilitate specific outcomes for each plantation in line with the capacity and interest expressed by the emerging small enterprises.

It should be noted that there is a collective industry view that it is unreasonable to expect bidders for the Category B plantations to be able to achieve certification (based on the FSC standards) within two years. It is likely that it will be necessary to develop an innovative transitional arrangement to allow smaller, less well resourced companies to bring management standards up to an acceptable level from their currently very low base.

The Category C plantations were established specifically for the purpose of supplying communities with building materials and fuel wood. Government does not therefore seek to sell the woodlots but rather to transfer them to communities. The approved approach to their restructuring is a handover of the resource to the communities accompanied by a gradual withdrawal from direct management by the state and a redirecting of capacity to help communities to manage and develop their own forestry resources.

RESIDUAL RESPONSIBILITIES

In addition to dealing with the last of the State-owned plantation, the privatisation process will continue in terms of developing and maintaining the capacity of the private sector to manage the resources sustainably and the capacity of the State to monitor, regulate and where necessary provide support.