



January 2006



**REPUBLIC OF SOUTH AFRICA**

**CURRENT POSITION REGARDING GOVERNANCE OF  
STATE OWNED ENTITIES (SOE's) IN SOUTH AFRICA**



# CONTENTS

## ■ GOVERNMENT BUSINESS ENTERPRISES (GBE's) LANDSCAPE

### ■ LEGISLATION

### ■ CORPORATE GOVERNANCE CODES

### ■ PARLIAMENT OVERSIGHT

### ■ EXECUTIVE

### ■ BOARDS



## GBE LANDSCAPE

- THERE ARE **38 GBE'S** OPERATING IN THE FOLLOWING SECTORS:
  - Transport (4)
  - Defence (2)
  - Telecommunications (4)
  - Energy (Oil, Gas & Electricity) (3)
  - Development Finance Institutions (DFI's) (6)
  - Other (Agriculture, Mining, Water, Research, etc.) (19)
  
- HISTORICAL EQUITY **VALUE ZAR 145.4 BILLION**  
(EXCHANGE RATE ZAR 7.24 = EURO 1)
  
- GOVERNMENT OWNERSHIP DISPERSED BETWEEN **9 GOVERNMENT**  
**MINISTRIES** KNOWN AS EXECUTIVE AUTHORITIES



# GBE LANDSCAPE

## HISTORICAL EQUITY VALUE ON 31 MARCH 2005: ZAR 145.4 BILLION

TRANSPORT		TELECOMS		DFI's	
Transnet	ZAR 16.9 Billion	SABC	ZAR 1.1 Billion	Landbank	ZAR 2.0 Billion
ATNS	ZAR 0.5 Billion	SAPO	ZAR 0.3 Billion	DBSA	ZAR 11.8 Billion
ACSA	ZAR 2.5 Billion	Sentech	ZAR 0.4 Billion	IDC	ZAR 30 Billion
SARCC	ZAR 4.1 Billion	Telkom	ZAR 7.0 Billion	IDT	ZAR 1.6 Billion
<b>Total</b>	<b>ZAR 24 Billion</b>	<b>Total</b>	<b>ZAR 8.8 Billion</b>	Umsobomvu	ZAR 0.4 Billion
				Khula	ZAR 1.0 Billion
				<b>Total</b>	<b>ZAR 46.8 Billion</b>
DEFENCE		ENERGY		OTHER	
ARMSCOR	ZAR 0.4 Billion	Eskom	ZAR 44.9 Billion	<b>Total</b>	<b>ZAR 6.8 Billion</b>
Denel	ZAR 0.8 Billion	CEF	ZAR 13.0 Billion		
<b>Total</b>	<b>ZAR 1.2 Billion</b>	NECSA	ZAR -0.1 Billion		
		<b>Total</b>	<b>ZAR 57.8 Billion</b>		



## GBE LANDSCAPE

- ❑ GOVERNMENT OWNERSHIP OF GBE'S IS DISPERSED BETWEEN VARIOUS GOVERNMENT MINISTRIES KNOWN AS EXECUTIVE AUTHORITIES
  - MINISTER OF PUBLIC ENTERPRISES:  
ALEXCOR, DENEL, ESKOM, SAFCOL AND TRANSNET
  - MINISTER OF TELECOMMUNICATIONS:  
SABC, SAPO, TELKOM (37%) AND SENTECH
  - MINISTER OF AGRICULTURE:  
LANDBANK AND ONDERSTEPSPOORT BIOLOGICAL PRODUCTS
  - MINISTER OF TRANSPORT:  
ATNS, ACSA AND SARCC
  - MINISTER OF WATER AFFAIRS:  
WATER UTILITIES (15)



## GBE LANDSCAPE

- MINISTER OF DEFENCE:  
ARMSCOR
- MINISTER OF TRADE AND INDUSTRY:  
IDC, CSIR, ECIC, KHULA AND SABS
- MINISTER OF MINERALS AND ENERGY:  
CEF, NECSA AND MINTEK
- MINISTER OF FINANCE:  
DBSA, PIC AND SASRIA



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## ■ CORPORATE GOVERNANCE CODES

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## ■ BOARDS



## LEGISLATION

- GBE ENABLING ACT
  
- PUBLIC FINANCE MANAGEMENT ACT (PFMA)
  
- COMPANIES ACT
  
- TREASURY REGULATIONS





# LEGISLATION

## ❑ GBE ENABLING ACT

- Mandate
- Corporate Status
- Powers to appoint Board Members
- Tax status
- Borrowing Powers



# LEGISLATION

- ❑ PUBLIC FINANCE MANAGEMENT ACT (PFMA)
  - Provides financial framework
  - Affords operational and managerial autonomy
  - Reporting/oversight mechanisms
    - Shareholder compact
    - Corporate Plan
    - Quarterly reports
- ❑ REGULATES BORROWING POWERS/GUARANTEES
- ❑ AFFORDS NATIONAL TREASURY POWERS TO REQUEST INFORMATION



# LEGISLATION

## □ TREASURY REGULATIONS

- Builds on legislation – i.e. details content of Corporate Plan



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# LEGISLATION

## ❑ COMPANIES ACT

- Legislation governing company law
- Establish legal status of companies
- Appointment and outline of responsibilities of Directors and Auditors
- Accounting and disclosures



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# CORPORATE GOVERNANCE CODES

## □ PROTOCOL ON CORPORATE GOVERNANCE

- Encapsulates King II Code on Corporate Governance and PFMA
- Not legislation - best practice code
- Government's relationship to its SOE's
- Guiding principles on management of ownership
- Directors responsibilities
- Role of the Board
- Establishment of committees



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# PARLIAMENT OVERSIGHT

- CONSTITUTION
  
- SCOPA
  
- PORTFOLIO COMMITTEES





# PARLIAMENT OVERSIGHT

## □ CONSTITUTION

- The Constitution of South Africa empowers the National Assembly and Provincial Legislators with and oversight role over their respective Executives.
  
- Section 55(2):
  - Executive organs of state are accountable to Parliament.
  - Parliament must maintain oversight over the Executive Cabinet.
  
- Section 92(3)(b):
  - Members of Cabinet must provide Parliament with full and regular reports concerning matters under their control.
  
- Impossible for Parliament to exercise proper oversight over 35 National Departments and ± 250 public entities.
  
- Parliamentary Committees established to facilitate oversight role.
  - Standing Committee on Public Accounts (SCOPA)
  - Portfolio Committee



# PARLIAMENT OVERSIGHT

## □ SCOPA

- Primarily responsible for financial oversight through addressing:
  - Issues raised in the General Report of the Auditor-General on Audit outcomes
  - Issues of financial probity as highlighted in the audit report or disclosed in the management report or notes to the financial statements
  - Compliance with the PFMA, Treasury Regulations, the Audit Committee and the management report of the accounting officer
  - Interrogation and evaluation of instances of over-expenditure and instances of unauthorised expenditure
  - Interrogation of instances relating to irregular, fruitless and wasteful expenditure
  - The functioning of risk management systems
  - Corporate governance of departments, public entities and constitutional institutions



# PARLIAMENT OVERSIGHT

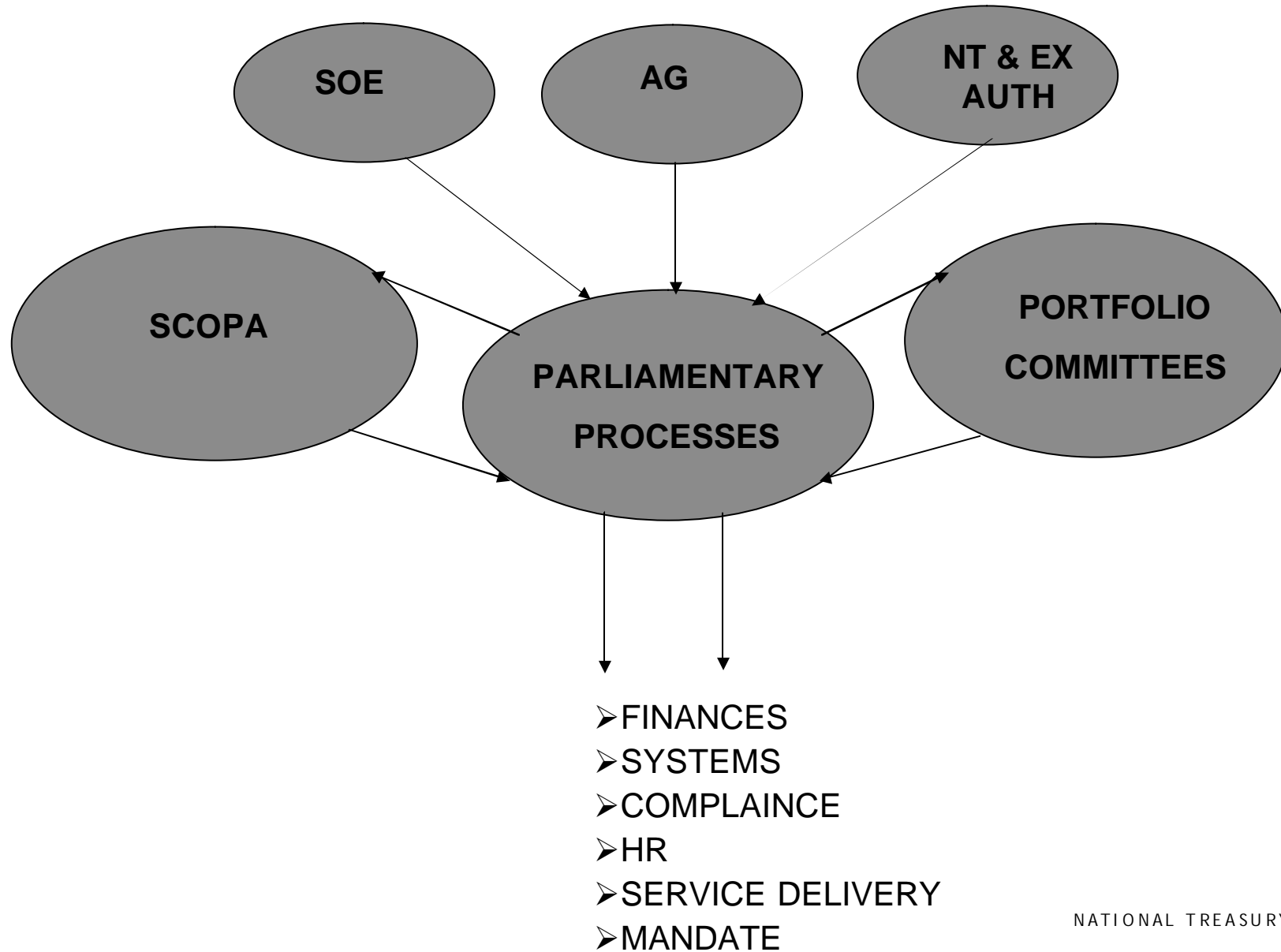
## □ PORTFOLIO COMMITTEES

- Primarily responsible for sectoral service delivery through:
  - Monitoring the economic, efficiency and effectiveness of service delivery as measured by performance indicators presented in the annual reports of Departments
  - Evaluating management's explanation as to why the entity's service delivery performance did not attain the targets set in the corporate plans
  - Equity of service delivery
  - Investigating the circumstances that led to financial underperformance and the impact this had on service delivery and the measures taken by management to rectify the situation



# THE COMPLETE GOVERNMENT OVERSIGHT

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## EXECUTIVE

### THE **EXECUTIVE** COMPRISES OF:

- Cabinet
  
- Executive Authority (Responsible Minister)
  
- Policy Minister
  
- National Treasury



## EXECUTIVE

### □ THE ROLE OF **CABINET** IS TO:

- Provide overall strategic/policy direction:
  - Economic growth
  - Service delivery
  - Addressing imbalances between first and second economy
  - Adjudicating Board appointments
  
- Policy Minister
  - Issues policy directive to SOE
  - Monitors delivery against directive



## EXECUTIVE

- ❑ THE ROLE OF THE **EXECUTIVE AUTHORITY** IS TO EXERCISE  
SHAREHOLDER OVERSIGHT THROUGH:
  - Reporting to Parliament
  - Appointing Board Members
  - Shareholder's Compacts
    - Agreements on outputs (KPI's)
    - Instructions on public projects
    - Execution of mandate
    - Review of Corporate Plans





## EXECUTIVE

- CORPORATE PLANS MUST COVER 3 YEARS AND INCLUDE:
  - Strategic objectives and outcomes identified and agreed on by the executive authority in the shareholder' compact
  - Strategic and business initiatives as embodied in business function strategies
  - Key performance measures and indicators for assessing the entity's performance in delivering the desired outcomes and objectives
  - A risk management plan
  - A fraud prevention plan
  - A materiality/significant framework, referred to in Treasury Regulation 28.3.1
  - A financial plan addressing –
    - Projections of revenue, expenditure and borrowings
    - Asset and Liability Management
    - Cash flow projections
    - Capital expenditure programmes
    - Dividend policies



## EXECUTIVE

### □ THE NATIONAL TREASURY'S ROLE IS:

- Protector of the National Revenue Fund/Sovereign Rating
- Ensure exercising of financial oversight through
  - Setting reporting guidelines to promote and enforce transparency in respect of revenue, expenditure, assets and liabilities of SOE's
  - Oversight over the funding/borrowing programmes of SOE's
  - Controlling the utilisation of contingent liabilities
  - Effective treasury management models
  - Issue co-ordination between Policy Minister, Executive Authority and National Treasury



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## BOARDS

- ❑ THE BOARD OF DIRECTORS
  
- ❑ POWERS AND DUTIES
  
- ❑ THE BOARD SHALL



## BOARDS

- ❑ THE BOARD OF DIRECTORS:
  - Is the governing body
  - Its mission is to fulfill the mandate
  - Is fully accountable for performance
  - Has responsibility to broader stakeholders
  
- ❑ POWERS AND DUTIES ARE CONTAINED IN THE PFMA, COMPANY'S ACT, ENABLING LEGISLATION AND PROTOCOL ON CORPORATE GOVERNANCE



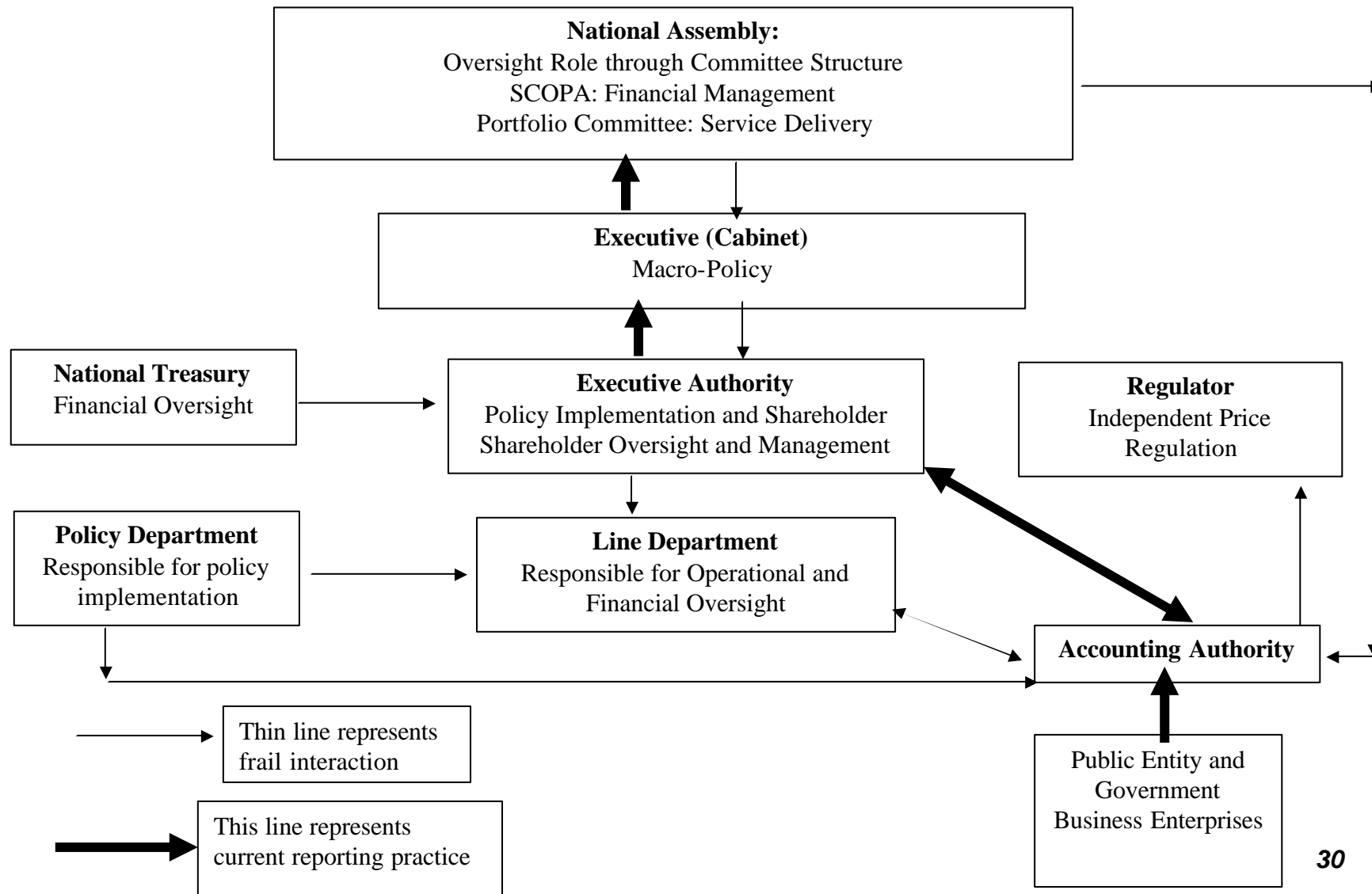
## BOARDS

### □ The Board shall:

- Ensure that the executive management implements the SOE's strategy as established from time to time
- Ensure that the SOE has effective, efficient and transparent systems of operational, risk management and financial internal controls
- Monitor the activities of the executive management
- Provide information on the activities of the SOE to those entitled to it
- Ensure the succession, and approve the appointment, of senior executives
- Ensure that the SOE operates ethically
- Address the adequacy of retirement and health care benefits and the funding thereof
- Ensure that the SOE has and maintains a system of internal audit under the control and direction of an audit committee complying with an operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77 of the PFMA
- Ensure that the SOE has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective
- Ensure that all applicable black economic empowerment legislative frameworks and requirements are complied with
- Ensure that the SOE has and maintains a system for properly evaluating all major capital projects prior to a final decision on the project



# OVERSIGHT MANAGEMENT OF SOE's





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# CONCLUSION