

ECONOMIC RESEARCH PAPERS

No 49

**Private Sector Participation
in Infrastructure in Southern African
Development Bank**

by

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**The views and interpretations in this paper are those of the author
and not necessarily those of the African Development Bank**

RESUME ET CONCLUSIONS

Promotion de la réforme et de la participation du secteur privé

La force motrice de la réforme et de la participation du secteur privé dans l'infrastructure comprennent : la pression sur les budgets de l'Etat et la nécessité de supprimer les subventions compte tenu de la baisse des revenus; de l'absence de capitaux d'investissement, ainsi que la nécessité de remplacer les vieilles infrastructures; la pression de la nouvelle technologie, l'incapacité des entreprises publiques à satisfaire la demande croissante; les nombreux arguments avancés par les consommateurs plus informés en faveur de meilleures prestations de services; le secteur privé qui profite des possibilités offertes par les mauvaises prestations de services des entreprises publiques et les réformes; la pression résultant des mesures économiques générales prises par les bailleurs de fonds et les institutions multilatérales de financement; et la réalisation par les gouvernements que le partenariat avec le secteur privé créerait une situation favorable aux deux parties". Dans le contexte de l'Afrique australe, l'agenda de l'intégration régionale et l'intégration a aussi joué un rôle et non le moindre, le "Facteur sud africain" - la demande croissante dans l'économie sud africaine et les opportunités visées par son secteur privé.

Domaine de participation du secteur privé

Il existe en Afrique australe d'énormes possibilités pour la participation du secteur privé à l'infrastructure et une tendance à favoriser de plus en plus cette participation. La participation du secteur privé est possible dans tous les secteurs de l'infrastructure, bien que certains secteurs, tels que les télécommunications et la technologie informatique, soient plus adaptés à la participation du secteur que d'autres, comme par exemple l'infrastructure routière. La participation du secteur privé est plus dynamique dans la région et si les tendances actuelles persistent, il est probable que la fourniture et la gestion de l'infrastructure soient essentiellement assurées par le secteur privé.

Evolution des perceptions

Assurément, la perception des gouvernements des pays d'Afrique australe, aussi bien collectivement qu'individuellement, évolue sur le rôle du secteur privé dans le domaine de la fourniture des infrastructures. Alors que par le passé, l'infrastructure était considérée comme un secteur stratégique mieux géré par les monopoles d'Etat, cette perception a évolué depuis que l'on s'est rendu compte que la fourniture de certains services d'infrastructure est mieux assurée par le secteur privé ou en partenariat avec ce secteur. L'opinion des gouvernements a évolué en ce qui concerne le secteur privé qu'ils considéraient avant avec une certaine suspicion et, dans certains cas même, avec hostilité, pour voir en lui maintenant un partenaire.

Nature des réformes et participation

Plusieurs mesures sont appliquées sur le continent par pays, par secteur et par industrie. Elles vont de la restructuration interne, la commercialisation et la privatisation, au désinvestissement et aux nouveaux investissements du secteur privé. L'industrie du transport

roulier des pour marchandises et passagers a été traditionnellement dominée par le secteur privé dans la plupart des pays. La participation du secteur privé est plus rapide et évidente dans les secteurs des télécommunications, de la technologie informatique et des transports que dans les secteurs tels que l'énergie qui sont encore dominés par les monopoles d'État. Le secteur privé a été plus lent à participer aux activités du secteur de l'énergie de la même manière que l'ont été les municipalités et le gouvernement dans la gestion des systèmes d'adduction d'eau et d'assainissement et d'évacuation des déchets solides.

La participation du secteur privé a, par le passé, été plus perceptible dans Certains dans d'autres. Les pays qui sont relativement plus avancés dans le domaine de la promotion du secteur privé sont l'Angola, le Mozambique, l'Afrique du Sud et la Zambie. Ceux qui ont fait moins de progrès sont le Botswana, le Lesotho, le Malawi' la Namibie, le Swaziland et le Zimbabwe.

Cadre juridique et institutionnel

Le cadre institutionnel pour la gestion du processus de réforme et de participation du secteur privé est précaire dans la plupart des pays. Le processus de réforme a été géré par les départements ou entreprises du secteur public dont certains doivent faire l'objet d'une réforme. Le secteur privé a été plus active dans les pays où il existe déjà des comités de privatisation indépendants ou structures similaires et moins active dans les pays qui n'en disposent pas.

Presque tous les pays ont, sous une forme ou l'autre une législation en matière d'investissement; mais elle porte sur l'économie en général. Il n'existe aucune législation spécifique sur l'infrastructure. De même, les institutions chargées ou responsable de l'infrastructure tendent à se fragmenter avec peu ou pas du tout de coordination. Cette situation ne favorise pas la définition d'un cadre intégré pour la surveillance de l'infrastructure.

Un certain nombre de structures ont été mises en place dans la région pour faciliter la Consultation et la coordination des questions Toutefois, l'efficacité de mes structures est liées à l'infrastructure dans les différents secteurs. discutable. Le principal problème ici est que mes structures ont été dominées par le secteur public sans la participation du secteur privé.

Capacité de réglementation

La capacité réglementaire est faible ou parfois inexistante dans la plupart des pays. Il est essentiel de créer une forte capacité réglementaire, compte tenu de la participation croissante du secteur privé, Cela est capital pour assurer des processus transparents, une Concurrence loyale, la résolution des conflits et pour veiller à ce que le gouvernement joue bien son rôle qui consiste à élaborer une vision et à surveiller la gestion des effets externes.

Il y a très peu d'institutions indépendantes de régulation dans le secteur des transports de l'ensemble des pays. (~es fonctions sont parfois assurées par les départements publics. Par contre, la capacité réglementaire a été établie dans la plupart des pays pour les télécommunications. Toutefois, l'efficacité de ces institutions varie d'un pays à l'autre Dans le secteur de l'énergies les institutions de réglementation ne sont en place que dans trois pays

Rôle partisan

La participation du secteur privé à l'infrastructure ne doit pas être limitée à la fourniture, la gestion, la propriété ou l'exploitation de l'infrastructure. Le secteur privé peut jouer un important rôle

partisan dans l'élaboration des politiques et pratiques nationales et régionales, en veillant à ce que les processus soient transparents et en surveillant les institutions publiques et réglementaires.

Communautés marginales

La participation du secteur privé tend à se concentrer sur les options rentables du point de vue commercial. Si elle n'est pas bien gérée, les communautés déjà marginalisées, telles que celles qui sont en milieu rural, risquent de l'être davantage. Mais si elle est bien définie et gérée, il pourrait y avoir un partenariat entre le gouvernement et le secteur privé dans la prestation des services aux zones et populations qui, autrement n'intéresseraient pas le secteur privé tout seul.

Avantages de la participation du secteur privé

La participation du secteur privé à l'infrastructure présente plusieurs avantages. Il faut citer, parmi ceux-ci, l'allégement fiscal, la fourniture de capitaux d'investissement, l'introduction de nouvelles technologies, l'amélioration de la qualité des services, le choix des consommateurs et de nouveaux investissements pour satisfaire la demande croissante.

Le facteur régional

La région d'Afrique australe a l'avantage d'avoir un cadre régional de coopération grâce à la SADC et ses structures. Bien qu'il soit possible de contester le rythme et l'impact du processus d'intégration globale en Afrique australe, il est tout de même évident que l'approche régionale a facilité le développement et la consolidation des meilleures pratiques dans les pays de la région. L'une des leçons à retenir de cette expérience, est l'impact positif qui pourrait résulter d'une stratégie bien définie de la participation du secteur privé à l'infrastructure.

Une autre dimension du facteur régional est le fait que les initiatives régionales, telles que les Corridors du développement, les Initiatives de développement spatial et les postes à guichet unique favorisent une plus grande participation du secteur privé à l'infrastructure.

L'émergence de l'Afrique du Sud comme partenaire égal en Afrique australe a, à nouveau, relancé la participation du secteur privé à l'infrastructure en raison, non seulement, de l'existence d'un secteur privé significatif et assez bien développé dans ce pays, mais aussi, du développement du commerce stimulé par l'Afrique du Sud qui a poussé les services d'infrastructure à fonctionner plus efficacement.

SUMMARY AND CONCLUSIONS

Impetus for Reform and Private Sector Participation

The driving force for reform and private sector participation in infrastructure include: pressure on government budgets and the need to eliminate subsidies in the face of declining incomes; lack of investment capital and the need to replace aging infrastructure assets; pressure of new technology; inability of SOEs to meet growing demand; increased advocacy by more informed consumers for improved service; private sector taking advantage of opportunities offered by poor service delivery of SOEs and reforms; pressure resulting from economically-wide reform measures from donors and multilateral funding institutions; and realization by governments that partnership with the private sector would result in a "win-win" situation. In the context of Southern Africa, the regional integration agenda has also played an important role and not least, the "South African Factor" -growing demand in the South African economy and opportunities sought by its private sector.

Scope for Private Sector Participation

There is a growing trend and large potential for private sector participation in infrastructure in Southern Africa. There is scope for private sector participation in all infrastructure sectors although some sectors such as telecommunications and IT, are more amenable to private sector participation than others such as road infrastructure. The momentum for private sector participation is growing in the region and if current trends continue, it is likely that the provision and management of infrastructure will be dominated by the private sector.

Changing Perceptions

There is a definite change of perception by governments of Southern Africa both individually and collectively, on the role of the private sector in infrastructure provision. Where in the past, infrastructure was viewed as a strategic sector best managed by government monopolies, this has changed to the realization that some infrastructure services are best provided by or in partnership with the private sector. Governments have undergone a mind-shift from viewing the private sector with suspicion and in some instances even hostility, to embracing them as partners.

6.1.4. Nature of Reforms and Participation

There are a multiplicity of reform measures in the region by country, sector and industry. These range from internal restructuring, commercialization and corporatization to divestiture and new private sector investments. The road passenger and freight industry has traditionally been dominated by the private sector in most countries. Private sector participation is more rapid and evident in the telecommunications, IT and air transport sectors than it is in others such as the power sector where government monopolies still dominate. Private sector participation has been slowest in the power sector as well as municipality and local government in the management of water and sewerage systems and solid waste disposal.

Some countries have a more visible record of private sector participation than others. Countries that have made relatively more progress in fostering private sector participation include Angola, Mozambique, South Africa and Zambia. Countries that have made the least overall progress include, Botswana, Lesotho, Malawi, Namibia, Swaziland and Zimbabwe.

Legal and Institutional Framework

The institutional framework to manage the process of reform and private sector participation is weak in most countries. The reform process has been managed by governments departments or SOEs some of whom are the subject of the reforms. Private sector involvement is greatest in those countries where independent privatization commissions or similar structures have been set up and least where they have not.

Almost all countries have investment legislation in one form or the other, but this tends to be economy wide. There is no specific legislation targeted at infrastructure. Equally, institutions dealing with or responsible for infrastructure tend to be fragmented with little or no coordination. This militates against devising an integrated framework for infrastructure oversight.

A number of structures have been set up in the region to facilitate consultation and coordination of infrastructure issues across the various sectors. However, the effectiveness of these structures is questionable. A major weakness is that these structures have been dominated by the public; sector to the exclusion of the private sector.

Regulatory Capacity

Regulatory capacity is weak or non-existent in most countries. As private sector participation increases, it is essential to create a strong regulatory capacity. This is essential to ensure, transparent processes, fair competition, conflict resolution-as well as to ensure that the role of government of providing a vision and oversight and of managing externalities is properly carried out.

There are very few independent regulatory institutions in the transport sector in all countries. These functions are often carried out by government departments. In contrast, regulatory capacity has been established in most countries for telecommunications. However, the effectiveness of these institutions vary from country to country. In the power sector, regulatory institutions are in place only in three countries.

Advocacy Role

Private sector participation in infrastructure need not be limited to provision, management, ownership or operation of infrastructure. The private sector can play an important advocacy role in shaping national and regional policies and practices, in ensuring transparent processes and in keeping the government and regulatory institutions in check.

Marginal Communities

Private sector participation tends to concentrate on commercially attractive options. If this is not properly managed, there is a danger that communities that are already marginalized such as those in rural areas will be further marginalized. However, provided this is properly defined and managed, there is scope for partnership between the government and private sector in the provision of services to those areas and populations which would otherwise not be attractive to the private sector on its own.

Benefits of Private Sector Involvement

There are several benefits that arise from private sector participation in infrastructure. Among them, fiscal relief, provision of investment capital, introduction of new technologies, improvements in quality of service, consumer choice and new investment to meet growing demand.

The Regional Factor

The Southern African region has benefited from having a regional cooperation framework through SADC and its structures. Although the pace and impact of the overall integration process in Southern Africa can be questioned, what is evident is that the regional approach has facilitated development of and re-enforcement of best practices among countries of the region. One such lesson has been the positive impact that can be derived through a well devised strategy of private sector participation in infrastructure.

Another dimension to the regional factor is the fact that regional initiatives such as the Development Corridors, Spatial Development Initiatives and One Stop Border Posts provide scope for wider private sector participation in infrastructure.

The emergence of South Africa as an equal partner in Southern Africa has given further impetus to private sector participation in infrastructure partly as a result of the large and relatively well developed private sector in that country but also growing trade spurred by South Africa which has put pressure on infrastructure services to operate more efficiently

PRIVATE SECTOR PARTICIPATION IN INFRASTRUCTURE IN SOUTHERN AFRICA¹

I. BACKGROUND

There is a definite change in the role of the private sector in the provision, management and operation of infrastructure in Southern Africa.² The change is in both perception and in practice. A decade ago, infrastructure services were viewed as a monopoly to be provided by governments rather than a competitive service subject to market forces where a partnership between the government and private sector was possible. The situation has changed. A multitude of factors have led to this change.

1.1. The Ideological Shift

At the global level, the end of the cold war and with it, the ideological divide with the resultant demise of central planning as the favored tool for economic management by most developing countries particularly in Africa, brought a re-think of the role governments should play in the economy. Beginning in the late eighties, debate emerged as to the possible role the private sector could play in the whole process of economic development.

1.2. Government Monopoly and Commanding Heights

From the mid-sixties, when most African countries attained political independence, emphasis was on investment in infrastructure. Apart from the economic justification for such investment, infrastructure had a political edge in that, it was a visible demonstration of the “fruits of independence”. Thus, with the assistance of donors and multilateral financing agencies, massive amounts of funds were spent on roads, railways, ports, telecommunications, power stations, water and in providing the requisite equipment and facilities. According to the World Bank, developing countries invest \$200 billion annually in new infrastructure. This is 4 percent of their national output and a fifth of their total investment.³ During the period 1981 to 1990, the transport sector in Africa, received a cumulative amount of \$2.58 billion representing 26.7 percent of total loans granted by the African Development Bank Group to all operational sectors.⁴

¹ A Background paper prepared for the African Development Report 1999.

² The African Development Bank classification of Southern Africa covers the ten countries of; Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe. However, in this article, the term Southern Africa may be inter-changeably used to refer to the grouping of countries known as the Southern African Development Community-SADC-an economic block which apart from the foregoing countries, also includes Mauritius, Tanzania, Democratic Republic of Congo and the Seychelles.

³ World Development Report 1994 - Infrastructure for Development. Published for the World Bank by Oxford University Press

⁴ Transport Sector Policy - African Development Bank - 26-27 February 1992

Infrastructure was financed, owned and operated by governments. All infrastructure services were viewed as natural monopolies to be managed by governments. Infrastructure systems were also considered strategic and “commanding heights” of the emerging economies. That the provision and management of infrastructure could be shared with the private sector was inconceivable until recently.

1.3. Economic Realism and Declining Resources

Unfortunately, the massive investments in infrastructure were not matched by similar commitments to creating the necessary structures to manage the infrastructure systems efficiently. Thus, there were inadequate resources for maintenance, rehabilitation and upgrading of infrastructure. The result is that most infrastructure, plant and equipment having been built or been in operation for nearly three decades, required massive capital injections for expansion, improvement, rehabilitation or modernization.

Declining export earnings and therefore incomes, unfavorable exchange rates, declining government revenues and unprofitable infrastructure enterprises, meant that there were no longer funds to channel into new infrastructure investments. In the face of growing populations, particularly urban and therefore increasing demand and pressure on infrastructure services and facilities, the capacity of governments to respond effectively to these challenges became increasingly limited.

In addition, Most State Owned Enterprises (SOEs) or parastatals were debt ridden, with debts underwritten by governments. Multilateral or donor funds for new investment in infrastructure as well as to support SOEs were becoming increasingly scarce. This, coupled with more stringent economic management regimes necessitated by “new economic realities” and the demands of multilateral and donor agencies, meant that most governments had to take stock and assess what was within their means to accomplish.

Given the magnitude of capital outlays required for new infrastructure investments as well as technological changes particularly in such sectors as telecommunications, it dawned on most governments that on their own, they could not possibly respond to all these demands. Governments were therefore compelled to look at other sources of funds for financing infrastructure and the private sector emerged as a possible partner in this process. The challenge was how to get the private sector both interested and involved.

1.4. Market Demand and Consumer Advocacy

The African population has been growing rapidly over the past decades. According to the World Bank, one billion people in the developing world lack access to clean water, two billion lack adequate sanitation, electric power has yet to reach two billion people and urban populations are growing.⁵ This growing demand means that there is growing pressure on infrastructure facilities and services.

⁵ World Development Report 1994

In recent years, the advent of democratic and more transparent governance and the resultant strengthening of civil society has meant that consumers are no longer willing to remain silent in the face of poor and declining services. With declining real incomes and therefore purchasing power, consumers are increasingly demanding value for their money.

Governments have been compelled to seek more innovative ways of meeting this demand. At the same time, this has also provided the opportunity that the private sector has been waiting for, that of involvement in the provision, management, operation and even ownership of infrastructure services and systems. A new partnership is thus emerging between the government and the private sector in infrastructure in Africa.

1.5. The Regional Factor

In the context of Southern Africa, the changing political and economic scenario has helped to spur the impetus for the involvement of the private sector in infrastructure provision. South Africa, hitherto an isolated member of the region, came into the fold as a full partner in 1994, at a time when more concerted measures to form an integrated regional economic block within the framework of the Southern African Development Community (SADC) were being taken. All this meant that countries of Southern Africa have had to individually and collectively, balance their national interests and strategies within the framework of this regional approach.

The Southern Africa region⁶ has a total land area of 5,984,000 square kilometers, a population of 107 million people, and a Gross Domestic Product (GDP) of \$157 billion. South Africa needs special mention. Not only is it the most dominant economy, but it has a longer history of private sector participation in the economy relative to the other countries in the region. South Africa accounts for about 80.5 percent of the GDP of the region and 40 percent of the population.⁷ It also dominates all the infrastructure sectors; telecommunications, energy, air transport, road transport, rail transport, ports and Information Technology (IT). South Africa also has the largest local government administration in the region and therefore larger and relatively more complex networks of water and sanitation systems, as well as those of sewerage and solid waste.

1.6. The Emerging Role of the Private Sector

Despite all this however, the participation of the private sector in infrastructure is still very limited and is only just beginning. The important point is that the principle of

⁶ Ten countries as defined by the ADB or SADC without Tanzania, Democratic Republic of Congo, Mauritius and the Seychelles.

⁷ World Bank - African Development Indicators, 1997 and Official SADC Trade, Industry and Investment Review, 1997

private sector participation has been accepted by all countries of Southern Africa.⁸ However, consensus is still to be reached on what form private sector participation should take. There are variations by country as well as by industry in terms of the scope and depth of private sector participation. The private sector also seeks to better understand what its specific role is, what the opportunities and risks are and how to mitigate against such risks.

There are also questions as to whether the necessary policies and institutions are in place in most countries to support this new public-private sector partnership and whether transparent systems and procedures are, or can be put in place to ensure the creation of a conducive environment for private sector participation in infrastructure.

II. REFORMS AND OPTIONS FOR PRIVATE SECTOR PARTICIPATION

There have been various phases and approaches to private sector participation in infrastructure in Southern Africa over the years. Reforms in the infrastructure sector paving the way for private sector involvement are on-going. The spectrum ranges from internal restructuring, commercialization and corporatization to concessioning and new investments by the private sector. The interesting factor is that a multiplicity of these reforms can be seen by country, sector and even within an organization sometimes all going on at the same time.

In the late eighties to mid nineties, “privatization” or “private sector participation” were concepts and terms that were not always welcome from governments whose economies were just beginning to make a transition from central planning and State control to a market economy. They had after all, over the decades, invested considerable time and resources building up their “parastatal sectors” and most perceived the push for privatization as a ploy by the more developed countries to rob them of the means to control their own economic destinies.

It is not surprising therefore that there was and still is, some reluctance on the part of the Southern African governments to privatization particularly for infrastructure services and facilities which are seen as key and critical to their economies. Thus, at the initial stages, the approach in infrastructure was to emphasize restructuring and commercialization and not outright privatization.

2.1. Economy-Wide Reforms

The reforms that are now evident in the infrastructure sector in Southern Africa cannot be viewed in isolation from the economy-wide measures in place in most countries. Most countries of the region are implementing economy wide reform measures within the framework of the Structural Adjustment Programs (SAP) of the World Bank and

⁸ Protocols signed by the Heads of State and Government of SADC at their Summit held in Maseru, Lesotho in August 1996 including those in infrastructure - Transport, Energy and Water - recognize the role of the private sector

International Monetary Fund (IMF). These reforms emphasize fiscal and monetary discipline aimed at curbing inflation and reducing government deficits.

SOEs in general and particularly in infrastructure, have been candidates for government financial support in one form or the other through, subsidies, direct cash injections, or loan guarantees. The largest SOEs both in terms of scale and importance to the economies of these countries and therefore priority candidates for government support, have been in infrastructure. Road, rail, electricity and air transport firms have received regular financial support from governments either directly or indirectly. Thus, in seeking to manage government deficits, government support to these firms have had to be reviewed.

2.2. Internal Restructuring

Governments of the region own, operate and manage the various infrastructure systems. This means that governments set prices, decide on new investments and give overall direction to companies in the infrastructure sector. Exceptions to this are in the road freight and road passenger industry where in most countries, there is a large private sector presence. However, even in these sectors, governments control market entry, set prices and sometimes influence the nature of new investment and services.

The general approach adopted from the late seventies to the mid-eighties, was to emphasize internal restructuring. The onus was put on the managements of these companies to propose to governments their own methodologies for making their companies more effective. Thus, in a number of countries, most SOEs formed “Task Forces, Groups or Commissions” to review their operations and to propose measures for restructuring. However, it is not surprising that with this methodology, the pace has been slow and results long in coming. This realization has now led some governments to re-consider their earlier approaches.

2.3. Commercialization and Corporatisation

Internal restructuring approaches met with very limited success. The reason is that the focus of most restructuring efforts was narrow. Emphasis was placed on internal restructuring of institutions and re-defining organograms than looking at factors that affected service performance in terms of market needs, service quality, efficiency and therefore profitability.

From the late eighties to mid-nineties, restructuring efforts in infrastructure have moved from internal restructuring to commercialization. This process was often undertaken with donor assistance and took two major forms. One was “unbundling” whereby measures were taken to define core services or operations that the company should concentrate on and eliminate or hive off non-core operations. For example, most SOEs had a larger stock of real estate in terms of staff housing and offices than assets required for their core business operations. Considerable staff time and resources were committed by these organizations to managing these non-core services. The other was corporatisation of

these organizations. Hitherto, most infrastructure organizations operated as statutory bodies under the full control of the respective governments. Corporatisation was meant to give these organizations autonomy in their operations as well as a commercial orientation.

The strategy was first, to corporatise these entities from statutory bodies to limited liability companies and to “unbundle” their operations. This development cut across the board from the most to the least developed of the Southern African economies. Thus, South African Telkom became a limited liability company only in 1991, Malawi Railways Limited was formed in 1994 and the Zambia Telecommunications Company (ZAMTEL) during the same period. Most electricity utilities in the region such as ESKOM in South Africa, ESCOM in Malawi, ZESCO in Zambia, EDM in Mozambique and BPC in Botswana are still statutory bodies. Namibia has only during 1998, created TransNamib Transport (Pty) Limited by bringing together two parastatal transport companies, TransNamib Rail and TransNamib Carriers. Zimbabwe is only now in the process of separating its postal from its telecommunications operations by restructuring its Posts and Telecommunications Corporation.

2.4. Concessioning and Private Sector Participation

Only from the mid-nineties has the Southern Africa region taken any notable measures towards concessioning, thus taking the first step in the direct involvement of the private sector in infrastructure. This process has only just begun and successful concessions are only now beginning to emerge.

It can be said that the concept of privatization is taking root in the region. What has been different from country to country has been the pace and extent. Even countries like Zambia, which have undertaken perhaps the most far reaching liberalization and reform measures in the region including privatization of most SOEs, have not been so bold when it has come to privatization of infrastructure firms in railways, telecommunications and energy.

2.5. Divestiture

Very few countries have taken the route of divestiture from infrastructure and inviting private sector participation. The exception is Zambia which overnight, in 1994, not only announced the liquidation of the national airline, Zambia Airways, but also, made a policy decision to withdraw completely from provision of air transport services and leave the market to the private sector. This was also done for the passenger and freight transport with the liquidation of the State owned United Bus Company of Zambia (UBZ) and Contract Haulage Limited (CHL) respectively. In the place of Zambia Airways, two new private airlines emerged, Aero Zambia and Zambia Express Airways (ZAMEX).

Countries like Zimbabwe and Namibia have taken a more cautious approach and have adopted a model where what are considered strategic corporations (and most in

infrastructure fall within this category), will not be privatized but will instead, be restructured to operate on commercial basis.

2.6. Direct Private Sector Involvement

The direct involvement of the private sector in new infrastructure investment has been evident in large projects where there is a clear demand. Examples are the Maputo Corridor linking South Africa's industrial heartland of Gauteng to the port of Maputo in Mozambique. The other is the Lesotho Highlands Water Project (LHWP) driven by a private company, Rand Water, to move water from the mountains of Lesotho to South Africa.

Governments have also recognized that to attract private sector investment, an attractive investment environment that mitigates against risk and provides the necessary incentives, needs to be put in place. Thus, almost all countries now have Investment Centers and/or Privatization Agencies/Commissions. Although these do not specifically address issues related to private sector participation in infrastructure, they nevertheless, provide a framework for private sector involvement.

2.7. The Regional Framework

In the case of Southern Africa, in addition to the foregoing, there are two major developments, which have had a profound effect in influencing national policies to give due prominence to private sector participation in their economies. The first is the transition by South Africa to democracy and majority rule in 1994, to become acceptable as a partner and not as an outcast in regional development. South Africa brings a number of dimensions: the sheer size of its economy over-shadows the rest of the region; it has a strong and experienced private sector supported by a good financial base seeking investment opportunities in the rest of the region; it has a growing industrial base which requires infrastructure related inputs such as water and electricity; and finally, it has a large population, the majority of whom were marginalized under apartheid and therefore have a backlog of needs and demands that need to be met. Thus, there is mutual recognition of opportunities between South Africa and the rest of the region.

The other factor is the Southern African Development Community (SADC). Countries of the Southern Africa region have made a deliberate decision to create an integrated economic block and to remove barriers to the movement of goods, services and people across the region. The region has undergone radical transformation over the past decade. The SADC Treaty signed in Windhoek, Namibia in August 1992 provided the legal framework for such co-operation. It replaced the Memorandum of Understanding of the Southern African Development Co-ordination Conference (SADCC), established by the Lusaka Declaration of April 1980. That too, was born out of the "Frontline States", a political pressure group of the then independent countries of Southern Africa who sought similar status for their neighbors in Angola, Mozambique, Namibia and South Africa and Zimbabwe.

With the transformation of SADCC to SADC, governments of the region recognized that they needed a legally binding and clear framework to guide their regional integration process and objective. Thus, they decided to embark on the process of defining “Protocols or Agreements” in the various sectors to provide content and context to the regional integration agenda. The SADC governments publicly pronounced their intent to develop these protocols in a transparent and consultative manner involving a cross-section of stakeholders in the region including the private sector. For the first time, they also collectively acknowledged the role of the private sector in regional integration and for the need for the public and private sector to work together in partnership.

There is also a rising awareness and recognition that in an increasingly competitive and interdependent global economic environment, the region stands a better chance if it has a common approach and clear focus as a region and not as government and the private sector moving in different directions. In practice of course, a lot still needs to be done to facilitate convergence between the private sector and governments.

2.8. Infrastructure Protocols

The regional co-operation framework, has provided a basis for defining private sector participation. A number of protocols were signed by the SADC Heads of State and Government at the Summit held in Maseru in August 1996. Three related to infrastructure. These were on: Transport, Communications and Meteorology; Energy; and Shared Water Courses. Unlike other protocols signed at the same time such as Trade, the infrastructure protocols have since the SADC Summit held in Mauritius in September 1998, been ratified by two-thirds of the members and are thus, now legally in force.

The challenge is to translate these protocols into implementable actions at national and regional level. SADC has over the years, received and continues to receive considerable donor support from international co-operating partners particularly the European Union (EU) and the United States Agency for International Development (USAID). USAID through its Regional Center for Southern Africa (RCSA), established in 1995, based in Gaborone, Botswana, also the Headquarters of SADC, was instrumental in supporting the region conclude some of the protocols in infrastructure. It is also providing support for implementation particularly of reforms in the transport and telecommunications sectors through two major projects totaling \$30 million. These are SADC Transport Efficiency Project (STEP) and the Southern Africa Telecommunications Restructuring Program (RTRP). Both are implemented through the Southern Africa Transport and Communications Commission (SATCC) based in Maputo, Mozambique.⁹

SADC has a decentralized structure whereby each country co-ordinates a particular sector through what is known as “Sector Co-ordinating Units” or Commissions. Thus, infrastructure is co-ordinated by three different units. Transport and telecommunications (including matters related to postal services and meteorology) are co-ordinated by

⁹ USAID Regional Center for Southern Africa – Strategic Plan, 1997-2003

SATCC in Mozambique, energy by the Energy Technical and Administrative Unit (TAU) based in Angola and water by Lesotho, responsible for environment and land management.

III. NATURE AND RATIONALE OF REFORMS

The nature, rationale and extent of reforms for private sector participation in infrastructure differ by country and by sector. Some countries are far ahead of others while some governments are more amenable to inviting private sector participation in certain sectors and not others.

3.1. Common Principles

Going by policy pronouncements by most governments and debate at various regional fora, common principles emerge where there seems to be agreement, at least, in intent, on principles that should govern the infrastructure sector. To what extent this intent is carried out in practice again, differs by country and by industry. The common principles appear to be:

- ❖ Profitable Operations
- ❖ Commercial Orientation
- ❖ Improved Service Quality
- ❖ Market Driven Supply
- ❖ Autonomous Management

3.2. Participation Options

The principle of private sector participation has also been accepted by all sectors. However, there are variations in the extent and depth of private sector participation, in turn, dependent on the perception of governments, of the strategic importance of certain sectors. There are various options, all of which are in place in Southern Africa in one form or the other. These include:

- ❖ Outright Privatization
- ❖ Equity Participation
- ❖ Concessioning
- ❖ Outsourcing
- ❖ Management Contract
- ❖ Service Contract
- ❖ Performance Agreement
- ❖ Restructuring and Commercialization
- ❖ Corporatisation
- ❖ Divestiture

There are also other models such as private-public sector partnership in new investment and purely private sector driven investment. Below is a synopsis of private sector participation in the major infrastructure sectors in Southern Africa

3.3. Sector Status

3.3.1. Telecommunications and Information Technology

Governments of the region still view this as a strategic sector where government participation is necessary in the national interest. However, they also recognize that this is the one sector whose development requires introduction of new technologies and where private sector capital is available for investment. The challenge has been how to attract private sector participation and still maintain government control or interest.

The overriding considerations for private sector participation in the telecommunications and IT areas has been a result of a number of factors, the need for new investment to expand services, modernization (largely replacement of analog based telephone exchanges with digital technology), and pressure from the private sector who have recognized the opportunities to exploit the market made possible by new technology such as cellular and Internet. The region has a large demand gap to fill. Telephone Direct Exchange Lines (DELs) per 100 people range from 0.58 for Angola to 3.36 for Botswana and 9.57 for South Africa. In comparison, the average for the World is 10.49 and for Europe 35.36. Call completion rates are low. Between Swaziland and South Africa, the average is 53.2%, Swaziland to Mozambique, 37.0% and Swaziland to Malawi, 18.1%. The completion rate between Zimbabwe and South Africa is better at 60%. A lot needs to be done to improve service quality which in most cases, has not been possible with SOEs.¹⁰

The telecommunications sector is however, still considered a sensitive and strategic sector by most countries. None of the countries have, nor are likely, in the near future, to completely privatize this sector. There are exceptions, Zambia has lined up the Zambia Telecommunications Company (ZAMTEL) for possible privatization. However, the pace has been slow not because of lack of interest by potential investors, but caution by government.

The preferred choice seems to be to achieve the dual goal of capital injection, modernization and improvement of service while still retaining some government ownership and control through a strategic partnership arrangement. This was the case with South African Telkom (SA Telkom) who ceded 30% equity participation to an international consortium called Tinthana Communications LLC made up of SBC Communications International of the United States and Telekom Malaysia. The deal worth \$ 1.3 billion, is the single largest foreign investment in South Africa to date.¹¹

¹⁰ Southern African Development Community - Transport and Communications Report, 9-10 February 1997

¹¹ 1998 Southern African Economic Summit, Windhoek, Namibia, 17-19 May 1998, SADC Finance and Investment Sector Coordinating Unit (FISCU), Department of Finance, South Africa

SA Telkom has an estimated value of \$3.6 billion, annual revenues of \$3.2 billion and 56,000 employees. South Africa is the 35th country in the world to offer global seamless communication services to multi-national corporations world-wide. This was made possible when South Africa joined World Partners Association, a grouping of the largest telecommunications providers in the world. The grouping has 19 members in 35 countries. As a member, SA Telkom will receive portfolio of World Source Services.

Almost all countries of the region have finalized the process of restructuring of their telecommunications entities. Prior to the mid-nineties, most telecommunications providers were linked to postal services in what was commonly referred to as Posts and Telecommunications Corporations (PTCs). In terms of costing, there was often no separation of cost centers and more often than not, telecommunications divisions of PTCs subsidized the postal services. The two now operate as distinct entities and have been transformed from what used to be statutory bodies to limited liability companies. Even in those countries where this has not been done, the emphasis is on a commercial orientation and autonomous operations. Thus for most countries, the corporatisation process is complete, paving the way, for possible private sector participation.

The Internet is an example of how technology can change information access to whole population groups. At the end of 1996, only 16 out of the 52 countries of Africa had access to the Internet. Now, almost three-quarters are covered. Most African countries with Internet access have more than one Internet Service Provider (ISP). Of the top ten countries in terms of users, active and mature markets, four are in Southern Africa (South Africa, Zimbabwe, Mozambique and Zambia). Of the estimated 255 ISPs in Africa, 120 are in Southern Africa. The special place of South Africa needs to be recognized. South Africa's Internet community is 30 times larger than all of Africa and the country is among the top twenty countries in the world ranked by number of Internet nodes.

Estimates of the number of Internet users in Africa range from 700,000 to a million. If the lower range is taken, Southern Africa with about 620,000 users accounts for over 90%. On average in Africa, there is one Internet user in every 5000 people. The world average is 40 with North America and Europe at between 4 and 6. Availability is influenced by a number of factors, among them, limited computerization, high communication costs and the fact that Internet access is limited to urban areas, whereas the majority of the African population is in the rural areas. In Southern Africa, costs are highest in Angola (at \$6 per hour) and lowest in Botswana (at \$0.6 per hour). The average cost is estimated at \$2.01.¹²

Internet access is largely provided by Public Telecommunications Operators (PTOs) who normally assume a monopoly position. In Southern Africa, the exceptions are Mozambique, South Africa and Zambia. The Internet and related services, is an area, where there is great opportunity for private sector participation. Multinational ISP

¹² An Overview of Internet Connectivity in Africa, September, 1998 – Mike Jensen

providers active in Africa include, Africa Online, UUNET and Swift Global. The majority of providers are however, small businesses including Universities.

The cellular market is one where private sector participation has been very dominant. Of the ten Southern African countries under consideration, eight, Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe have cellular service. In some countries, there is more than one provider. South Africa has Vodacom and Mobile Telecommunications Network (MTN), Zambia has Telecel and Zamcell. In late 1997, Botswana awarded two cellular licenses, one was to Vista, made up of France Telecoms and local investors and the other to Mascom wireless comprising Zimbabwe's TSM Masiyiwa Holdings, PTI of Portugal and local investors. Zimbabwe has approved three licenses to Econet, NetOne and Telecel. Mozambique has Mcell. The cellular business is one where there is potential to build local private sector participation. There are also "spill-over" effects through distributors. There are indications that in those countries where private sector participation has been introduced, service quality as well as access has improved.

3.3.2. Energy

There has to date been very little private sector participation in the energy sector particularly in electricity. This is despite the fact that private electricity is making an increasingly significant contribution to the power needs of developing countries. According to Dr. Samuel Schweitzer, there has been an increase in the number of companies involved in private power projects in the developing world. In 1991, there were about 13 Independent Power Producers (IPPs) with equity in private power projects. By 1996, this had risen to 200. During the period 1994 to 1996, over 50 private power projects were built as BOO, 15 as BOT and one as BLT.

In Africa, private investment has increased more than ten times since the early nineties reaching \$11.7 billion in 1996. Rates of return in Africa are high at 24-30 percent compared to 16-18 percent in other developing parts of the world.¹³

The Southern African region has a hydro potential of 36,960 MW. Of this, only 7, 343 is being exploited. The Democratic Republic of the Congo (DRC) alone has a hydro potential of over 100 MW or more than twice the rest of Southern Africa including South Africa. However, this potential is yet to be fully exploited to meet the demands of industry and a growing population. Access to electricity in the region is very low. The percentage of population with access to electricity highest for South Africa at 45 percent and very low for the other countries, Botswana (3%), Lesotho (2%), Malawi (2.5%), Mozambique (2.7%). In the middle are countries like Zimbabwe (16%), Swaziland (8.5%) and Zambia (7.5%). There are also differences in the cost of electricity with Botswana having the highest cost at 10.3 US cents per kilowatt-hour (1995) and Angola and Zambia the lowest at 0.5 cents and 1.0 cents respectively. Cost in the rest of the

¹³ Private Power-Twenty Years of Change, Dr. Samuel Schweitzer, September 17, 1997, USAID Office of Energy, Environment and Technology, Washington D.C.

Southern Africa countries are similar with South Africa (3.0), Lesotho (4.5), Mozambique (4.5), Namibia (3.7), Malawi (3.0), Swaziland (4.3) and Zimbabwe (3.0). In terms of aggregate consumption, the bulk of electricity goes to industry (33%) with mining (29%), residential (19%) and agriculture and other uses (6%).¹⁴

However, despite this potential and a vast unmet demand, there is very little involvement of the private sector in the electricity sector. Electricity generation, transmission and distribution is still handled by the region's utilities all of whom are government owned. Most utilities still operate as statutory bodies and have not even undergone corporatisation. However, reform is in process. The utilities in Mozambique (Electricidade de Mocambique-EDM), Zimbabwe (Zimbabwe Electricity Supply Authority-ZESA) and Zambia (Zambia Electricity Supply Corporation-ZESCO) are developing policies for IPPs while EDM and ZESCO are also seeking to attract private sector involvement in Independent Transmission Projects (ITPs).

The first major privatization in the energy sector in the region is the sale of the Copperbelt Power Company, formerly the power division of Zambia's mining conglomerate, the Zambia Consolidated Copper Mines (ZCCM) to the private sector in 1997. Now known as the Copperbelt Energy Consortium, it is the first bulk transmission company in Southern Africa. The other IPP is Hydro Cahora Bassa (HCB) which controls Mozambique's huge Cahora Bassa complex.

Southern Africa is the most highly interconnected region in Africa. This interconnection and differences in capacities and demand as well as in electricity prices has given rise to the Southern African Power Pool (SAPP). Created in 1995, the SAPP is made up of 12 countries and their national utilities. SAPP is the first formal international power pool and the only functional pool in the developing world.¹⁵

Reform in the electricity sector has been driven by the need to meet growing demand and to improve service quality. Although reform and in particular privatization has been slow in the power sector, indications are that this situation will not last for long. SAPP is now in the process of establishing a Co-ordinating Center to be based in Harare, Zimbabwe. Among its mandates, the Center will assist utilities with their process of reform. SAPP has also established a Task Force on privatization aimed at assessing options for restructuring, commercialization and possible privatization of electricity utilities in the region.

3.3.3. Water and Sewerage

Like electricity, water and sewerage are areas where there is to date, little or no private sector involvement. Each of the Southern African countries normally has a water authority, often a government monopoly utility. Water distribution to commercial and domestic users is normally the responsibility of local authorities. Despite a growing

¹⁴ EAGER Report – Issue 7 Summer 1998, USAID – Equity and Growth through Economic Research

¹⁵ Supporting the Implementation of the Southern African Power Pool – World Bank – Industry and Energy Department, June 1998

demand particularly in urban populations, access to clean water is a major problem for most population groups.

Service delivery by local authorities is poor due to a multitude of factors, among them, low investment in facilities, inadequate billing systems resulting in low revenue collection rates, wastage and generally supply driven rather than demand driven management practices. Evidence suggests that partnership with the private sector would lead to improved service delivery.¹⁶

As in other infrastructure sectors, reform measures are in process. Zambia's capital city, Lusaka has an independent commercial entity which manages the city's water and sewerage system, the Lusaka Water and Sewerage Company Limited. The company's mandate is to operate on commercial principles. South Africa's Mpumalanga Province which borders Mozambique plans to contract a private company to operate its water and sewerage services for the next 30 years. Approval from central government is awaited.¹⁷ The outcome is certain to influence other provinces in South Africa and other countries in the region. With hundreds of municipalities in South Africa, this could trigger local private sector participation and help to further forge private-public partnership.

Namibia's first Build Operate and Transfer (BOT) project will be the construction of a water desalination plant for Namibia's second largest city, Walvis Bay. The port city has established an Export Processing Zone (EPZ) which as led to new industries and with the traditional fish industry expanding, water is becoming a critical factor not only to support industry, but also to meet growing demand. Walvis Bay's aquifers are not adequate, hence the decision to build a desalination plant. This will also be one of the first water concessions in Southern Africa. Zimbabwe has set up the Matebeleland Zambezi Water Trust Company. The company has the responsibility of bringing water to drought prone Zimbabwe's second largest city Bulawayo. The company's task is to implement the long awaited \$6.7 billion Matebeleland Zambezi Water Project intended to draw water from the Zambezi river into Matebeleland. Botswana has set as one of its priorities, the implementation of the National Water Masterplan with possible private sector involvement.

The largest example of private sector participation in the water sector is the Lesotho Highlands Water Project (LHWP). This massive undertaking which was conceived in the fifties is now in actualization. The project seeks to transfer water from the Maluti mountains in Lesotho to the South Africa's industrial heartland, Gauteng, to meet growing industrial and domestic demand. The client is a private company, Rand Water of South Africa.

The project has been a source of international fascination both because of its sheer size and engineering complexity. The project seeks to reverse the flow of the Sengo (Orange) river in Lesotho to feed into the Vaal river in South Africa. It involves construction on 5

¹⁶ Urban Development Policy - African Development Bank, April 1992

¹⁷ "Nelspruit Turns on the Taps on Privatisation" - Financial Mail, October 9, 1998

dams, 4 transfer tunnels, 2 delivery tunnels and 2 pumping stations. The tunnels will traverse a distance of 200 kilometers through the Maluti mountains. The total cost of the project is \$8 billion with the first phase expected to cost \$2.5 billion. The size and impact of the project has necessitated the involvement of both governments and has resulted in a partnership between the public and private sector. The tiny Kingdom of Lesotho is expected to earn \$50 million a year from royalties which will account for about 50% of Lesotho's foreign exchange earnings. The country's other major foreign currency source is remittances from migrant labor in South Africa's mines.

The Joint Permanent Technical Commission (JPTC) consists of representatives from South Africa and Lesotho and oversees the whole project. The Lesotho Highlands Development Authority (LHDA) is responsible for capital mobilization. South Africa's interests are maintained through the Trans-Caledonian Tunnel Authority (TCTA). The project is financed by a consortium of international and local financing institutions which include, the World bank, African Development Bank (ADB), European Development Fund, European Investment Bank, the Development Bank of Southern Africa (DBSA) and European commercial banks.

Rand Water, the final client of the project is now seeing the results of this massive investment with the Katse dam now complete and the start of water flow to South Africa. The project has had a major impact on Lesotho and will substantially alter the structure of the Lesotho economy which has hitherto depended on remittances from migrant workers to the South African mines as its major source of government revenue.

3.3.4. Transportation

Various forms of private sector participation are evident in the region. Although the principle of private sector participation has been accepted, more progress has been in some sectors than others.

- a). Road Transport
- i). Road Infrastructure

The SADC region has an interconnected road network from Cape Town in South Africa, to Arusha in Tanzania. However, the condition of the road network varies greatly from country to country. The roads in Angola and Mozambique are in poor condition due to the war situation in these countries but in relative terms, the Mozambique roads are in better condition. Of the remaining countries, South Africa, Namibia, Botswana and Zimbabwe, Lesotho and Swaziland have relatively good roads while Zambia and Malawi have generally poor road conditions.

Through SATCC, a Regional Trunk Road Network (RTRN), a total of 17,912 kilometers has been designated. The PTCM demands that member States co-ordinate their policies, technical standards, legislation and maintenance practices for roads. There are four major strategies and principles being pursued: major rehabilitation and reconstruction;

legislative reform; institutional development; and strengthening of local contracting capacity.

Deferred maintenance has taken its toll on the roads. The cost of deferred maintenance for the region is estimated at \$1.2 billion or 13% of the asset value of SADC roads. Faced with deteriorating road conditions and declining budgets, as well as pressure from multilateral bodies, governments of the region have had little choice but to reform. The condition of paved roads in good condition is only 56% with 24% classified as being in fair condition and 20% in poor condition. For unpaved roads, the situation is even worse, only 22% of the roads are in good condition with 32% in fair condition and 46% in poor condition.¹⁸

Reforms in the road infrastructure are therefore aimed at cost recovery based on economic criteria to have sufficient resources to maintain roads. The other is the need to improve the quality and cost effectiveness of road maintenance. It is estimated that savings of up to 25% can be realized from out-sourcing instead of the roads departments carrying out their own in-house maintenance (force account). The region is also considering a harmonized methodology for cost recovery at least for the RTRN. The total annual cost of road maintenance for the ten Southern African countries under consideration in this report are estimated at \$156.4 million. The estimated revenues from the proposed regional road user charges (for international or transit traffic only) amount to \$38.2 million per year.¹⁹

The reforms have been spurred by the World Bank's Road Maintenance Initiative (RMI) whose major thrust is to create autonomous road agencies and dedicated road funds.²⁰ Progress has been in this respect as well as in involving the private sector in the management of the road sector. Roads Boards have been established in Malawi, Namibia, South Africa and Zambia. A common feature of these boards is that they have high private sector representation. The board in Zambia has more private than public sector members. Road Funds are operational in Lesotho, Malawi, Namibia and Zambia. These are generally funded from a fuel levy. Countries are yet to diversify the sources of funding for the boards to include other road user charges. There is debate but differing schools of thought on the merits and de-merits of setting up a regional road fund for the RTRN. The overriding concern seems to be the reluctance by governments to cede their control of roads to "supra national" regional body.

Almost all countries are increasingly using the private sector for maintenance work through out-sourcing instead of relying on force account. This approach is not only cost effective, but has in most instances, improved the quality of road maintenance. The challenge facing most governments is how best to assist the local private sector

¹⁸ Southern African Development Community - Transport and Communications Report - February 1997

¹⁹ Proposed System of Harmonised Road Transit Charges for the SADC Region - Main Report - Southern Africa Transport and Communications Commission (SATCC), April 1997

²⁰ Managing and Financing Roads: An Agenda for Reform - Ian Heggie, March 1997 - Sub-Saharan Africa Transport Policy Program - The World and Economic Commission for Africa

construction industry, which has a high employment generation potential, to grow and to be sustainable.

There is another factor that has resulted in the rapid deterioration of the region's road network and that is, the shift of traffic from rail to road. Railways of the region are facing a decline in traffic. Road transport now commands between 70 to 80 percent of the regional traffic. Thus, bulk cargoes such as copper, coal and grains are increasingly being transported by road over long distances. In addition, the payload on trucks is increasing. The end result is severe overloading leading to considerable damage to the RTRN. The region is yet to agree on a standard payload, weighbridges are few and their operation not co-ordinated. Weak enforcement and poorly paid public workers has exacerbated the situation. There have been proposals for the private sector to be involved in weighbridge management and overload control.

ii). Road Passenger Transport

The most vibrant, visible and competitive private sector participation is in the road transport industry particularly passenger transport. The road passenger industry is a rapidly growing market in the region. This has been a result of a number of factors, among them, increase in urban populations, increased mobility of populations in the region as a result of general relaxation of travel and foreign currency restrictions in most countries and liberalization of trade. These factors and economic disparities among countries in the region have led not only to increased travel and labor migration but also to a significant increase in informal trade.

Most countries have also liberalized their passenger transport industry. In Botswana, Lesotho, Swaziland, South Africa and Zambia, the passenger transport industry is fully liberalized with no government involvement. In Angola, Malawi, Mozambique, Namibia and Zimbabwe, there is some government involvement although the private sector is equally strong. The road passenger industry offers a number lessons. The first is that liberalization without regulation can lead to over-capacity, poor financial returns and cut-throat and in some instances, dangerous competition (such as "Taxi Wars" in South Africa), concentration of service in a few areas and congestion. In most countries, while liberalization has benefited the urban population, it has hurt the rural populations most of whom have less access to transport services than they did when there was public provision of passenger transport. This is because, without incentives, private sector operators shun the rural areas. Despite the high capacity to create employment and therefore incomes, there is also a high business collapse rate due to market saturation. Some regulation is required to nurture a healthy industry and also to ensure that all population groups have reasonable access to transport.

iii). Road Freight

Road freight is the dominant mode of transport in the region. It is made up of some large companies with subsidiaries or operations throughout the region but the majority are often small "owner/operator" fleets. As in passenger transport, this is an area almost

exclusive to the private sector. Only a few countries have public owned freight companies such as Autonet in South Africa. Other countries such as Zambia which had parastatal companies have divested.

Unlike the road passenger market, the freight market is in some sense, self regulating because of the high costs of entry and the fact that competitiveness is dependent on the ability to obtain contracts and remain in business. As cross-border trade increases, this is an industry where there is a large potential for private sector growth particularly for local entrepreneurs and employment creation.

However, as in the case of road transport, there are some costs involved to the economies. Rural areas where most food production takes place, are now marginally served because of a culmination of poor road conditions and lack of incentives for road freight companies to operate in these areas.

At the level of the region, a major hindrance to the growth of the industry is protective practices, not just by governments, but by the freight industry itself. Cross border operations are restricted through a cumbersome system of permits. The permit system not only controls market entry, but also limits competition. The result is sub-optimal utilization of the region's transport capacity.

There is also restructuring of government departments themselves to enable them provide a more efficient service in partnership with the private sector. Examples are the South African Cross-Border Road Transport Agency which has taken over the responsibility from government of negotiating and obtaining road transport permits for the Southern African haulers in neighboring countries. Other countries are also exploring possibilities on how some of their government departments can be more commercially oriented with private sector participation.

b). Railway Transport

The region has a well inter-connected railway network. Trains can run from Cape Town in South Africa to Dar-es-Salaam in Tanzania as well from the port of Lobito in Angola to the port of Beira in Mozambique, thus linking the Atlantic and Indian oceans. Contrary to common belief, all railways in the region including the jointly owned Tanzania-Zambia Railway Authority (TAZARA) which links the port of Dar-es-Salaam to the Zambian hinterland, has a standard 1.067 meter "Cape" gauge. Only the East Africa railways of Tanzania, Uganda and Kenya have a different gauge.

The railways of the region therefore have great potential. The SADC Interconnected Regional Rail Network (IRRN) has a total length of 33, 593 kilometers about 62% of which is in South Africa. Only parts of the network are not serviceable, Benguela line in Angola and Sena line in Mozambique which links the Malawi network to the rest of the region. Thus, only Angola and Malawi are not currently on the active IRRN.

The potential offered by the railway lines has not been fully exploited. All railways of the region including South Africa's Spoornet have consistently lost business over the years. The majority of railways in the region with the exception of Spoornet (South African Railways), Botswana Railways and Swaziland Railways are loss making. The railways of the region offer a classic case of government failure to run business. Long periods of deferred maintenance, lack of capital injection, restricted management and political interference have left most railways in a commercially unviable position. The trend has been low capacity utilization, low locomotive availability, declining traffic, loss making and a service that is not responsive to the market.

All railways of the region are government owned. However, the momentum for reform is picking pace. All railways are undergoing one form of reform or the other. Almost all have completed the corporatisation process and have "unbundled" their operations. Before then, some railways had spent more time and resources managing their real estates than they did their railway business. The experimentation in internal restructuring and commercialization of the late eighties and mid-nineties has given way to an accelerated move towards concessioning and in a few cases, privatization.

The general thrust of the current reforms seems to be concessioning. Very few governments with the exception of Zambia are considering privatization. Zambia Railways is now under a management contract with a Swedish firm in readiness for privatization. Other countries have not been so bold, favoring the concessioning option. There reasons for inviting private sector participation in railways is the fact that governments can no longer sustain loss making railways through subsidies, most railway infrastructure is old and needs upgrading and funds for new investments are not available. Further, railways have consistently lost business to road freight over the years. Governments have realized that their railways need to improve service and revenues or face collapse.

There are a number of concessions in the region. South Africa, has concessions on two lines, the Alfred County line between Port Shepstone and Harding and the Aliwal North and Barkley East line. A third, between Bethlehem and Bloemfontein is under consideration. Zimbabwe is in the process of unbundling its national railway, the National Railways of Zimbabwe into at least two entities, one responsible for infrastructure and the other for operations. This is the first step towards concessioning. Mozambique has made some progress towards the concessioning of its Nacala line which links the port of Nacala to Malawi's commercial center, Blantyre. Malawi railways is being concessioned to GB Railways of the UK and Spoornet of South Africa.

A private railway line is under construction between Beitbridge one of the busiest borders in the region to West Nicholson Junction. This will provide a direct railway link between South Africa and Zimbabwe's commercial city Bulawayo by passing Harare with considerable savings in transit times due to a reduction in distance. A few years ago, construction of a private railway line in the region would have been inconceivable. This goes to show how far and perhaps, how irreversible the reform process is. Negotiations have reached an advanced stage for the concessioning of the TAZARA

jointly owned by the governments of Zambia and Tanzania. If this succeeds, it will be the first cross-border concession in the region. The process of privatizing Swaziland Railways has commenced.

In recognition of their changing role, railways of the region have formed an industry association, the Southern African Railways Association (SARA). With its headquarters in Harare, Zimbabwe, the association's aim is to promote reform in the railways and act as industry lobby with the aim of getting business back for the railways and improving profitability.

c). Ports

As in railways, the favored mode of private sector participation in ports is concessioning. The region's ports (with the exception of South African port system, Portnet and Namibia's Namport), have operated below capacity and have been losing money. Most investments that have taken place in the port systems of Angola, Mozambique and Tanzania have been donor funded. Efficiency and reliability have also been major concerns by users. Average capacity utilization for the region's ports for containerized cargo is 71.7%. Port utilization against installed handling capacity ranges from 12% for the Angolan Port of Lobito, to 97% for the South Africa port of Richards Bay. Within these extremes, on average, port utilization capacity in the region is about 50%.²¹

The situation in the region has also changed. Where in the past, landlocked countries like Zambia, Botswana, Zimbabwe, Malawi and Swaziland had little choice in routing options due to political and other considerations, this has all changed now. These countries have more alternative routes and this has resulted in greater competition for traffic by the various port systems. As shippers have more choice, they are demanding a more efficient service. These internal and external factors combined, have been the driving force for reform in the ports sector.

In Namibia, two bulk terminals in the port of Walvis Bay are privately operated. Stevedoring has been out-sourced to four private companies. South Africa has concessions for the Richards Bay coal terminal and the fruit terminal in Cape Town. In Tanzania, the container and grain terminals in the port of Dar-es-Salaam have been concessioned. There are seven concessions in Angolan ports for various services. The container and citrus terminals in the Mozambican port of Maputo have been concessioned. The sugar terminal in Maputo port as well as the container, citrus, sugar and coal terminals in the port of Beira are operated as joint ventures between CFM (Mozambique Ports and Railways), the government owned holding company for the entire Mozambique port and railway system and the private sector. During the last half of 1998, the Mozambique port of Maputo was concessioned to an international consortium which includes Unicorn of South Africa, Mersey Docks and Harbor of the UK, Skanska, a Swedish based company, Liscont of Portugal and a Mozambique consulting group, Gestores. This is a fifteen year lease with expected investment of \$50 million. Zambia is

²¹ As cited in 15 above

preparing its only inland harbor, Mpulungu on lake Tanganyika for concessioning. The port handles traffic from South Africa, Malawi, Zimbabwe and other SADC countries to Burundi, Rwanda and Tanzania.

d). Air Transport

The air transport sector is no exception to private sector participation facing other infrastructure sectors.

i). Airports

Autonomous airport companies have been established in Mozambique, South Africa and Zambia with those in South Africa and Zambia being partially privatized. Air traffic for the SADC region grew from 12.5 million passengers in 1995 to 16 million by 1997. The region's air transport hub is clearly Johannesburg. In 1997, the South African Airport Company sold 20% of its equity to a strategic partner, Aeroporti di Roma. Zambia's National Airports Corporation Limited is one of the first autonomous airport companies to be created in the region. The Zambian government has approved the concessioning of its three major airports, Lusaka, Livingstone and Ndola. The general trend in the region is to limit the role of government in air transport to regulation, air traffic control and air safety. Namibia is in the process of establishing an autonomous entity to manage to manage its airports on commercial basis starting in 1999.

ii). Airlines

One of the boldest moves in divestiture was Zambia's voluntary liquidation in 1994, of its 30 year old national carrier, Zambia Airways. The government's rationale was that they could not subsidize a national airline catering for a small percentage of the country when subsidies for the basic food, catering for a majority of the population were eliminated. Zambia Airways had become insolvent due to, a bloated labor force, a growing interline settlement bill which had to be paid in foreign currency and general inefficiency. This situation was not peculiar to Zambia, but reflects the general state of most national carriers in the region.

Botswana, Mozambique, South Africa and Zimbabwe are considering options for private sector involvement in their national airlines. In addition, most have liberalized their domestic air transport market. There is however, no agreement on the liberalization of the regional market. South Africa's SunAir was sold for \$9.9 million to a consortium of investors including a local consortium, Rethabile, Co-ordinated Network Investment and Comair.

The private sector is gaining visibility in the air transport market. The Zimbabwe Express Airlines, a private company is posing stiff competition for the national carrier, Air Zimbabwe particularly on the domestic routes and on the regional Harare-Johannesburg route. Zambia has a number of privately owned domestic air companies such as Roan Air and Eastern Air. For international operations, Aero Zambia, a fully

privately owned airline has filled the gap left by Zambia Airways. Another private company, Zambia Express Airways, only operated for a few years and went under. This shows that private sector participation does not in all instances necessarily lead to efficient and viable operations.

In South Africa, there is growing partnership. British Airways has entered into a partnership with the privately owned, Comair. Sabena has a joint operation with South Africa's semi-autonomous Nationwide. The Lesotho National Carrier, Lesotho Airways was sold to a South African charter company, Ross Air in 1997 for \$2.2 million. The government of Swaziland is seeking a strategic partner for its Royal Swazi National Airways Corporation.

e). Regional Initiatives

Apart from private sector participation in individual sectors, there are a number of regional initiatives and approaches that hold great potential for private sector participation in a broader integrated regional context. Three are being pursued within the framework of infrastructure. These are, Development Corridors, Spatial Development Initiatives and One Stop Border Posts. These initiatives are intended to be led primarily by the private sector and considerable progress has already been made in some areas. The corridor concept is particularly important to landlocked countries as they lead to improved transport networks as well as more efficient border post operations and therefore more efficient movement of the trade of these countries. This not only reduces costs and leads to economic competitiveness, but has a broader economic development implications. Professor Jeffrey Sachs of Harvard states that by being landlocked, economic growth rates are reduced on an annual basis by between 0.7% and 1%.²² This is by virtue of being landlocked before transport efficiency considerations are taken into account.

i). Development Corridors

The concept of Development Corridors has taken root in the region. The general principle is to view the major transport routes from the maritime ports to the hinterlands that they serve, not merely as transport, but economic corridors with activities related to agriculture, industry, commerce, communications tourism and other industries. Thus, the corridors would serve as growth points, not just for large industries, but also for emerging small-scale industries.

A number of such corridors have been formally designated in the region. These include:

- ❖ Maputo - linking South Africa to Mozambique
- ❖ Beira – serving primarily Zimbabwe and Zambia
- ❖ Nacala – catering for Malawi

²² “The Limits of Convergence - Nature, Nurture and Growth” - Jeffrey Sachs - The Economist, 14-20 June 1997

- ❖ Rovuma – a new corridor proposed between Mozambique and Tanzania
- ❖ Dar-es-Salaam – between Zambia and Tanzania
- ❖ Walvis Bay – linking the Namibian port of Walvis Bay to Botswana and Zambia through the newly opened Trans-Kalahari Highway
- ❖ Namibie – linking the Angolan port of Namibie to Namibia
- ❖ Lobito– through the Benguela railway line which links Angola to the rest of the SADC countries through the Democratic Republic of Congo (DRC) and giving Zambia access to the port of Lobito in Angola
- ❖ South Africa ports of Durban, Cape Town, Port Elizabeth and Richards Bay to virtually all the land-locked SADC countries.

An example of the impact of such corridors is the Maputo Development Corridor which links South Africa’s industrial heartland of Gauteng with the Mozambican port of Maputo. This corridor is being developed with the private sector in the forefront.

The Maputo Development Corridor is an example of what can be achieved with partnership between the public and private sector, political will, and commercial demand for services to be provided. Started in August 1995, the corridor involves upgrading road and rail links between South Africa and Mozambique and dredging of the port of Maputo. Following conception, an investor conference was held in May 1996. Major components of the corridor include:

- upgrading of the Witbank – Maputo toll road to be built at a cost \$400 million under a 30 year concession to a consortium called, Trans African Concessions
- rehabilitation of Maputo port at a cost of \$85 million
- rehabilitation of the Southern Mozambique railway network
- upgrading of the Ressano-Garcia border post and its operation as a “One Stop Border Post” on a Build Own and Transfer (BOT) basis. A government to government agreement has been concluded to facilitate operation of such a border system

The corridor has spurred other developments such as the Mepanda-Unca hydro-electric project on the Zambezi river to be developed at a cost of \$200 million to supply electricity to Mozambique. Another is the joint venture effort involving the electricity utilities of Mozambique, Swaziland and South Africa to supply power to the new Mozal aluminium plant in Mozambique through the construction of two 440 Kv lines at an estimated cost of \$105 million. The Mozal Aluminium Smelter plant is a huge investment valued at \$1.3 billion.

In total, the Maputo Corridor has 180 projects at an estimated cost of \$7 billion. Already, \$ 2 billion has been committed with 8, 000 new jobs. There are numerous spin-offs to both the formal and informal sector resulting in increased incomes. The corridor is considered a model for other development corridors in the region. The fact that the project has been able to move so quickly from conceptualization to actualization is testimony of the momentum of private sector driven projects and political commitment at the highest level.

ii). Spatial Development Initiatives

A related concept is that of Spatial Development Initiatives (SDI). An example is the Lubombo SDI which adjoins the Maputo Corridor. This initiative involves Swaziland, Mozambique and South Africa. The aim is to develop an economic zone linking the province of Maputo in Mozambique to the North Eastern parts of Kwazulu Nata and Eastern Swaziland. The corridor involves agriculture, industry tourism and transport and communications links. The private sector is expected to take the lead in the development of SDIs

iii). One Stop Border Posts

Outside South Africa, border posts in the region are totally inadequate in terms of physical layout, facilities, systems and facilitation. Studies have shown that delays at major border posts cost the region about \$60 million annually. Despite demand, facilities are not available. Requirements include, parking space, office space, rest and sanitation facilities, communication, restaurants, banking facilities and related services. The private sector could invest in these facilities provided the framework was in place to enable them to do so. Provided the necessary framework is put in place, border posts could be managed by the private sector on an agency basis on behalf of governments. The Namibian Ministry of Finance has invited the private sector to propose ways it could be involved in the management of Namibia's border posts including those on the newly opened Trans-Kalahari highway which links Namibia to Botswana.

Apart from physical constraints, delays at border posts are a result of poor facilitation. This is linked to lack of harmonization of customs documents and procedures and limited co-ordination between adjacent customs administrations. A solution lies in the possible introduction of a computerized customs system that is regionally linked. Such a system would, provided there was concurrence by governments, result in quicker transit through pre-clearance of goods. Crown agents have introduced such systems and are operating them in countries such as Mozambique. There is no reason why the private sector cannot be contracted by governments to provide such a service.

Border posts that handle large volumes of traffic and that would qualify for one stop operations include Beitbridge (South Africa and Zimbabwe) and Chirundu (Zimbabwe/Zambia). Through SATCC, a Border Post Operations Working Group (BPOWG) comprising officials from SADC countries has been set up to explore how this concept can be implemented in the region. There is little doubt that improving border post efficiency would go a long way, not only in facilitating trade, but also in improving the competitiveness of the regional economy.

IV. THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR PRIVATE SECTOR PARTICIPATION

Private sector participation in infrastructure hinges on a number of factors, not least, the legal environment for conducting business. Business is a calculated risk. The private sector therefore requires an environment that reduces and where possible, eliminates external risk so that business decisions can be focused on pure business risk. This requires a stable and predictable macro-economic environment, political stability, transparent procedures such as in tendering or contract award, currency convertibility and mobility. Above all, business confidence is enhanced if there is a legal framework that protects the investor and a regulatory framework that defines the rules for conducting business.

4.1. Absence of Requisite Legislation

Countries of Southern Africa do not have investment legislation specifically targeted at infrastructure. Most countries are however, seeking to create an environment conducive to attracting investment. Most have legislation that deals with investment and have established investment centers, privatization agencies or investment facilitation agencies all aimed at attracting and facilitating private sector participation. In addition, most countries have established Stock Exchanges as a way of mobilizing investment resources. However, this legislation does not address the specific needs of private sector participation in infrastructure. This is still a large gap that needs to be filled.

4.2. Weak Regulatory and Institutional Frameworks

A major weakness in the region is lack of adequate capacity at the national level to manage the reform process in infrastructure effectively. In most countries, government ministries and departments are expected to take the lead in this process. However, weaknesses within these institutions in terms of, inadequate resources, lack of analytical capacity, unresponsive management systems, low skill levels and absence of requisite experience has meant that the overall pace and quality of the reform process has been adversely affected. A related problem has been in some instances, lack of political will and commitment to carry forward the reform process.

Private sector participation requires that the necessary regulatory frameworks are put in place to guide and provide a transparent mechanism for managing the respective industry or sector. This means private sector players in the sector or industry as well as governments must be clear as what the rules of involvement are. Issues such as market entry, competition, ownership, investment and management of externalities among others, need to be clearly defined in any regulatory framework. The private sector must also be confident that the regulatory authorities have the necessary autonomy to function in a fair, transparent and decisive manner. Equally important is the need to have a mechanism for conflict resolution and dispute settlement.

Countries of Southern Africa have weak regulatory capacities. In most infrastructure sectors, this is only just beginning. In the energy sector for example, only three countries, Mozambique, Namibia and Zambia have established regulatory bodies. There are no independent transport regulators for road, rail, air or maritime transport. These

functions are performed by government departments such as licensing authorities, inspectors of railways, departments of civil aviation or maritime authorities. A number of countries, notably Botswana, Malawi, Mozambique, Namibia, South Africa and Zambia have telecommunications regulators in place. None of the countries of the region has established an independent regulatory agency for water. This function is often performed by government water authority or by local government administrations. A few countries have or are in the process of establishing environmental protection agencies. A strong regulatory framework and capacity is an essential pre-requisite to private sector participation in infrastructure.

4.3. Country Overview

A summary of the legislation/institutions available in each country in support of private sector participation is as follows:

4.3.1. Angola

- Institute for Foreign Investment
- New Foreign Investment Law passed in 1995
- Angola has no Stock Exchange

Angola has opted for largely concessioning in its approach to private sector participation in infrastructure.

4.3.2. Botswana

- Financial Assistance Policy (FAP) – provides capital grants for businesses involved in import substitution, export promotion, tourism and which generate local employment
- Trade and Investment Promotion Agency (TIPA) replaced by
- Botswana Export Development and Investment Authority (BEDIA) established in 1998
- Task Force on Privatization
- Botswana Stock Exchange established in 1993

In 1997, Botswana established a Task Force to develop a Privatization Policy for Botswana. The draft “Government White Paper” which is under consideration by government, proposes the establishment of a body to be called, the Public Enterprise Monitoring and Privatization Agency (PEMPA). Over fifty public institutions, have been identified by the Task Force, for possible commercialization and privatization. In infrastructure, these include, Botswana Power Corporation, Air Botswana, Botswana Telecommunications Corporation and Botswana Railways.

4.3.3. Lesotho

- Lesotho Investment Promotion Center, a division of Lesotho National Development Corporation (LNDC)
- Privatization Unit in the Ministry of Finance established in 1995

Lesotho has sold its only infrastructure company, Lesotho Airways. The Lesotho Highlands Water project, is one of the largest private sector led infrastructure projects not only in Southern Africa, but in the world.

4.3.4. Malawi

- Malawi Investment Promotion Agency (MIPA) set up in 1991 through the Investment Promotion Act
- Malawi Privatization Commission
- Malawi Stock Exchange established in 1994

Malawi has embarked on an ambitious privatization program which in infrastructure, has concentrated on Malawi Railways.

4.3.5. Mozambique

- Investment Promotion Center – Centro de Promocao de Investimentos (CPI) set up in 1984
- Investment Law of 1993
- Installation Commission for the Mozambique Stock Exchange under the Ministry of Planning and Finance set up in 1997
- Stock Exchange expected end of 1998

Mozambique has one of the most extensive privatization programs in Africa in terms of number of entities being offered for sale. The privatization program is administered by three institutions, the Technical Unit for Enterprise Restructuring (UTRE), Office for Restructuring of Industrial Enterprises, Commerce and Industry (GREICT) and the Unit for Restructuring of Agricultural Entities (GREAP).

With respect to private sector participation in infrastructure, the greatest progress has been with ports. The national telecommunications operator, TDM is scheduled for privatization in 1999. The possible sale of the national airline, LAM is still to be finalized. The Maputo Development Corridor is one of the largest private-public partnerships in infrastructure in Africa.

4.3.6. Namibia

- Investment Center in Ministry of Trade and Industry
- Foreign Investment Act of 1990
- Namibia Stock Exchange set up in 1992

Namibia has opted for a gradual process of privatization. The strategy is to hive off non-core operations of SOEs and subsequently, re-orient them on commercial lines. This approach may be a result of the fact that Namibian SOEs in infrastructure have not performed badly relative to other countries in the region as most of them, although government owned, operated on commercial lines. Concessioning is being considered in respect of the railway company TransNamib. Namibia's airports are to be run by an autonomous commercial entity.

4.3.7. South Africa

- Investment South Africa, established in 1997
- Johannesburg Stock Exchange (JSE) established in 1887 and 19th in the world in terms of market capitalization.

South Africa has embarked on extensive restructuring of its huge holding company Transnet which controls the railways (Spoornet), ports (Portnet), airline (South African Airways), road freight (Autonet) and other companies such as the Transtel, its communications division. Up to 25 percent of the equity of Transtel is to be offered to a strategic partner. South Africa's approach to private sector participation appears to be strategic partnership and concessioning with outright sale and privatization as exceptions. The largest single example of private sector participation is the sale of 30% of SA Telkom's equity at a price of \$1.3 billion.

4.3.8. Swaziland

- Swaziland Industrial Development Corporation (SIDC) promotes investments
- Investment Code of 1997
- Swaziland Stock Exchange established in 1991

Private sector participation in Swaziland is just emerging. The privatization process for Swaziland railways has just commenced, a strategic partner is being sought for the national airline, Royal Swazi National Airways Corporation and the Swaziland Posts and Telecommunications Corporation is seeking a partner to acquire minority shares.

4.3.9. Zambia

- Zambia Investment Center established in 1992
- Zambia Privatization Agency
- Securities and Exchange Commission officially launched in 1995
- Lusaka Stock Exchange (LuSE), set up in 1994

Zambia's privatization process is in its second phase. It is one of the most radical and far reaching privatization drives in any one country in Africa. SOEs commanded about 80% of the Zambian economy. Since 1991, the government has embarked on a massive

divestiture and privatization process. In infrastructure, the government has divested in air transport (Zambia Airways), road passenger and freight (United Bus Company of Zambia and Contract Haulage respectively) and in freight forwarding (Zamcargo limited). The Zambian government is now embarking on privatization of infrastructure companies in energy (Zambia Electricity Supply Corporation), telecommunications, (Zambia Telecommunications Company), railways (Zambia Railways and TAZARA), airports (National Airports Corporation), and harbors (Mpulungu Harbors Corporation).

4.3.10. Zimbabwe

- Zimbabwe Investment Center, established in 1993
- Zimbabwe Export Processing Zone Authority
- Zimbabwe Stock Exchange opened to foreign participation in mid – 1993

Zimbabwe has constituted an Inter-Ministerial Committee on Privatization. Zimbabwe has opted for restructuring rather than privatization of what has been termed, strategic corporations. Zimbabwe is unbundling its railway, the National Railways of Zimbabwe, into independent operating entities. The newly introduced Communications Bill is intended to unbundle the Zimbabwe Posts and Telecommunications Corporation into four companies, telecommunications, postal equipment manufacturing and a cellular network.

4.4. Regional Overview of Institutional and Regulatory Framework

At the level of the region, considerable progress has been made in seeking to define an investment environment for the infrastructure sector so as to promote private sector participation. Article 3.3 (2) of the SADC PTCM states, "...Member States shall create and maintain regulatory frameworks, investment regimes and incentives which facilitate the provision of such infrastructure by the public and private sector."²³

The region has a number of institutional structures at regional level in the various infrastructure sectors. In line with infrastructure ownership patterns of the past, these structures are dominated by governments or SOEs. However, as private sector participation in infrastructure takes hold, the challenge is how to involve the private sector into these structures or indeed if these structures need to continue to exist in their current form. A synopsis of the existing regional structures in infrastructure is given below.

4.4.1. Transport

With respect to transport this article has been carried a step further. SATCC has prepared draft legislation called, "Investment in Transport Act"²⁴ This draft legislation was endorsed by the SADC Ministers of Transport and Communications at their meeting held

²³ SADC Protocol on Transport Communications and Meteorology, signed August 1996 and ratified by majority of Member States, September 1998

²⁴ Model Legislation - Investment in Transport Act - Third Draft, May 1998, Southern Africa Transport and Communications Commission Technical Unit, Maputo, Mozambique

in Swaziland in June 1998. When it is finalized and approved, it will become an integral part of the PTCM. The PTCM has now been ratified by two-thirds of the SADC countries, a requirement which must be met before the protocol comes into force and becomes binding among Member States.

The Investment in Transport Act or ITA, as it is commonly referred to defines among other issues, the institutional arrangements required at national and regional level to promote private sector investment, defines the investment approach, facilitation and promotion, as well as compliance and monitoring.

a). Railway Transport

The SADC Railways Chief Executives Conference (SRCEC) brings together various railways to foster coordination and therefore efficient operation of the inter-linked SADC railway system. The establishment of a permanent Secretariat, SARA based in Harare will further enhance the coordination capacity of the railways. SARA is currently made up of government owned national railways. The challenge facing SARA is how it will not only accommodate, but meet the needs of emerging private sector led railways.

b). Road Infrastructure

The SATCC regional Working Group on Road Infrastructure brings together National Directors of Roads from various countries. The group has made some progress in defining common standards and in particular in promoting a policy shift from force account to out-sourcing, thus promoting private sector participation in road maintenance. The newly formed, private sector driven roads boards in various countries, are yet to have a mechanism for interaction at the regional level.

c). Road Transport

Government departments responsible for road transport and licensing also meet at regional level within the auspices of the Working Group on Road Transport. This group for example, was instrumental in the introduction of the common SADC driver's license whose production in most countries has been sourced-out to the private sector under government supervision. The private sector led Federation of Regional Road Freight Associations (FRRFA) brings together road transport operators associations in individual countries into a regional forum. The FRRFA has acted as a strong lobby in shaping regional policies. The national road transport passenger associations are yet to converge at regional level.

d). Air Transport

Airport infrastructure and air transport service providers meet in a regional forum called, the "Joint DCA/CEOs of Aviation Service Providers". Cooperation in air transport and safety is fostered through this group.

e). Maritime Transport

Regional coordination in the maritime sector is fostered through the Joint Working Group for Port Administrators, Shipping, Clearing and Forwarding. The clearing and forwarding agents in the region, established in February 1996, the Federation of Clearing and Forwarding Associations of Southern Africa (FCFASA). Although relatively new, the FCFASA has been active in seeking to influence reform in the region particularly in such areas as improvements in cross-border facilitation.

4.4.2. Cross-Border Facilitation

Poor cross-border facilitation is one of the major constraints to efficient transportation and trade in the region. Under the auspices of SATCC, the Border Post Operations Working Group (BPOWG) has been set up to propose measures to improve the efficiency of border posts and transit facilitation in general. The group not only involves government officials, but industry associations such as FRRFA and FCFASA.

4.4.3. Telecommunications

The Telecommunications Bill, which is similar to the ITA, was approved by the SADC Ministers of Transport in June 1998 and now forms an integral part of the PTCM. Both pieces of legislation seek to shift the provision on infrastructure away from government to the private sector, particularly for infrastructure and services that have the potential to be commercially viable. The role of government is largely regulatory and monitoring. Both pieces of legislation define ownership rights and the investor's ownership rights.

In the telecommunications sector, as a result of entry into the market of other players, governments have been compelled to set up regulatory mechanisms. Botswana, Malawi, Mozambique, Namibia, South Africa and Zambia have telecommunications regulators in place. Lesotho, Swaziland and Zimbabwe are reviewing their national legislation so as to introduce legislators and this is expected to be in place by 1999. In addition, through the regional cooperative framework of SATCC, these national regulators have created a regional forum called the Telecommunications Regulators Association of Southern Africa (TRASA). The aim of TRASA is to adopt common principles and approaches as well as learn from each other. TRASA, although still in its formative stages, having been established only in 1997, has already proved its relevance to the region.

The public telecommunications service providers in Southern Africa, have a mechanism in place at the regional level to coordinate their operations. This is through SATA, the Southern Africa Telecommunications Administration. SATA has various working committees whose responsibilities include addressing issues related to, connectivity, billing and other operational issues. With the advent of cellular providers and ISPs, the question is whether SATA needs to be expanded or redefined to accommodate these new entrants or if new structures are required altogether.

4.4.4. Energy

The electricity utilities in the region coordinate their policies and foster coordination at the regional level through SAPP. The proposed establishment of a Coordination Center in Harare, Zimbabwe, will enhance the effectiveness of SAPP.

Three countries, Mozambique, Namibia and Zambia have established regulatory bodies for energy. As in other sectors, the challenge facing SAPP is how to accommodate private sector providers who are emerging in the energy sector.

Ultimately, policy reform and change is subject to political acceptance, and infrastructure is no exception. Within the Southern African cooperation framework, political endorsement of decisions is achieved through annual meetings of responsible ministers. The “Committee of Ministers” of ministers of transport and communications meet once a year under the auspices of SATCC. “Meetings of Energy Ministers” are also held annually with secretarial support provided by the SADC Energy Technical and Administrative Unit (TAU) based in Luanda, Angola.

4.5. Private Sector Advocacy Role

While the foregoing institutions and structures may vary in terms of effectiveness and impact, they help to illustrate that an elaborate mechanism exists in the region to address various issues affecting infrastructure, not least, the participation of the private sector. The foregoing also seeks to make the point that to be effective, private sector participation cannot and need not be limited to investment and service provision alone, but that the private sector can play a critical role in shaping regional policies.

The private sector need not wait for governments to formulate policies in isolation but should be active participants in the formulation, interpretation and implementation of policies. The private sector should be pro-active advocates for positive change rather than passive observers. However, to do this effectively, the private sector needs to engage governments on a substantive basis. This requires that the private sector develops the necessary capacity to undertake analysis, to package and target this information in manner that enables the information to reach the right decision makers at the right time and to engage in proactive dialogue and advocacy. The private sector can also play a role in monitoring to ensure that agreed policies are being implemented effectively.

Additionally, the private sector can play a role in ensuring that various institutional structures being set up both at national and regional level such regulatory frameworks address the concerns of the private sector. Equally, once these institutions are set up, the private sector can play an important role through advocacy, to ensure that these institutions are effective and transparent.

V. EXPECTED IMPACT OF PRIVATE SECTOR PARTICIPATION

Experience from elsewhere in the world and the impact in the region in those sectors where private sector participation is gaining momentum such as in telecommunications and information technology, has shown that substantive benefits can be derived from private sector participation in infrastructure. Among the benefits include:

5.1. Fiscal Relief

Private sector participation releases scarce government resources from financial support to unprofitable SOEs to more productive uses in the economy. The governments will continue to play a role in the provision of basic infrastructure such as rural access roads, but private sector participation ensures that such government involvement is targeted. Such fiscal relief has a positive impact not only at government budgets, but also at the macro-level.

5.2. Provision of Investment Capital

Most countries of the region are undergoing major macro-economic adjustments. As such, they do not have the resources required to maintain, rehabilitate, upgrade and modernize infrastructure as well as undertake new investment. The private sector can fill this critical gap by providing investment capital through equity participation, various concessioning options and new investments.

5.3. Introduction of New Technology

The private sector is best placed to provide new technology particularly in fast growing areas such as telecommunications and Information Technology. The rise in the number of cellular providers and ISPs in Southern Africa is an indication of this.

5.4. Meet Growing Demand

Demand for infrastructure services is growing as populations, particularly urban populations grow. Monopoly infrastructure providers in Southern Africa have been unable to meet this demand. With growing consumer advocacy, private sector participation provides the means for governments in partnership with the private sector to meet this growing demand from increasingly discerning consumers.

5.5. Improvements in Service Delivery

In industries where private sector delivery of services is the norm, such as in the road passenger, road freight, telecommunications and IT, coverage has improved and so also has service quality and range of services offered. In most instances, private service

providers are more likely to provide a more competitive service that is responsive to consumer needs.

5.6. Promotion of Competition and Consumer Choice

In infrastructure sectors where there is scope for wide private sector participation, this has led to increased competition and has provided broader consumer choice. This also ensures that the price of the service is competitive and responds to market forces and consumer demand.

VI. CONCLUSIONS AND RECOMMENDATIONS

The main conclusions and recommendations from the foregoing are outlined below.

6.1. Conclusions

6.1.1. Impetus for Reform and Private Sector Participation

The driving force for reform and private sector participation in infrastructure include: pressure on government budgets and the need to eliminate subsidies in the face of declining incomes; lack of investment capital and the need to replace aging infrastructure assets; pressure of new technology; inability of SOEs to meet growing demand; increased advocacy by more informed consumers for improved service; private sector taking advantage of opportunities offered by poor service delivery of SOEs and reforms; pressure resulting from economy wide reform measures from donors and multilateral funding institutions; and realization by governments that partnership with the private sector would result in a “win-win” situation. In the context of Southern Africa, the regional integration agenda has also played an important role and not least, the “South African Factor” - growing demand in the South African economy and opportunities sought by its private sector.

6.1.2. Scope for Private Sector Participation

There is a growing trend and large potential for private sector participation in infrastructure in Southern Africa. There is scope for private sector participation in all infrastructure sectors although some sectors such as telecommunications and IT, are more amenable to private sector participation than others such as road infrastructure. The momentum for private sector participation is growing in the region and if current trends continue, it is likely that the provision and management of infrastructure will be dominated by the private sector.

6.1.3. Changing Perceptions

There is a definite change of perception by governments of Southern Africa both individually and collectively, on the role of the private sector in infrastructure provision. Where in the past, infrastructure was viewed as a strategic sector best managed by

government monopolies, this has changed to the realization that some infrastructure services are best provided by or in partnership with the private sector. Governments have undergone a mind-shift from viewing the private sector with suspicion and in some instances even hostility, to embracing them as partners.

6.1.4. Nature of Reforms and Participation

There are a multiplicity of reform measures in the region by country, sector and industry. These range from internal restructuring, commercialization and corporatization to divestiture and new private sector investments. The road passenger and freight industry has traditionally been dominated by the private sector in most countries. Private sector participation is more rapid and evident in the telecommunications, IT and air transport sectors than it is in others such as the power sector where government monopolies still dominate. Private sector participation has been slowest in the power sector as well as municipality and local government in the management of water and sewerage systems and solid waste disposal.

Some countries have a more visible record of private sector participation than others. Countries that have made relatively more progress in fostering private sector participation include Angola, Mozambique, South Africa and Zambia. Countries that have made the least overall progress include, Botswana, Lesotho, Malawi, Namibia, Swaziland and Zimbabwe.

6.1.5. Legal and Institutional Framework

The institutional framework to manage the process of reform and private sector participation is weak in most countries. The reform process has been managed by governments departments or SOEs some of whom are the subject of the reforms. Private sector involvement is greatest in those countries where independent privatization commissions or similar structures have been set up and least where they have not.

Almost all countries have investment legislation in one form or the other, but this tends to be economy wide. There is no specific legislation targeted at infrastructure. Equally, institutions dealing with or responsible for infrastructure tend to be fragmented with little or no coordination. This militates against devising an integrated framework for infrastructure oversight.

A number of structures have been set up in the region to facilitate consultation and coordination of infrastructure issues across the various sectors. However, the effectiveness of these structures is questionable. A major weakness is that these structures have been dominated by the public sector to the exclusion of the private sector.

6.1.6. Regulatory Capacity

Regulatory capacity is weak or non-existent in most countries. As private sector participation increases, it is essential to create a strong regulatory capacity. This is

essential to ensure, transparent processes, fair competition, conflict resolution as well as to ensure that the role of government of providing a vision and oversight and of managing externalities is properly carried out.

There are very few independent regulatory institutions in the transport sector in all countries. These functions are often carried out by government departments. In contrast, regulatory capacity has been established in most countries for telecommunications. However, the effectiveness of these institutions vary from country to country. In the power sector, regulatory institutions are in place only in three countries.

6.1.7. Advocacy Role

Private sector participation in infrastructure need not be limited to provision, management, ownership or operation of infrastructure. The private sector can play an important advocacy role in shaping national and regional policies and practices, in ensuring transparent processes and in keeping the government and regulatory institutions in check.

6.1.8. Marginal Communities

Private sector participation tends to concentrate on commercially attractive options. If this is not properly managed, there is a danger that communities that are already marginalized such as those in rural areas will be further marginalized. However, provided this is properly defined and managed, there is scope for partnership between the government and private sector in the provision of services to those areas and populations which would otherwise not be attractive to the private sector on its own.

6.1.9. Benefits of Private Sector Involvement

There are several benefits that arise from private sector participation in infrastructure. Among them, fiscal relief, provision of investment capital, introduction of new technologies, improvements in quality of service, consumer choice and new investment to meet growing demand.

6.1.10. The Regional Factor

The Southern African region has benefited from having a regional cooperation framework through SADC and its structures. Although the pace and impact of the overall integration process in Southern Africa can be questioned, what is evident is that the regional approach has facilitated development of and re-enforcement of best practices among countries of the region. One such lesson has been the positive impact that can be derived through a well devised strategy of private sector participation in infrastructure.

Another dimension to the regional factor is the fact that regional initiatives such as the Development Corridors, Spatial Development Initiatives and One Stop Border Posts provide scope for wider private sector participation in infrastructure.

The emergence of South Africa as an equal partner in Southern Africa has given further impetus to private sector participation in infrastructure partly as a result of the large and relatively well developed private sector in that country but also growing trade spurred by South Africa which has put pressure on infrastructure services to operate more efficiently.

6.2. Recommendations

Arising from the foregoing, the following main recommendations are proposed:

6.2.1. The benefits of private sector participation need to be explained and re-enforced to wider a spectrum of stakeholders in the region including, politicians, policy makers and civil society to ensure that the momentum that is emerging in the region is sustained. This can be done through a variety of players and ways including media and electronic dissemination of positive lessons, round-tables and other targeted mechanisms.

6.2.2. At the policy and technical level, there is need for training and exposure to ensure that policy makers and other decision makers are knowledgeable about the various options for private sector participation in infrastructure and their possible impact. This should be through targeted training by sector, industry, country or a combination.

6.2.3. Interaction and exchange of experiences should be fostered through regular interaction at the regional level to exchange positive lessons and experiences. Countries should document their experiences on private sector participation generally and in infrastructure in particular to facilitate this process.

6.2.4. Countries need assistance to set up or strengthen institutions that are involved in infrastructure reform. These institutions should as far as feasible be autonomous so as to operate effectively and independently.

6.2.5. Regulatory capacity is non-existent in most countries and infrastructure sectors. Countries need assistance to strengthen their regulatory capacities. Emphasis should be on creating institutions that are transparent, accountable and responsive. Equally, the institutions should be able to provide both a vision and leadership. Not all countries because of economic size and other considerations can afford to have separate regulators for the various infrastructure sectors. Where practical, a single infrastructure regulator should be established.

6.2.6. Private sector participation is facilitated by a clear legal and regulatory framework that mitigates against risk. Countries should endeavor to set up clear legal frameworks specifically tailored to the needs of infrastructure.

6.2.7. Internationally not all potential players may be cognizant of the opportunities for private sector participation in infrastructure in Southern Africa. More pro-active marketing should be undertaken by the region to publicize its infrastructure opportunities.

This could be done through “Investor Conferences”, “Round Tables” and similar mechanisms which could be held in the region and abroad. Establishment of a consolidated web-site on infrastructure developments and opportunities in the region would also go along way towards meeting this information gap. This could be managed by a consulting company in the region of a fee basis.

6.2.8. Care should be taken to ensure that private sector participation does not lead to oversupply or harmful competition and also that it does not lead to marginalization of some population groups particularly those in the rural areas.

6.2.9. Regional structures should be broadened to include private sector participation. This would enable the private sector to play a more active role in helping to shape policies and in influencing policy change both at the national and regional level. This requires that the private sector itself is sufficiently organized and networked to play its role effectively.

6.2.10. Assistance should be provided to countries of the region to implement those aspects of regional protocols and agreements that have an impact in promoting private sector participation in infrastructure such as the SADC Investment in Transport Act and Telecommunications Bill.