



**CONSERVATION MANAGEMENT AND INTERGOVERNMENTAL
RELATIONS: THE CASE OF SOUTH AFRICAN NATIONAL AND
SELECTED PROVINCIAL PARKS**

by

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SUMMARY

CONSERVATION MANAGEMENT AND INTERGOVERNMENTAL RELATIONS: THE CASE OF SOUTH AFRICAN NATIONAL AND SELECTED PROVINCIAL PARKS

by

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The purpose of this study is to investigate conservation management and intergovernmental relations with reference to the national and selected provincial parks. A model of co-operative government and a state that presupposes diverse and continuous interaction between the three spheres of government are established by the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*. Organs of state such as the South African National Parks and conservation management authorities in the selected provinces of KwaZulu-Natal and Mpumalanga, which are concerned with the management of national parks and provincial protected areas, should therefore establish structures to promote intergovernmental relations. No research investigating intergovernmental relations pertaining to conservation management in particular has previously been conducted. The conclusions and findings from this research may assist individuals in national and provincial departments and statutory organs of state to introduce and assist in the formulation of legislation regarding intergovernmental relations pertaining to conservation management.

In this thesis the universal principles as well as the nature and content of intergovernmental relations in South Africa, are **firstly** investigated. **Secondly**, intergovernmental relations in three other states and its applicability to intergovernmental relations in South Africa are explained. **Thirdly**, conservation management and various management functions and skills are analysed. The structures and functions of the South African National Parks as well as the KwaZulu-Natal and Mpumalanga provincial conservation authorities are **fourthly** described. Intergovernmental relations between the mentioned authorities concerned with conservation management are investigated and the mechanisms and structures for the promotion of intergovernmental relations pertaining to conservation management are analysed. A model for intergovernmental relations pertaining to conservation management is **lastly** developed and recommendations regarding the promotion of intergovernmental relations are made.

It is concluded that it is possible to develop a model for intergovernmental relations pertaining to conservation management, with specific reference to the management of national parks and provincial protected areas. The current informal system and structures for intergovernmental relations, not prescribed by legislation, proves to be ineffective. The shortcomings of the current structure and institutions for intergovernmental relations need to be acknowledged and addressed by policy makers.

OPSOMMING

**BEWARINGSBESTUUR EN INTEROWERHEIDSVERHOUDINGE: DIE
GEVAL VAN SUID-AFRIKAANSE NASIONALE EN GESELEKTEERDE
PROVINSIALE PARKE**

deur

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Die doel van hierdie studie is om bewaringsbestuur en interowerheidsverhoudinge met betrekking tot die nasionale en geselekteerde provinsiale parke te ondersoek. 'n Model vir deelnemende regering, en 'n staat wat diverse en deurlopende interaksie tussen die drie regeringsfere voorstaan, word deur die *Grondwet van die Republiek van Suid-Afrika*, 1996 (Wet 108 van 1996) voorgestel. Staatsinstellings soos die Suid-Afrikaanse Nasionale Parke en bewaringsbestuurinstellings in die geselekteerde provinsies van KwaZulu-Natal en Mpumalanga, wat met die bestuur van nasional parke en provinsiale bewaringsgebiede gemoeid is, behoort strukture daar te stel wat interowerheidsverhoudinge sal bevorder. Geen navorsing oor interowerheidsverhoudinge met betrekking tot bewaringsbestuur in die besonder, is voorheen onderneem nie. Die gevolgtrekkings en bevindinge wat uit hierdie navorsing voortspruit kan bydra om individue in nasionale en provinsiale departemente, asook

staatsinstellings in staat te stel om wetgewing oor interowerheidsverhoudinge met betrekking tot bewaringsbestuur daar te stel.

In hierdie proefskrif word **ten eerste** universele beginsels, asook die aard en inhoud van interowerheidsverhoudinge in Suid-Afrika ondersoek. **Ten tweede** word interowerheidsverhoudinge in drie ander state en die toepaslikheid daarvan op interowerheidsverhoudinge in Suid-Afrika aangespreek. **Ten derde** word bewaringsbestuur en verskeie bestuursfunksies en -bekwaamhede geanaliseer. Die strukture en funksies van die Suid-Afrikaanse Nasionale Parke asook die bewaringsowerhede in KwaZulu-Natal en Mpumalanga word beskryf. Interowerheidsverhoudinge tussen die genoemde bewaringsowerhede word **ten vierde** ondersoek en meganismes en strukture vir die bevordering van interowerheidsverhoudinge met betrekking tot bewaringsbestuur word geanaliseer. 'n Model vir interowerheidsverhoudinge met betrekking tot bewaringsbestuur word **ten laaste** ontwikkel en voorstelle wat met die bevordering van interowerheidsverhoudinge verband hou, word gemaak.

Die gevolgtrekking wat gemaak word, is dat dit moontlik is om 'n model vir interowerheidsverhoudinge in bewaringsbestuur, met spesifieke verwysing na die bestuur van nasionale en provinsiale bewaringsgebiede, te ontwikkel. Die huidige informele stelsel en strukture vir interowerheidsverhoudinge, wat nie deur wetgewing aangespreek word nie, word as oneffektief bewys. Beleidmakers behoort die leemtes in huidige strukture en instellings wat gemoeid is met interowerheidsverhoudinge te identifiseer en aan te spreek.

INTRODUCTION

GENERAL OVERVIEW OF INTERGOVERNMENTAL RELATIONS AND CONSERVATION MANAGEMENT

A model of co-operative government and a state that presupposes diverse and continuous interaction between the national, provincial and local spheres of government are established by the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*. The above-mentioned interaction between the spheres of government is called intergovernmental relations. The study of the different relations between the three spheres of government is very complex because of the increasing number of government institutions, organs of state and people involved in the various government bodies as well as the growing number of functions performed by these institutions and people.

Particular functions and powers are allocated to the spheres of government and may be divided between powers exclusive to one sphere of government (Schedule five of the *Constitution of the Republic of South Africa, 1996 [Act 108 of 1996]*), concurrent powers shared between two or more spheres of government (Schedule four of the *Constitution of the Republic of South Africa, 1996 [Act 108 of 1996]*) and specific constitutional powers. To regulate and govern the interactions and co-operation between the three spheres of government, a set of principles for co-operative government and intergovernmental relations is stipulated in Chapter three of the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*.

The origin of the current system of intergovernmental relations date back to the abolishment of the two-tiered national-local system of government, to a three-tiered government, namely national, provincial (four provinces) and local tiers of government, to accommodate the political identities of the Boer republics and the British colonies in 1909

(Levy and Tapscott, 1999:1). The Provincial Councils were subordinate to the national legislature but also had the power to promulgate laws and ordinances and therefore little legislative competition existed between a provincial and national government. An Administrator, who acted as a Chief Executive Officer of the Provincial Council, was appointed by the Prime Minister and was, in effect, an agent of the national government (Levy and Tapscott, 1999:2). The Administrator could only be removed from office by the State President. The Provincial Councils, which did not have significant law making authority, were later abolished in 1986 and some authority was devolved to the Coloured and Indian houses of the tri-cameral Parliament that had been established in the early 1980's. Provincial Administrators were then political appointees of the ruling political party. Close relations existed between the national and provincial governments because provincial governments represented regional branches of the national government. Intergovernmental relations consisted of the co-ordination of functions and activities and the integration of concurrent responsibilities (Levy and Tapscott, 1999:2). The structures of intergovernmental relations were also poorly defined within the self-governing black homelands and in the late stages of the apartheid era, intergovernmental relations were characterised by increasing administrative inefficiency and minimal popular legitimacy.

The concept of intergovernmental relations was introduced by the *Interim Constitution of the Republic of South Africa*, 1993 (Act 200 of 1993) which established three tiers of government, namely national, provincial and local tiers but no principles were introduced to formalise intergovernmental relations. A large number of intergovernmental structures was established in 1994 to co-ordinate the various functions of concurrent national and provincial competence even though no legislation was in place to regulate and monitor these structures. The importance of an Act of Parliament to provide for structures and institutions to promote and facilitate intergovernmental relations is recognised by Section 41(2) of the current *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996). Although the envisaged legislation is not in place yet, the process of drafting such

legislation has begun. The drafting of legislation and the formulation of policy to implement legislation will require an informed process of planning and decision-making. For the purpose of this study, the focus will be on intergovernmental relations between the national and provincial spheres of government pertaining to conservation management in particular.

Conservation is a philosophy which is directed at the manner and timing of resource utilisation and is subject to various interpretations of a political and economic nature. Literature focusing on the development and evaluation of conservation is numerous. According to O'Riordan (1977:8) the word *conservation* stems from the British in India, where forests were named *conservancies* and were protected for the maintenance of soil stability. The term *conservation* has since then been used to identify various periods of political activity, either when public policy was aimed at improving the management of resources or when the political interests of individuals or groups making use of resources were threatened (O'Riordan, 1977:8). Conservation is not a static concept and when reduced to its basic meaning, conservation may be described as a philosophical and conceptual framework that has reference to the following:

"the preservation and promotion of biodiversity, ecosystems and ecological processes and includes the sustainable use of plants and animals for the benefit of humankind (Kumleben Report, 1998:5)".

Our present day technological and scientific society make more demands on the preservation of environmental quality and values and priorities become more important when utilising scarce resources to promote conservation. Proper management and clear constitutional, social and institutional guidelines are necessary to face the challenges facing conservation. Intergovernmental relations between the South African National Parks and the selected KwaZulu-Natal and Mpumalanga nature conservation authorities are analysed because of their involvement in conservation management.

Conservation management in South Africa can be traced back to the arrival van Jan van Riebeeck in the Cape in 1652 and the formulation of the first hunting laws in 1663 (Hugo *et al.*, 1997:160). South Africa was abounded by game and in the years that followed a lot of wildlife was hunted down and a number of species became extinct. In 1897 the Hluhluwe and Umfolozi Game Reserves were established for the conservation of wildlife and soon thereafter the Sabie Game Reserve in 1899. The Sabie Game Reserve was forgotten during the Anglo Boer War in 1899 and it was only after the peace statement that the same area was declared a protected area with James Stevenson-Hamilton as the first head of the park. After acquiring more land the Sabie Game Reserve became the first national park and was renamed the Kruger National Park (Hugo *et al.*, 1997:161). The promulgation of other national parks soon followed.

The South African National Parks has over the years been concerned with the protection and relocation of rare and endangered species. Under the management of The South African National Parks, national parks have developed from fenced-in conservation areas, for example the Kruger National Park in 1926, to national treasures which reflect a spirit of goodwill, consultation and reconciliation in joint park management and socio-economic undertakings (Tema, 1997:52).

An overview of the most important legislation pertaining to environmental matters and therefore also conservation management in South Africa is important. Hugo *et al.* (1997:164) states the following pertaining to conservation management and legislation:

" the conservation of decentralised areas has little value unless they are backed by general legislation pertaining to countrywide conservation of land, sea, air and water".

Legislation regarding conservation management in South Africa should be aimed at protecting natural resources and should acknowledge that the conservation of land, sea, air, water and wildlife is an asset of international, national and local value. An overview of the most important legislation is summarised in Table i.

Table i: **A historical overview of the most important legislation pertaining to environmental matters in South Africa**

National Parks Act of 1962 was promulgated to manage the South African national parks.

Mountain Catchment Act, 1970 (Act 63 of 1970) heralded the environmental era as far as environmental legislation was concerned in South Africa.

The year 1970 was declared "Water year" and 1973 was labelled "Green heritage year". During this decade various universities took up the challenge by creating chairs in conservation research and teaching.

In 1972 the Habitat Council was established and in 1974 the Environmental Planning Professions Interdisciplinary Committee (EPPIC).

In 1972 a pollution subsidiary committee of the prime minister's Planning Advisory Council brought out a report under the title: Pollution in South Africa.

The Department of Planning was renamed the Department of Planning and the Environment in 1973 and in 1975 the *Physical Planning Act*, 1967 (Act 88 of 1967) was amended and renamed the *Environmental Planning Act* to make provision for the consideration of environmental factors during land use planning. Soon afterwards the Department of Environmental Affairs was formalised.

A White Paper on a national policy regarding environmental conservation was compiled in 1980. A direct outcome of this was the *Conservation Act*, 1982 (Act 100 of 1982).

To date, the most significant legislative development related to holistic environmental concerns has been the *Environmental Conservation Act*, 1989 (Act 73 of 1989). According to this legislation, the then Council for the Environment used to advise the Minister of Environmental Affairs and Tourism on policy and other matters while a new

body - the Committee for Environmental Management - advised the Director-General of the Department on matters affecting activities which may influence the utilisation and conservation of the environment.

A White Paper on environmental policy appeared in 1997 and was followed by the *National Environmental Management Act*, 1998 (Act 107 of 1998).

Source: Hugo, M.C., Viljoen, A.T. and Meeuwis, J.M. 1997. *The Ecology of Natural Resource Management: The quest for sustainable living*. Pretoria: Kagiso Tertiary. p. 165-166.

The KwaZulu-Natal Nature Conservation Board is renowned for its conservation successes and celebrated its 50th anniversary in December 1997. The KwaZulu-Natal Nature Conservation Board first started with Douglas Mitchell (member of the Provincial Executive Committee) and the Chairman of the Zululand Reserve Board (William Power) debating the future of nature conservation in Natal with members of the then National Parks Board of Trustees in 1946. After agonising over a decision on how to set up the province's nature conservation system the Natal Parks Game and Fish Preservation Board was formed and came into existence on 1 December 1947. This above-mentioned Board was a semi-autonomous parastatal nature conservation body charged with administering and managing the province's wildlife heritage and was funded by the province but would have wide-ranging decision-making powers. The name later changed to the Natal Parks Board and their activities concentrated on three aspects, namely bio-diversity conservation, ecotourism and community conservation (Hughes, 1998:2). After the promulgation of the *KwaZulu-Natal Nature Conservation Management Act*, 1997 (Act 9 of 1997) the Board became known as the KwaZulu-Natal Nature Conservation Board and a new institution called the KwaZulu-Natal Nature Conservation Service was established to manage provincial parks and protected areas in the province.

Prior to the elections in the Republic of South Africa in 1994, three conservation agencies existed in the area that was to become Mpumalanga, namely the Eastern Region of the Transvaal Provincial Administration, the KaNgwane Parks Corporation and the KwaNdabele Conservation Division. These three conservation authorities formulated proposals for a conservation structure for the new province driven firstly by their own initiative and later by a Provincial Advisory Committee (General Manager: Research and Development, 2000). The Provincial Advisory Committee was a structure formed to address all the provincial governmental issues. After the 1994 election a process was put into place to form a statutory board for conservation in Mpumalanga. Because of a lack of political support for a statutory board in Mpumalanga, a commission of inquiry was set up to investigate a possible structure for conservation management in this province. A recommendation was made that nature conservation in Mpumalanga should be managed by a statutory organ of state, but that it should be charged with becoming self-sufficient over a period of five years. This recommendation was endorsed by Cabinet and the legal process was allowed to continue. The Mpumalanga Parks Board is currently regulated by the stipulations of the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998). The KwaNdabele component of the original three conservation bodies was never fully supportive of the establishment of an organ of state and a political and geographical split was inevitable. The KwaNdabele component is now part of the Directorate of Nature Conservation in the Department of Agriculture, Conservation and the Environment in Mpumalanga. It could be stated that no research pertaining to intergovernmental relations with regard to conservation management in particular has been undertaken. Although a number of research projects have separately addressed the issues of intergovernmental relations and conservation management, this study is unique in the sense that the relations between the national and provincial spheres of government, governmental bodies and organs of state as well as its impact on conservation management will be analysed. The conclusions and findings from this research may assist people in national and provincial governmental departments to introduce and assist in the formulation of legislation pertaining to intergovernmental relations and conservation management.

FRAME OF REFERENCE

The thesis will be limited to the study of intergovernmental relations only, focusing on conservation management. The nature and complexity of the total field of study of governmental relations would have been too comprehensive (bearing in mind that governmental relations comprises inter, intra and extra governmental relations) and therefore a careful demarcation of the field of study was necessary. After consideration of the total scope of the study of governmental relations, it was decided that the thesis will analyse and explain vertical and horizontal intergovernmental relations even though the study could have been limited to either horizontal or vertical intergovernmental relations.

A further demarcation of this study was necessary due to the number of spheres of government in South Africa. The South African Government is divided into three spheres of government namely national, provincial and local spheres and for the purpose of the thesis, the focus will only be on intergovernmental relations between the national and provincial spheres up until December 1999. The choice to focus on the national and provincial spheres of government only is a result of a decision to analyse conservation management pertaining to the South African National Parks and selected provincial parks. Section 44(1)(a)(ii) together with Section 104(1)(b)(i) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) provide for concurrent national and provincial legislative competence to particular spheres of government and according to Schedule four of the *Constitution of South Africa*, 1996 (Act 108 of 1996), one of the concurrent functions is nature conservation, excluding national parks, national botanical gardens and marine resources. National parks are mentioned as an exception as being an exclusive national competence with the implication that other conservation issues are the responsibility of provincial government. The principles of co-operative government and inter-governmental relations should be adhered to where concurrent competence exists and, therefore, the necessary demarcation (Chapter three of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Provincial parks (protected areas) in KwaZulu-Natal and

Mpumalanga were selected because the KwaZulu-Natal province has the largest number of protected areas while the largest national park is situated in the Mpumalanga province (*Infra* paragraph 4.2.2).

POSSIBLE RESEARCH PROJECTS WHICH COULD EMANATE FROM THIS STUDY

Seeing that the development and formulation of legislation pertaining to intergovernmental relations are still in progress, this research may assist role players in the drafting of formal legislation on intergovernmental relations especially between the national and provincial spheres of government. The conclusion from the analysis of structures and institutions concerned with intergovernmental relations may lead to further research to evaluate the efficiency of such structures and institutions. The need for governmental bodies and organs of state to co-operate with one another when addressing issues pertaining to conservation management on national and provincial level, may encourage researchers to analyse structures and institutions involved with conservation on the local sphere of government.

APPLICATION POSSIBILITIES OF THE RESEARCH RESULTS

The results of this research comprise the following:

- i. normative research with regard to intergovernmental relations and its application as well as the influence of management functions pertaining to conservation; and
- ii. empirical research on the role of intergovernmental relations between the government institutions and organs of state concerned with conservation management, namely the South African National Parks as well as institutions in KwaZulu-Natal and Mpumalanga involved in the management of protected areas.

Consequently officials and academics studying either intergovernmental relations or conservation management may benefit from the results of this research. This research may contribute towards addressing problem issues relating to intergovernmental relations and conservation management in other provinces.

METHODS OF RESEARCH

Although the focus of this research is limited to national and provincial intergovernmental relations pertaining to conservation management with reference to the South African National Parks and selected provincial protected areas, more comprehensive literature regarding these issues was analysed. The methods of research applied during this study may be described as follows:

Firstly, a study of relevant literature regarding intergovernmental relations and conservation management was undertaken. The purpose was to establish criteria concerning the topic of research against which the practice could be evaluated. Processes and models for and the classification of intergovernmental relations and conservation management were analysed. Literature studied comprised of books, journal articles, legislation, government reports, theses and dissertations. **Secondly**, an empirical study was undertaken. Interviews were conducted with relevant role players involved with intergovernmental relations and conservation management.

PROBLEM STATEMENT

The motivation for the study of intergovernmental relations pertaining to conservation management was a result of a lack of information and formal legislation regarding intergovernmental relations pertaining to conservation management. A need additionally existed for formal guidelines to assist the relations between different spheres of government, especially relations regarding conservation management. The aim was to

analyse the current structures and institutions for intergovernmental relations within the South African National Parks and the KwaZulu-Natal as well as Mpumalanga protected areas to identify problem areas and to propose measures in order to ensure their efficient functioning. A further aim was possible amendment of the structures and institutions in order to ensure the promotion of conservation management in South Africa.

The hypothesis for which support is sought may, after thorough research, be formulated as follows:

1. Although certain intergovernmental processes are provided for in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), the absence of legislation aimed specifically at regulating, monitoring and controlling of intergovernmental relations may confuse governmental bodies and organs of state dealing with conservation management.
2. Current informal and pre-constitutional structures and institutions aimed at promoting co-operation and intergovernmental relations are mostly ineffective and inefficient with no real decision-making authority.
3. The management of conservation areas such as national parks and provincial protected areas is necessary to address issues and problems relating to conservation in South Africa.
4. The division of administrative responsibility and functions relating to conservation management between national government institutions, such as the South African National Parks, and provincial nature conservation authorities such as the KwaZulu-Natal and Mpumalanga conservation authorities, necessitates effective formal and informal structures to promote intergovernmental relations and co-operation.

5. Formal and comprehensive structures for intergovernmental relations can be developed that may lead to more effective co-operation between national governmental institutions and provincial authorities concerned with conservation management.

STRUCTURE OF THESIS

Apart from the introductory chapter the thesis comprises six chapters. A literature study as well as empirical research contributed towards the testing of the mentioned hypothesis.

A summary of the different chapters is outlined in the following paragraphs. **Chapter one** analyses the nature and content of intergovernmental relations in South Africa. Different concepts pertaining to intergovernmental relations and legislation applicable to intergovernmental relations are explained. **Chapter two** describes intergovernmental relations in three other states and its applicability to intergovernmental relations in South Africa. **Chapter three** focuses on the analysis of conservation management. The various management functions are explained and its applicability to conservation in South Africa. In **chapter four** the structures and functions of the South African National Parks and the KwaZulu-Natal as well as Mpumalanga provincial conservation authorities are described. The role of the Department of Environmental Affairs and Tourism as the guardian of conservation management is emphasised. Intergovernmental relations between the South African National Parks and the selected provincial conservation authorities as well as mechanisms and structures for the promotion of intergovernmental relations pertaining to conservation management are analysed, developed and explained in **chapter five**. In **chapter six** conclusions as well as recommendations are made and the various problem statements are tested. **Chapter seven** contains the bibliography.

CHAPTER 1

INTERGOVERNMENTAL RELATIONS IN SOUTH AFRICA

1.1 INTRODUCTION

The *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) establishes a state that supports interaction and co-operation between the three spheres of government on a continuous basis and therefore provides a set of principles to direct the manner and quality of those interactions. With the promotion of the principles of co-operation and intergovernmental relations in Section 41 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), governmental institutions and departments involved with conservation management are encouraged to interact and co-operate with one another in mutual trust and good faith and these interactions are called intergovernmental relations. The principles of co-operative government and intergovernmental relations recognise the interdependence of the three spheres of government in South Africa (namely the national, provincial and local spheres) which are distinctive and interrelated and place a duty on the spheres of government to respect each other's powers, functions and institutions and to inform each other of new policies.

Every governmental institution should make an indispensable contribution to the ultimate goal of the state, namely the advancement of general welfare. A relationship of interdependence and interaction between government institutions as well as civil society is therefore necessary. Section 41(2) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) stipulates that an Act of Parliament must establish or provide for processes, structures and institutions to promote and facilitate intergovernmental relations and provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental

disputes. The study of intergovernmental relations is complex and problematic because of the responsibilities of government, increasing number of governmental institutions as well as the influence of human behaviour on intergovernmental relations.

A thorough analysis of the concepts relating to intergovernmental relations are therefore necessary in order to be able to study the impact of governmental relations on conservation management in South Africa. In the following paragraphs, intergovernmental relations, co-operative government, intergovernmental processes, roles and structures are defined and the approaches to and classification of intergovernmental relations; the influence of forms of government on intergovernmental relations; factors influencing intergovernmental relations; fundamental conditions for effective intergovernmental relations and institutions and structures for intergovernmental relations are focused upon.

1.2 DEFINING RELEVANT CONCEPTS PERTAINING TO INTERGOVERNMENTAL RELATIONS

For the purpose of this study it is necessary to clarify the following concepts: intergovernmental relations, co-operative government, intergovernmental processes, intergovernmental roles as well as intergovernmental structures and institutions.

1.2.1 Intergovernmental relations

Intergovernmental relations encompass all the complex and interdependent relations among various spheres of government as well as the co-ordination of public policies among national, provincial and local governments through programme reporting requirements, grants-in-aid, the planning and budgetary

process and informal communication among officials (Fox and Meyer, 1995:66). Intergovernmental relations also refer to the fiscal and administrative processes by which spheres of government share revenues and other resources generally accompanied by special conditions that must be satisfied as prerequisites to receiving assistance. The *White Paper on Local Government* (1998:38) defines intergovernmental relations as a set of formal and informal processes as well as institutional arrangements and structures for bilateral and multilateral co-operation within and between the three spheres of government.

According to Anderson (1960:3) intergovernmental relations are important interactions occurring between governmental institutions of all types and in all spheres. The distinctive features of intergovernmental relations suggest the increased complexity and interdependency in political systems. The characteristics of these more complex and interdependent systems are: the number and growth of governmental institutions; the number and variety of public officials involved in intergovernmental relations; the intensity and regularity of contacts among those officials; the importance of officials' actions and attitudes; and the preoccupation with financial policy issues (Wright,1978:8). The jurisdictional diversity of intergovernmental relations is revealed by the number and types of governmental institutions, for example institutions and government departments on national and provincial level, while the concept of intergovernmental relations has to be formulated largely in terms of human relations and human behaviour (Wright,1978:8). Intergovernmental relations include the officials' continuous, day to day patterns of contact and exchanges of information and views where policy is generated by interactions among all public officials in the different spheres of government.

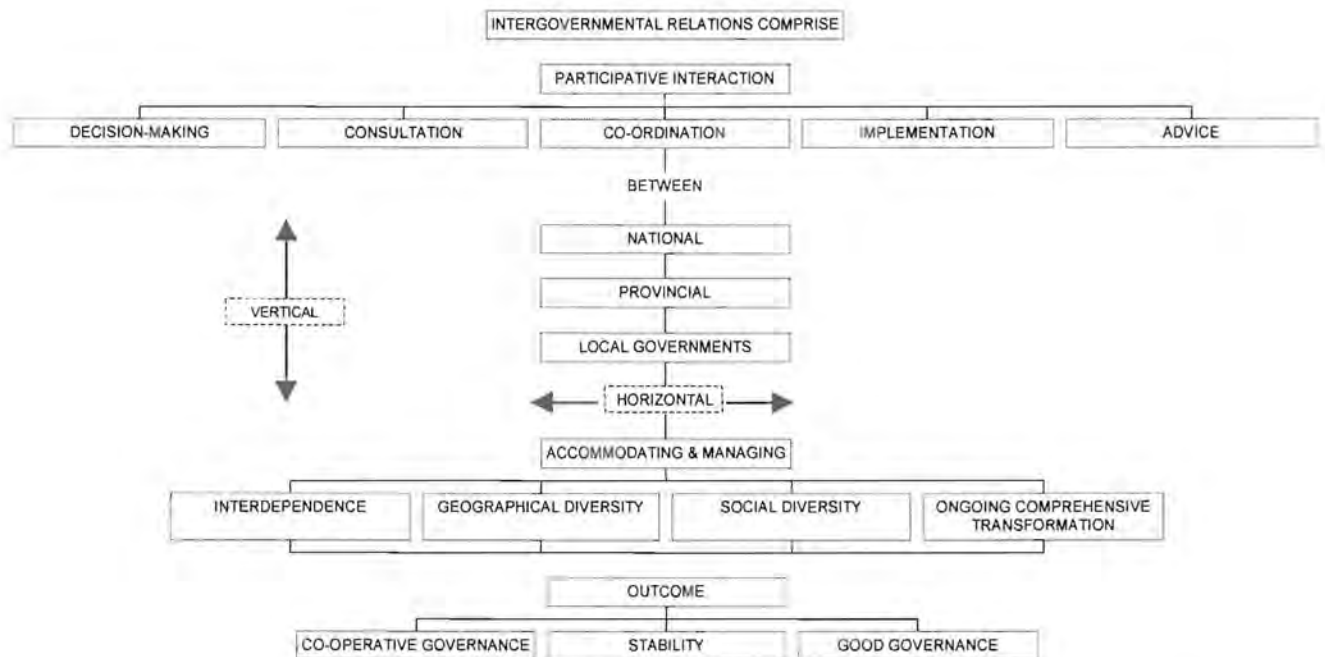
Mentzel and Fick (1996:101) define intergovernmental relations as follows:

"a mechanism for multi and bi-lateral, formal and informal, multi-sectoral

and sectoral, legislative, executive and administrative interaction entailing joint decision-making, consultation, co-ordination, implementation and advice between spheres of government at vertical as well as horizontal levels and touching on every governmental activity”.

From the definitions of intergovernmental relations it becomes clear that the nature of the interaction between different spheres of government varies constantly in terms of the degree of co-operation, depending on the dynamics of the system and the role-players involved at any given time and in accommodating and managing interdependence, geographical and social diversity, as well as ongoing comprehensive transformation (See Figure 1/1).

Figure 1/1: A synoptic illustration of the nature and content of intergovernmental relations



Source: Mentzel, C. and Fick, J. 1996. Transformation perspectives on policy management: dynamics of intergovernmental relations with specific reference to the Eastern Cape. *Africanus*. Vol 26(2):p102.

Referring to Figure 1/1 it is important to note that the success of intergovernmental relations is a function of the level of participation by the key role-players in the system, and that the extent of participation, whether of a competitive or co-operative nature, finally determines the ontological state of the system of intergovernmental relations (Mentzel and Fick, 1996:101). It may therefore be evident that governmental institutions are dependent upon other governmental institutions and officials for resources required to enable the institutions to formulate policy, render services and promote general welfare through the actions, attitudes and behaviour of officials and office-bearers.

1.2.2 Co-operative government

According to the Discussion Document of the Department of Constitutional Development on Strategic Issues and Options for Policy on co-operative government and intergovernmental relations (1999:4) co-operative government represents the basic values of the government as stipulated in chapter three. Section 41(2) and other provisions of the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* and the implementation of these values through the establishment of structures and institutions. Co-operative government is a partnership between the three spheres of government where each sphere is distinctive and has a specific role to fulfil and should promote constructive relations between them. Co-operative government does not ignore differences of approach and viewpoint between the different spheres but encourages healthy debate to address the needs of the people they represent by making use of the resources available to government.

Co-operation is circumstances in which people decide or are instructed to work together, also where citizens are given the feeling of involvement while exercising little real power (Fox and Meyer, 1995:28). No sphere of government

can function effectively without co-operation with the other spheres of government and therefore co-operation is required because of increased complexity of governmental activities; the increase in the number of concurrent legislative matters; the interdependency and interrelatedness of some government functions; spillovers in services; scarce resources and poor economic conditions and popular accountability and grassroots pressure (De Villiers, 1994:430).

De Villiers (1994:435) identifies the following examples of co-operation to be considered for South African purposes:

1.2.2.1 Legislative co-operation

The National Council of Provinces will ensure that provincial needs and interests are represented in the national legislative process and the following co-operative instruments are suggested: Presidential meetings with the Minister of Provincial and Local Government and Premiers (through the Presidents Co-ordinating Council) and the Committee of Ministers and Members of Executive Councils (MINMEC) which will involve the meeting of line functions Ministers in the national and provincial spheres of government.

1.2.2.2 Judicial co-operation

Where institutions and functionaries of the judicial authority meet to interpret the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Examples of judicial co-operation could be the meeting of judges as well as meeting of judges of the Constitutional Court.

1.2.2.3 Administrative co-operation

Administrative co-operation is the co-operation of public official serving

in the national and provincial spheres of government. Official rendering the same services on national and provincial departments could exchange information concerning mutual interests.

There is a conceptual difference between co-operative government and intergovernmental relations which is evident in the reference made to the principles of co-operative government and intergovernmental relations in Chapter three of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Co-operative government is a fundamental philosophy of government (constitutional norm) that governs all aspects and activities of government and includes the deconcentration of power to other spheres of government and encompasses the structures of government as well as the organisation and exercising of political power (Discussion Document, 1999:21). Intergovernmental relations are specifically concerned with the institutional, political and financial arrangements for interaction between the different spheres of government and organs of state as stipulated in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Co-operative government is thus about partnership government as well as the values connected with it, namely national unity, peace, proper co-operation and co-ordination, effective communication and the avoiding of conflict. Intergovernmental relations is one of the means through which the values of co-operative government may be given institutional expression and may include executive or legislative functions of government (Audit Report, 1999:12).

1.2.3 The process of intergovernmental relations, intergovernmental roles, structures and institutions

Intergovernmental relations are the basic interactions within and between spheres of government with regard to exclusive and concurrent functional areas of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The

process of intergovernmental relations refers to a matrix of interactions between organs of state and institutions of government, with particular reference to the executive and legislative components of government. Intergovernmental processes are derived from the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Examples of processes of intergovernmental relations are: dispute settlement; capacity building and mutual support; intervention of one sphere of government in another; assignment of powers and functions; planning; intergovernmental financial relations; co-ordination and monitoring of actions as well as consultation and information-sharing (Discussion Document, 1999:46).

Intergovernmental roles are the roles allocated to the different spheres of government in a certain intergovernmental process while intergovernmental structures and institutions are the institutional arrangements for intergovernmental relations determined by the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and other legislation and may include commissions, institutions, committees and forums (Discussion Document, 1999:4). The purpose of a system of intergovernmental relations is to promote co-operative decision-making; to ensure the execution of policies through the effective flow of communication; to co-ordinate priorities and budgets across different sectors and the prevention of disputes and conflicts between spheres of government (*White Paper on Local Government, 1998:38*).

In order to understand the complex nature of intergovernmental relations, it is necessary to analyse the three spheres of government. In the following paragraph the national, provincial and local spheres of government are described.

1.3 THE SOUTH AFRICAN SPHERES OF GOVERNMENT

South Africa is a sovereign, democratic state founded on the following values:

human dignity, the achievement of equality and the advancement of human rights and freedoms; non-racialism and non-sexism; supremacy of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and the rule of law; universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness (Section one of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). It is therefore important, for the purpose of this study, to place the three spheres of government in context in order to understand the nature and content of intergovernmental relations.

1.3.1 National government in context

The national legislative authority is vested in Parliament which consists of the President, National Assembly and the National Council of Provinces (Section 42 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Parliament participates in the legislative process by following the guidelines as set out in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The members of the National Assembly represent the people of South Africa and are therefore elected by registered voters (Craythorne, 1997:26). The National Assembly consists of no fewer than 350 and no more the 400 women and men elected in terms of an electoral system that is prescribed by national legislation (Section 46 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]).

The National Council of Provinces is composed of a single delegation from the nine provinces (ten delegates each), namely: four special (floating) delegates, consisting of the Premier of a Province or any member of the provincial legislature if the Premier is not available; three other special delegates and six permanent delegates (Section 60 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). According to Mentzel and Fick (1996:107) the

National Council of Provinces will have 54 permanent delegates, six nominated by the Provincial Legislature of each province, and 36 seats for floating delegates, four from each province including the provincial Premier, who will lead their respective floating delegates. The floating delegates may however vary in terms of their compositions as decided by the Provincial Legislatures of each province (Section 61 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The National Council of Provinces represents the different provinces to ensure that provincial interests are protected when making decisions in the national sphere of government through participating in the national legislative process and by providing a national forum for public consideration of issues affecting provinces. Legislative intergovernmental relations promotes the democratic values found in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) because of an open and transparent legislative process, but it is important that legislative intergovernmental relations does not exclude executive intergovernmental relations.

The national executive authority is vested in the President, Executive Deputy President as well as members of the Cabinet. The President is the head of the state and also head of the national executive (Section 83 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Members of the Cabinet are individually and collectively accountable to Parliament when exercising their powers and should always act in accordance with the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) (Craythorne, 1997:35). The executive powers of the national executive is outlined in Section 85(2) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) as being the implementation of national legislation; development and implementation of national policy; the co-ordination of the functions of state departments and administrations; preparation and initiation of legislation and the performance of any other executive functions provided for in national legislation. Executive

intergovernmental relations refers to the interaction between the administrative units of government associated with the executive.

1.3.2 Provincial government in context

The legislative authority of the nine provinces is vested in the Provincial Legislature of each province. The Provincial Legislature consists of between 30 and 80 members but the number of members may vary and will be determined in term of a formula prescribed by national legislation (Craythorne, 1997:37). A Provincial Legislature may consider, pass or amend any bill before it and also initiate and prepare legislation (except money bills). The Provincial Legislature also supervises the provincial executive authority and provincial organs of state (Section 114 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]).

The executive authority of a province is vested in the Premier of that province as well as an Executive Council according to Section 125 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The actions of provincial executive organs are regulated by mechanisms provided by the Provincial Legislature to ensure accountability to it (Craythorne, 1997:44). A set of powers for provincial executive authorities with respect to the different provinces is described in Section 123(1) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) which includes the implementation of all national legislation within the functional areas of Schedules four (concurrent national and provincial competence) and Schedules five (exclusive provincial legislative competence), except where the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) or an Act of Parliament provides otherwise and administering non Schedule four or five legislation assigned to it.

1.3.3 Relations between national and provincial legislation

Regarding the relations between national and provincial legislation it is stated

that national legislation will prevail over provincial legislation if the provinces cannot effectively regulate a matter through legislation (Section 146 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). National legislation will deal with matters that require uniformity across the nation by establishing norms and standards, frameworks or national policies.

National legislation is, according to Section 146 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), also necessary for the maintenance of national security; the maintenance of economic unity and the protection of the common market in respect of the mobility of goods, services, capital and labour. National legislation is further important for the promotion of economic activities across provincial boundaries; the promotion of equal opportunity or equal access to government services and for the protection of the environment (Section 146 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]).

National legislation will also override provincial legislation to prevent unreasonable action by a province for example action of a province that is prejudicial to the economic, health or security interest of another province of the state or impedes the implementation of national economic policy (Van der Waldt and Du Toit, 1997:42).

The National Council of Provinces plays a major role in respect of intervention under Section 100 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) where national supervision of provincial administrations is described. Notice of national intervention should be tabled in the Provincial Legislature as well as in the National Council of Provinces. At present there is no intergovernmental structure at executive level that deals specifically with the intervention and supervision of national government of provincial administrations (Discussion Document, 1999:55).

1.3.4 Dispute settlement mechanisms in intergovernmental relations

Chapter three of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) stipulates that national government should establish dispute resolution mechanisms to reduce unnecessary litigation between organs of state because the principles of co-operative government determines that a negotiated rather than a conflict approach should be followed when dealing with disputes. A number of dispute resolution mechanisms for intergovernmental relations is proposed by the Department of Provincial and Local Government and it is suggested that provincial and local government implement their own dispute resolution procedures which are in line with national procedures (Discussion Document, 1999:56). The focus of the spheres of government should be on efficient and effective intergovernmental co-operation to ensure that dispute settlement procedures be the last resort. Court action should be avoided in the solving of disputes and a system of administrative courts may serve as an option.

Local government is the third sphere of government where the people living in a specific demarcated area elect their own representatives. The following section describes the legislative and executive authority in local government.

1.3.5 Local government in context

The legislative and executive authority of local government are outlined in Section 151 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The local sphere of government consists of municipalities, which should be established for the whole of the territory of the Republic of South Africa. The executive and legislative authority of a municipality is vested in its Municipal Council and a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial

legislation, as provided for in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The national or a provincial government may not compromise or impede a municipality's ability or right to exercise its power or perform its function. Figure 1/2 summarises the preceding definition and illustrates the relationship between the different authorities of the three spheres of government.

Figure 1/2: **The national, provincial and local spheres of government**

THE SOUTH AFRICAN GOVERNMENT			
GOVERNMENT SPHERES AND TYPES OF INSTITUTIONS IN SOUTH AFRICA			
Types of institutions	National	Provincial	Local
Legislative authority	President and Parliament consisting of the National Assembly and National Council of Provinces	Premiers and Provincial Legislatures of nine Provinces	Municipal Councils Approx. 1000
Executive authority	President, Executive Deputy President and Cabinet (National public service)	Premier and Members of Executive Council (Provincial public services)	Local executive structures
Judicial authority	Constitutional Court Supreme Court	Provincial Division	Magistrate's Courts

Source: Adapted from Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for excellence in the public sector*. Kenwyn: Juta. p.141.

1.3.6 Organs of the state

An organ of state is defined as any department of state or administration in the national, provincial or local spheres of government or any functionary or institution that exercises power or performs a function in terms of the national or provincial constitutions or in terms of any legislation (Section 239 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The South African National Parks, KwaZulu-Natal Nature Conservation Service and KwaZulu-Natal Parks Board as well as the Mpumalanga Parks Board are included in the definition of an organ of state (*Infra* paragraph 3.3). A court and a judicial officer are not included in the above definition of an organ of state.

An explanation of the interdependence of governmental bodies is necessary in order to be able to analyse the different intergovernmental relations between the spheres of government. Interdependence of governmental bodies is important because the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) establishes a state and government that promotes interaction and interdependence.

1.4 THE INTERDEPENDENCE OF GOVERNMENTAL BODIES

Different spheres of government are not independent from one another and have to rely on the same basic resources of the state. According to Hattingh (1998:15) several resources could be common for the different spheres of government.

1.4.1 Constitutional and legal resources

Constitutional and legal resources are the discretionary authority delegated from a higher to a lower authority by means of the *Constitution of the Republic of*

South Africa, 1996 (Act 108 of 1996) as well as formal legal procedures and arrangements. The legislative authority in the Republic rests as follows: for the national level in Parliament, for the provincial level in Provincial Legislatures and for the local level in Municipal Councils (Section 43 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]).

Parliament has the power and authority to make legislation on any matter and is further allowed to delegate any of its legislative powers to any sphere of government (Section 44 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Provincial Legislatures have the power to make legislation on prescribed matters and are allowed to delegate any of their legislative powers to a Municipal Council (Section 104 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). A municipality has the power to make legislation on matters prescribed in parts B of Schedules four and five as well as Section 156(1) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996). The three spheres of government are always involved in constitutional negotiations and discussion in order to find lasting solutions to the problems in the state and are therefore interdependent on the various constitutional resources available.

1.4.2 Financial resources

Financial resources refer to all money received irrespective of its source (Hattingh, 1998:15). All governments need money to render services and perform their functions and therefore the allocation of financial resources between spheres of government is important. The allocation of money and general financial matters are regulated by Chapter 13 of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996).

A National Revenue Fund is provided for in Chapter 13 (Section 213 and 214 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) into which all money received by the national government must be paid and the share of provincial income raised at the national level must be paid out of the National Revenue Fund. An Act of Parliament also provides for the fair distribution of income between national, provincial and local governments while legislation dividing income can be passed by Parliament only if provincial and local government as well as the Financial and Fiscal Commission have been consulted (*Infra* paragraph 1.11.4). Legislation dividing income considers national interest for example national obligations; the objective needs of national government and the need to ensure that the provinces and local governments can provide basic services and perform their functions. Further aspects which are considered are the financial efficiency of provinces and local governments; the development needs of provinces and local government; economic inequalities among provinces; obligations of provinces and local governments; the need for stable allocations of money and for flexibility to tend to emergencies (Section 213 and 214 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]).

National legislation relating to intergovernmental financial relations has been adopted, for example the *Intergovernmental Fiscal Relations Act, 1997* (Act 97 of 1997) which includes an intergovernmental process regulating intergovernmental consultation and budgeting and establishing intergovernmental structures such as the Budget Council and Budget Forum. These structures facilitate consultation with provincial and local government (*Infra* paragraph 1.11.2). The *Division of Revenue Act, 1998* (Act 28 of 1998) has also been adopted which deals with a monitoring system for the implementation of treasury norms and standards regarding the spending of public funds and the conditions for the allocation of funds to the various spheres of government respectively.

1.4.3 Political resources

Political resources refers to the right and ability of policy-makers, in the various spheres of government, to relate and interact with each other concerning the making of decisions and achieving of objectives and communicating with the public with a view of gaining support (Hattingh, 1998:15). Officials in governmental institutions should at all times adhere to principles contained in the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*, including the principles of co-operative government and intergovernmental relations. Section 41(1) of the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* states that all spheres of government and all organs of state, within each sphere, should preserve peace, national unity and the indivisibility of the Republic; secure the well-being of the people of the Republic; provide effective, transparent, accountable and coherent government for the Republic as a whole and be loyal to the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*, the Republic and its people. Respect for the constitutional status, institutions, powers and functions of the other spheres of government; not assuming any power of function except those conferred in terms of the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* and exercising powers and performing functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere are also principles that should be adhered to by the three spheres of government. The three spheres of government should also co-operate with one another and promote friendly relations by assisting and supporting one another; informing one another of and consulting one another on matters of common interest. National, provincial and local governments should co-ordinate their actions and legislation with one another as well as adhere to agreed procedures and avoiding legal proceedings against one another (Section 41 of the *Constitution of the Republic of South Africa, 1996 [Act 108 of 1996]*).

1.4.4 Resources for information-sharing and consultation

The three spheres of government are required to inform each other of and consult (create active dialogue) with one another when matters of common interest are at stake (Chapter three of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Information-sharing resources refer to the exchanging of information between governmental institutions by for example attending conferences, congresses, seminars or making use of any other medium of communication (Hattingh, 1998:15). Information-sharing and consultation may be informal by telephone, e-mail and through informal meetings or be formal for example meeting in intergovernmental forums. Information is generated by all three spheres of government and there are therefore many opportunities for contact on matters of information-sharing and consultation.

Consultation may occur when joint decision-making takes place (in consultation with) or when non-binding recommendations need to be considered (after consultation with). Consultation between spheres of government and organs of state should occur timeously to enable the parties involved to make appropriate input by following the correct procedure (Discussion Document, 1999:67). Resources for time-sharing and consultation are generally not applied in isolation but are utilised to a greater or lesser degree in the normal course of interaction between governmental institutions and institutions responsible for conservation management in South Africa.

The sharing of information between spheres of government is mostly concerned with laws, executive orders, legislation and procedures pertaining to the controlling and accessing of information (Schwella *et al.*, 1996:183). According to Stevens and McGowan (1985:172), not enough attention is given to the intergovernmental implications of information systems. Computerised information systems and systems technology are not only important communication

mechanisms but may also promote intergovernmental relations between spheres of government if used effectively. The computerised information system may, according to Stevens and McGowan (1985:3) include the following: “*personal or microcomputers, intelligent terminals, work stations, networking, word processing, telecommunication and large mainframes*”. The computer may become the most important instrument of information-sharing and consultation and may assist formal structures for intergovernmental relations to function effectively.

Not only is the study of the interdependence of governmental bodies important but it is also necessary to explain the various approaches to intergovernmental relations. The four approaches to intergovernmental relations cover the extensive field of the study of intergovernmental relations pertaining to conservation management.

1.5 APPROACHES TO INTERGOVERNMENTAL RELATIONS

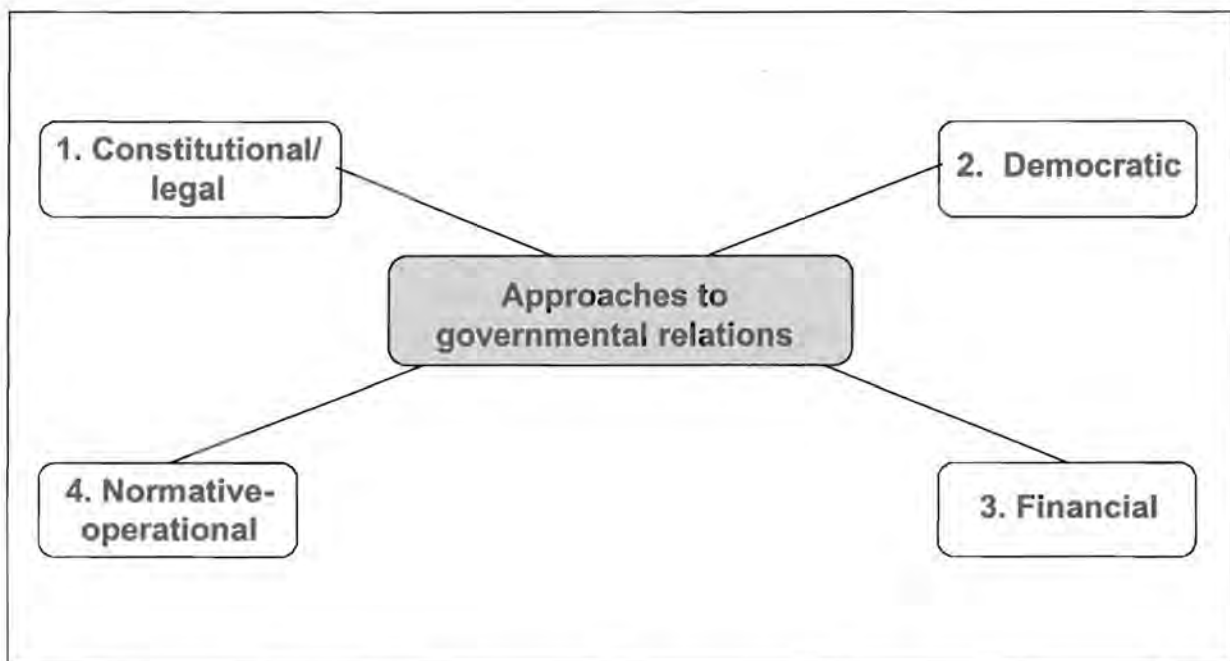
There are various approaches to governmental relations in general but approaches to intergovernmental relations in particular include: the constitutional/legal; democratic; financial and normative-operational approaches (Hattingh, 1998:10). Before analysing the different approaches to the study of intergovernmental relations, it is necessary to define what an *approach* is. An approach is according to Van Dyke (1960:4) the criteria employed in formulating the questions asked in any (political) enquiry. If an individual uses, for example, democratic criteria to enquire about or analyse a certain aspect, a democratic approach is followed.

1.5.1 Constitutional/legal approach

The *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) is the

supreme law of the Republic and guides all actions of political office-bearers and officials. Any law or conduct inconsistent with *the Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) is invalid, and the obligations imposed should be fulfilled. Van der Waldt and Du Toit (1997:162) emphasise the importance of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and other legislative provisions in decision-making and policy-making and therefore the constitutional/ legal approach is based on the principle that all legal provisions and regulating measures, arising from the three spheres of government, are the overarching regulating forces. The above-mentioned provisions may include legislative provisions dealing with intergovernmental relations.

Figure 1/3: **Approaches to governmental relations**



Source: Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for excellence in the public sector*. Kenwyn: Juta. p.162.

1.5.2 Democratic approach

The importance of having a democracy is highlighted by Section 181 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) which provides for the establishment of state institutions responsible for the strengthening of a constitutional democracy in the Republic, namely the Public Protector; Human Rights Commission; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; the Commission for Gender Equality; the Auditor-General and the Electoral Commission.

Proponents of the democratic approach are opposed to the centralisation of authority and are supporters of the autonomy and independence of provincial and local governments in South Africa. However, independence would mean that relations between governmental bodies will exist by virtue of the power vested in each of these bodies by means of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and other regulating laws (Hattingh, 1998:12).

1.5.3 Financial approach

The importance of financial relations between the different spheres of government should not be under-estimated because money is transferred from one sphere to the other by means of legislation. Financial- and therefore fiscal intergovernmental relations cannot be separated from the political system because the provincial and local spheres of government are to a large extent dependent on the national sphere of government for funds (Döckel and Somers, 1992:149).

1.5.3 Normative-operational approach

The normative-operational approach examines the importance of considering all pertinent norms to analyse the total operational reality of governmental relations without one aspect of governmental relations being overemphasised at the expense of another (Van der Waldt and Du Toit, 1997:163). Group norms or value objectives are important since the normative-operational approach entails an investigation of what is or should be desirable (Hattingh, 1998:14). In the public sector, the normative-operational approach indicates the action of administrators when making a choice between the various decision-making alternatives. Public administrators and managers should, if possible, take all the generic administrative functions (policy-making, organising, financing, staffing, controlling as well as procedures and methods) and normative guidelines into account when analysing intergovernmental relations (*Infra* paragraph 1.8).

Roux *et al.* (1997:172) prefers the normative-operational approach to the constitutional/legal, democratic and financial approaches because a single aspect (such as finances) can for example not dominate another aspect (such as values). The term *normative* indicates the actions of administrators, given their sequences of decision-making alternatives and *operational* is the basic activity that directly enables the institution to realise its objectives (Fox and Meyer, 1995:90). According to Roux *et al.* (1997:172) a normative-operational approach focuses on insight and identifies standards in terms of which particular operational realities are classified as good or bad.

Another factor that which has an influence on the study of intergovernmental relations and conservation management is the form of government. Although a large number of forms of government is found throughout the world, focus in this study is on the unitary and federal forms of government because of its relevance to South Africa.

1.6 THE INFLUENCE OF FORMS OF GOVERNMENT ON INTERGOVERNMENTAL RELATIONS

Because of the existence of the numerous forms of government, political leaders have at different times been faced with the choice of whether a unitary or federal form of government would be relevant to South Africa. Both forms of government would have an influence on intergovernmental relations between spheres of government. The unitary and federal forms of government and their relevance pertaining to intergovernmental relations in South Africa are now analysed.

1.6.1 Unitary form of government

A unitary state is, according to Fox and Meyer (1995:132), a state within which all authority is concentrated within the national government, and where the other spheres of government exercise only that authority allocated to them by the national government (where the final decision-making remains) although authority may be delegated to subordinate authorities. The primary characteristic of a unitary form of government is the fact that authority is centralised with the concentration of power and authority within a centralised unit, central organisation or single person (Döckel and Somers, 1992:141). A number of principles describing a unitary form of government are identified by Hattingh (1998:114) as the following: supreme power is indivisible and unlimited, the national legislative authority is empowered to promulgate, approve and amend laws concerning any aspect affecting the state and the constitution of a unitary form of government would not limit the authority of the national legislative authority unless aforementioned authority agrees to such limitations. Further principles are that the legislative authority may: create financial resources and establish executive institutions for the rendering of its functions; incorporate separate governmental units into hierarchical structures (if such structures have

been recognised and approved by it); assign powers, authority and financial resources to spheres of governmental and determine and regulate intergovernmental relations (Hattingh, 1998:114).

Should the legislative authority in a unitary form of state decide to assign certain powers to unitary regions (which are autonomous regions within a state which can exercise a specified degree of delegated powers as prescribed by the national government) two types of decentralised powers can be identified in unitary systems, namely deconcentrated administrative functions as well as devolved legislative, executive and administrative powers and functions (De Villiers and Sindane, 1993:108). The concepts decentralisation, delegation and devolution are explained in detail in further paragraphs (*Infra* paragraph 1.10.2).

1.6.2 Federal form of government

Federalism is a very sophisticated form of government because of its delicate balance of power between diversity and unity (De Villiers and Sindane, 1993:114). The federal government is responsible for matters of common interest to all the federal units while matters that are important for the establishment and preservation of a separate identity are usually left in the hands of the individual federal units, thus emphasising unity within diversity (Kotzé, 1995:66). Kotzé (1995:66) defines federalism as follows:

“ a political principle that has to do with the constitutional diffusion of power so that the constituting elements in a federal arrangement share in the processes of common policy-making and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities. Federal systems do this by constitutionally distributing power among general and constituent governing bodies in a manner designed to protect the existence and authority of all”.

The federal form of government may be a result of pressure for regional autonomy based on factors such as language, religion, ethnicity and the level of economic development. If so, it may be difficult to reconcile the needs of a federal unit of government with those of the federal government and may therefore have a negative influence on intergovernmental relations. The following reasons may contribute towards the complex nature of federal intergovernmental relations: a rigid constitution regulates relations between state; residual powers may be vague; no state is subordinate to another state and the supreme court is responsible for retaining the federal form of government (Roux *et al.*, 1997:175).

1.6.3 The unitary and federal debate in South Africa

Regarding the establishment of intergovernmental relations, fundamental differences exist between unitary and federal forms of government. A unitary form of government may be not as rigid as a federal form of government due to the supreme sovereign power determining the distribution of functions between governmental bodies and institutions. The legislative authority in a unitary form of government may change the number of geographical areas or amend the number of spheres of government while, in the case of a federal form of government, the federal government may not change functions and authority without the approval of constituent governments (Hattingh 1998:117).

In a unitary form of government, uniform policies are executed while the authority as well as the functions of a federal form of government is determined by the constitution. Centralisation is more likely to manifest itself in the unitary form of government than in a federal form of government.

A pure form of either a unitary or federal form of government seldom exists because many variants are found. The *Constitution of South Africa*, 1996 (Act

108 of 1996) is regarded as having both unitary as well as federal characteristics. Federal elements in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) are according to Kotzé (1995:68) the following: three spheres of government with autonomous functions regarding members of the National Council of Provinces who can influence the decision-making function of the national government. In some provinces traditional leaders are found and the Provincial Legislatures may provide for the establishment of houses of traditional leaders (Section 212 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]).

Provinces are granted exclusive rights which means that the provinces exercise authority over matters of which Parliament have no final authority (Schedule five of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). National legislation will however prevail over provincial legislation in certain conditions (Section 146 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) is fairly rigid and may only be amended with a supporting vote of at least 75 percent of the members of the National Assembly and the support of at least six provinces in the National Council of Provinces (Section 74).

According to De Villiers (1997:28) the federal character of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) stops at the provincial boundaries where an essentially unitary form of state exists because the powers of local government are subject to provincial powers which will impact on the nature of governmental relations. The reason for the inclusion of co-operative government may also be a compromise between having a unitary state on the one hand and a federal state on the other. The South African system of government accommodates power-sharing and diversity but also preserves unity at the same time.

A classification of intergovernmental relations is necessary to be able to analyse the relations between the different spheres of government. The following paragraphs focus on vertical as well as horizontal intergovernmental relations and also refer to intra and extra governmental relations.

1.7 CLASSIFICATION OF GOVERNMENTAL RELATIONS

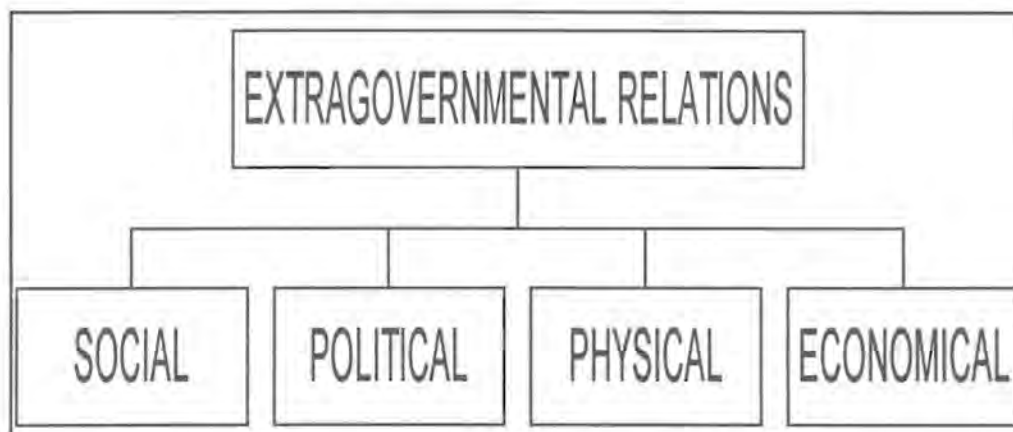
The relations between governmental bodies can be classified into three basic categories, namely intergovernmental, intragovernmental and extragovernmental relations (Hattingh, 1998:19). Although this study is aimed at analysing only intergovernmental relations, it is still necessary to define intragovernmental and extragovernmental relations in view of the complex nature of governmental relations in general.

Intragovernmental relations refer to the relations within governmental bodies and vertical and horizontal lines of authority are present. In the national sphere of government, examples of vertical structures of authority are that of Parliament; Cabinet ministers and departments (governmental bodies in the same sphere of government but on different hierarchic levels) or the relations between a Cabinet minister and the head of his/her department (individuals in the same sphere of government but on different hierarchic levels). Vertical intragovernmental relations are important for the establishment of lines of authority and maintaining accountability and responsibility as well as facilitating control. Horizontal intragovernmental relations occur in governmental bodies between individuals and institutions in the same hierarchic level, for example between Ministers in Cabinet in the national sphere of government (Hattingh, 1998:29).

Extragovernmental relations occur between governmental bodies and external institutions. Social extragovernmental relations occur to address issues such as health services or unemployment in a co-ordinated manner while political

extragovernmental relations may be relations between the different political parties and their electorate. Economic extragovernmental relations may ensure economic co-operation between governmental bodies and the private sector while institutional extragovernmental relations exist between related institutions (Van der Waldt and Du Toit, 1997:164).

Figure 1/4: **Extragovernmental relations**



Source: Adapted from Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for excellence in the public sector*. Kenwyn: Juta.

Intergovernmental relations between the different governmental bodies can occur at both vertical and horizontal level. Vertical and horizontal intergovernmental relations will be regulated in terms of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996).

1.7.1 Vertical intergovernmental relations

Vertical intergovernmental relations exist between the national, provincial and local spheres of government with the level of power decreasing from national to provincial to local government. According to Van der Waldt and Du Toit (1997:164), the relations between the national and provincial governments are

aimed mainly at the control and co-ordination of provincial activities which means that the lower spheres of government are dependent on higher spheres of government (especially as far as the facilities discussed above are concerned). The very same dependence may also restrict the discretion of lower spheres of government.

1.7.1.1 Power relations

The National Assembly has more power than the National Council of Provinces because the National Assembly has legislative power on any matter (Section 44 of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The National Council of Provinces has power only in respect of those functions listed in Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996).

Parliament has more legislative powers than Provincial Legislatures. Parliament can pass legislation on any matter whereas Provincial Legislatures can pass legislation on such matters prescribed only in Schedules four and five of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Functional areas of concurrent national and provincial legislative competence are also prescribed in Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996).

Provincial Legislatures in turn have more legislative powers than local governments and this state of affairs is illustrated by a comparison of parts B of Schedules four and five of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) with the whole of the Schedules. Section 155(6) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) further provides that Provincial Legislatures should monitor and support local governments while Section 155(7) provides that

national and provincial government have the legislative power to ensure that local governments perform their functions effectively. The assignment of powers and functions within government may lead to unfunded or unresourced mandates and therefore it is necessary to propose guidelines to rationally assign powers between the three spheres of government (Discussion Document, 1998:56).

1.7.1.2 Conflict relations

The importance of intergovernmental relations is emphasised by providing for the establishment of institutions to facilitate intergovernmental relations and for procedures and mechanisms to settle intergovernmental disputes (Section 41[2] of the *Constitution of South Africa*, 1996 [Act 108 of 1996]). Any public institution involved in intergovernmental conflict should make every effort to settle conflict through the mechanisms and procedures provided and try all other possibilities to settle conflict before it refers a dispute to a court of law (Craythorne, 1997:26). Mechanisms to settle conflict are provided for through the Mediation Committee, which consists of nine members of the National Assembly and nine members of the National Council of Provinces (Section 78 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]).

Five members from the National Assembly and five members of the National Council of Provinces should vote in favour of a point to settle a conflict. According to Mentzel and Fick (1996:108) intergovernmental relations are formalised into the structures of government with the National Council of Provinces becoming the major mediator in the case of conflict between and within the spheres of government. The Mediation Committee, which focuses on the informal dynamics of intergovernmental relations, is the mediator when party-political disputes are handled.

1.7.2 Horizontal intergovernmental relations

Relations between governmental institutions in the same sphere of government are referred to as horizontal intergovernmental relations (Van der Waldt and Du Toit, 1997:164). Examples of horizontal intergovernmental relations are those between the legislature, the executive and the judiciary; national government departments; legislative authorities of provinces; provincial executives; provincial departments; local governments and local government departments. Horizontal intergovernmental relations differ from vertical relations in three important ways: there are no formal power relations; negotiating power is more or less the same and interdependence is different (Hattingh, 1998:24).

The National Assembly should ensure that all executive institutions (Cabinet and state departments) at the national level of government are accountable to it (Section 55[2] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]) while Section 114 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) stipulates that provincial executive institutions should be accountable to Provincial Legislatures and therefore horizontal intergovernmental relations are found. According to Van der Waldt and Du Toit (1997:164) horizontal intergovernmental relations occur mainly through municipal agreements and municipal associations and the co-operation in the above-mentioned sense is necessary to prevent the duplication and overlapping of activities.

The promotion and maintenance of intergovernmental relations are based on the normative guidelines of public administration. The duty of all political office-bearers and public officials is to follow these normative guidelines in order to render services and perform functions promoting the general welfare of the community.

1.8 NORMATIVE GUIDELINES IN THE STUDY OF INTERGOVERNMENTAL RELATIONS

The behaviour of officials in the public sector is always subjected to a high standard of public responsibility and accountability and the guidelines which emanate from the values of society as well as from the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Other laws should thus be the foundation for and set the boundaries for all administrative and management tasks that need to be performed. The normative guidelines of public administration are applicable to almost all circumstances in the management and administrative processes and were developed and adapted over time (Gortner, 1977:74). The concept *normative guidelines* refers to principles that may be idealistic and which form the basis for all public action and decision-making and have evolved from traditions and conventions within the domain of the public sector in South Africa (Botes, 1994:7).

1.8.1 Acknowledgement of the political supremacy of the Constitution

The *Constitution of the Republic of South Africa 1996* (Act 108 of 1996) is acknowledged as the supreme law of the Republic of South Africa. The national government has the authority to assign powers to the nine provinces (provincial sphere of government) while local government is subordinate to the provincial government (*Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Legislative institutions in each sphere of government are established through elections and face unique political issues, but the actions of institutions should always be guided by the supreme authority of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The various legislative institutions will formulate policy to improve the general welfare of the community in their jurisdictions and the relevant executive institutions should abide by these policies (Roux *et al.*, 1997:178).

1.8.2 Maintenance of public accountability

Accountability can be viewed as the responsibility of a government and its institutions towards the public to realise previously set objectives and to account for them in public (Fox and Meyer, 1995:1). Therefore accountability also refers to the obligation a public official has in being publicly responsible for his/her actions and the responsibility that a subordinate has to keep his/her superior informed of the execution of functions. When a subordinate government institution performs a function delegated by a higher authority, the latter should recognise and accept that it is still accountable for the result of the policy (Roux *et al.*, 1997:178). The normative guideline of public accountability is applicable in democratic states such as South Africa (where regular elections take place) to establish representative institutions in all three spheres of government.

1.8.3 Promotion and maintenance of public efficiency

All actions of officials and political office-bearers should be effective (of true value and viable) and objectives should be achieved as cost-effectively as possible thus with the cheapest means and at the lowest cost (Botes, 1994:8). Fox and Meyer (1995:42) are of the opinion that efficiency, in general, refers to a criteria according to which an alternative is recommended if that may lead to higher effectiveness to cost. In every sphere of government, governmental institutions should address the needs of the population through the management of scarce resources and therefore the promotion and maintenance of public efficiency are of utmost importance.

1.8.4 Adherence to South African administrative law

The importance of the principles of administrative law is emphasised by Botes (1994:8) and he stipulates that the actions of public officials should be legal and

lawful, implying that laws, ordinances and regulations should be obeyed. Administrative law is prominent in intergovernmental relations for example relations between Ministers and Directors-General or between members of the Executive Councils of provinces and departmental heads of provincial departments.

The criteria guiding the behaviour and actions of governmental institutions and organs of state within the framework of the judicial-administrative functions are as follows: actions should be authorised; behaviour should be lawful and subject to relevant legal requirements; actions should comply with required legal procedures; the misinterpretation of justice should be avoided; discretion should not be used unfairly or unjustly; actions should only take place after all relevant information and facts have been considered; the behaviour of officials should be reasonable and unimpeachable (Hattingh, 1998:106). The requirements of administrative law should be adhered to specifically to prevent manipulation, misleading statements, undue pressure and unjust actions in intergovernmental relations.

1.8.5 Acknowledgement of current community values

The actions of public officials will have an influence on the community they serve and therefore political office-bearers and public officials should be sensitive to the values of the community. Values refer to what is fundamentally good or desirable and may serve as a guide to individuals throughout their lives (Fox and Meyer, 1995:134). According to Roux *et al.* (1997:179) the national government and its institutions acknowledges *common values* while provincial and local governments may not necessarily emphasise the same values. Values and value choices in a community may change over time because of factors such as population composition, development, technological progress or changes in the political system and it is therefore important that public officials acknowledge

current common values (Hattingh, 1998:107). The following is according to Botes *et al.* (1992:186) relatively unchanged community values that should be acknowledged by public officials: material, cultural, social, political, institutional and spiritual values. Public officials should be aware of the core values which govern the establishment as well as implementation of intergovernmental structures and institutions and how these values could influence the operating procedure of every intergovernmental structure.

1.8.6 Maintenance of high ethical norms

The public service should function in terms of national legislation and should loyally execute the policies of the government of the day (Section 197 of the *Constitution of the Republic of South Africa, 1996 [Act 108 of 1996]*). It is the duty of all political office-bearers and public officials to act ethically and promote the general welfare of the community when implementing policy. According to Botes (1994:8) public officials should be trustworthy; respectful; friendly; diligent; act in a correct manner; helpful and dignified.

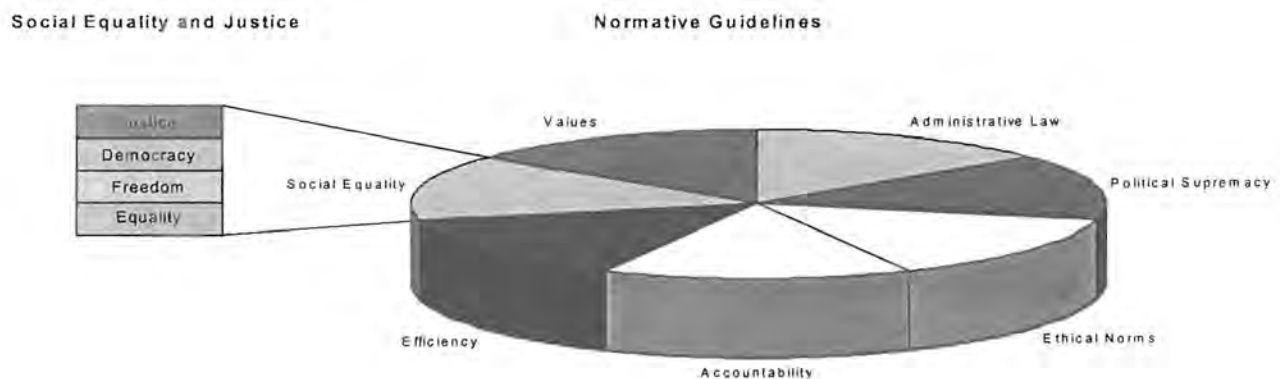
Public officials should also be fair, not be guilty of corruption and not discriminate against any person (Roux *et al.*, 1997:179). Maintaining high ethical norms and standards is of utmost importance in ensuring sound intergovernmental relations.

1.8.7 Social equality and social justice

According to Fox and Meyer (1995:120) social equity is a concept that deals with equitable and equal treatment of all concerned. Public officials should not discriminate between people on any ground for example race, religion, culture or gender when engaging in relations with other governmental bodies.

Social equity emphasises equality in the rendering and delivery of public goods and services, responsibility for implementation of decisions and responsiveness to the needs of society (Fox and Maas, 1997:51). The core elements of social equality and social justice are freedom, democracy, equality and justice. The normative guideline of social equality and its relation to the other normative guidelines are illustrated in Figure 1/5. To promote social equality and justice in South Africa, all institutions and structures for intergovernmental relations should be open to change by consulting the citizens in order to address their needs.

Figure 1/5: **Social equality and social justice**



Source: Adapted from Brynard, P.A. *Publieke Administrasie in 'n nuwe era - Hoe vertoon dit nou? Administratio Publica*. Vol 4 No 1; Junie 1992.

In the following paragraph the role of people in intergovernmental relations is explained as well as further guidelines that influence individuals' behaviour. The

focus is on rules of conduct and further basic values and principles.

1.9 PEOPLE IN INTERGOVERNMENTAL RELATIONS

The three spheres of government and governmental institutions are nothing without its workforce because without people institutions can only exist on paper. People in governmental institutions are divided into elected representatives or politicians and appointed employees or public officials. Both the elected representatives and the appointed employees are involved in intergovernmental relations. The actions of people in intergovernmental relations are guided by basic values and principles as well as rules of conduct.

1.9.1 Basic values and principles

Basic values and principles should guide the actions of politicians and public officials (*Supra* paragraph 1.8). A high standard of professional ethic should be promoted and maintained while efficient, economic and effective use of resources should be promoted (Section 195[1] of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Public administration should be development-oriented to address the needs of the people of South Africa. Services should be provided impartially, fairly, equitably and unbiased and people's needs should be responded to. The public should also be encouraged to participate in policy-making.

Public administration should be accountable and transparency should be fostered when providing the public with timely, accessible and accurate information. Good human resources management and career development practices should be implemented to maximise human potential. It is also important that the public administration should be broadly representative of the South African public, with employment and personnel management practices

based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

1.9.2 Fundamental rules of conduct

The actions of politicians and public officials should be guided by the fundamental rules of conduct relating to public administration (Cheminais *et al.*, 1998:73). These rules of conduct are derived from three main categories: guidelines from the body politic, community values and from institutional guidelines (legal rules or prescribed guidelines).

Guidelines from the body politic will include political supremacy of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996); public accountability; tenets of democracy; statutory and prescribed guidelines; fundamental rights and a code of ethics (Cheminais *et al.*, 1998:68). Guidelines emanating from community values will include effectiveness and efficiency; religious doctrines and value systems; fairness and reasonableness; thoroughness; balanced decisions and honesty (Cheminais *et al.*, 1998:73). Institutional guidelines include all the rules and conduct with which managers and officials should comply with when performing their functions. These institutional guidelines are the following: internal policies and regulations, organisational culture, fair labour practices and the effective and efficient managing of resources (Cheminais *et al.*, 1998:74).

These values, principles and guidelines are the cornerstones that should guide all actions of politicians and public officials. Although governmental institutions are established by acts of law, elected and appointed functionaries will be responsible for the interpretation and application thereof. Actions of people will therefore play a decisive role in intergovernmental relations (Hanekom and Thornhill, 1983:57). It is not only values and principles that influence

intergovernmental relations but also other factors which are explained in the following paragraphs.

1.10 FACTORS THAT MAY INFLUENCE INTERGOVERNMENTAL RELATIONS

Factors that may influence intergovernmental relations are according to Van der Waldt and Du Toit (1997:165) the following: public policy; organisation of government institutions; fiscal and financial variables and human resources problems. Decentralisation, devolution, delegation, communication and co-ordination are components of organising and are also factors that influence relations between governmental institutions and functionaries.

1.10.1 Policy and intergovernmental relations

In every sphere of government policies are formulated to determine *what, how, who with what* and *when* functions should be performed or services rendered (Roux *et al.*, 1997:180). A policy indicates the goals and objectives within a given situation and the methods to realise it through the integration of objectives (Fox and Meyer, 1995:96). Subordinate spheres of government should attempt to achieve the objectives set and policies formulated by the national government and therefore intergovernmental relations are encouraged (Roux *et al.*, 1997:180).

Policy management from an inclusive perspective is, according to Mentzel and Fick (1996:100), a developmental and comprehensive process including policy initiation, design, analysis, formulation, decision-making, dialogue, implementation as well as monitoring and evaluation. Policy management manifests itself formally in the constitution of a state, which will also determine fundamental rules for intergovernmental relations by regulating relations between different spheres of government. Benton and Morgan (1986:6) state the

importance of a constitution as the source for regulating intergovernmental relations because it is under the terms of many constitutions that governmental functions are divided between the spheres of government. Section 41 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) requires that there be an Act of Parliament regulating intergovernmental relations by way of establishing structures, institutions, mechanisms and procedures. Policy for an appropriate system of intergovernmental relations will add credibility to promoting the system of co-operative government and should also support social and economic growth and development in South Africa. Formal policy-making processes will be necessary which will have to include the compilation of a Green Paper, interpreting the comments, the production of a White Paper and the formulation of legislation. Other informal policy measures concerning intergovernmental relations may be accords of co-operation between organs of state or state departments; agreements between national and provincial governments with regard to functions of concurrent national and provincial competence; formulating guidelines for consultation and co-operation between spheres of government as well as for public participation in intergovernmental processes (Discussion Document, 1998:34).

Current policy concerns, according to the Presidential Review Commission (1998:42), relating to governmental relations in South Africa include the following issues: the timing of policy and legislation; scope, goals and objectives of policy; policy instruments required to fulfil responsibility; content of policy; the manner in which national departments should be responsible for the implementation of co-operative government and reaching a balance between the natural evolution of intergovernmental relations and the need for prescription.

1.10.2 Organisation of governmental institutions

Organisation may be defined as an open, dynamic, purposeful social system of

co-operation designed to enhance individual effort aimed at goal accomplishment; consisting of the human element, the physical element, the work element and the co-ordination element, while transforming resources into outputs for users (Fox and Meyer, 1995:90). A distinction can be made between macro and micro-organising with macro-organising focusing on the division of government activities with the objective of reaching government's objectives and micro-organising referring to organising within public institutions and the dividing of functions between officials. The way in which institutions are organised into units and sub-units will have an influence on intergovernmental relations (Van der Waldt and Du Toit, 1997:165).

The objectives, functions and areas of authority or organisational arrangements may have the following impact on intergovernmental relations namely that development in the different government operational areas is hampered because of uncertainty about functional policies. The effective utilisation of human resources becomes difficult because of duplication and overlapping of activities. Attempts at identifying the correct institutions to fulfil the needs of the population may lead to frustration and the application of geographical and historical criteria to demarcate fields of authority cannot necessarily be used in the rendering of services (Roux *et al.*, 1996:184).

Organising comprises a number of components namely decentralisation and devolution, communication, co-ordination, division of work and control. For the purpose of this study the concepts decentralisation, devolution, delegation and communication will be explained in further detail.

1.10.2.1 Decentralisation and devolution

Decentralisation and devolution are also factors which may influence intergovernmental relations. Decentralisation is defined as the

dissemination of functions and authority from the national government to sub-national or sub-organisational units and is regarded as a necessary component of democracy (Fox and Meyer, 1995:32).

Hattingh (1998:69) identifies six contexts within which the concept of decentralisation is applied, namely when subordinate authorities are established by a national authority and functions are delegated to it; division of revenue takes place from a higher authority to a lower authority; provincial institutions are established to perform a single governmental function; powers are assigned to a subordinate government by a national government; discretionary powers are delegated to a specific political office-bearer by the legislative authority and regulatory measures exist in respect of capital expenditure by various governmental bodies.

Through procedures and legislation which regulate the decentralisation of authority between the different spheres of government, intergovernmental relations are maintained between the national, provincial and local governments.

A major argument in favour of a decentralised process is that of efficiency because efficiency reflects a situation where the general social welfare of the community is maximised which requires that individual needs and preference be expressed accurately (Dökel and Somers, 1992:143). The provision of public goods and services should reflect the preferences of the community and the argument is that the average divergence between individual preferences of services rendered and goods received will be less in small communities of like-minded individuals than in larger, more heterogeneous areas and therefore implies small decision-making units as opposed to large centralised ones (Dökel and Somers, 1992:142).

Decentralisation takes government closer to the people and may result in greater administrative efficiency because of greater correspondence between public preferences and public policies. Although decentralisation may lead to greater diversity, more involvement of the community in decision-making and therefore promoting democratic values, a decentralised system implies that the national government should be willing to accept regional and local actions even if it contradicts national interest.

In cases where the national government should maintain national interest to ensure the general welfare of society, the promotion of equality and a minimum level of service provision, a more centralised system might be appropriate (Dökel and Somers, 1992:143). There are positive and negative aspects to both centralisation and decentralisation and the challenge would be to provide means whereby co-operation can be introduced to ensure that provincial units do not act against national interest (thus promoting intergovernmental relations).

According to Cameron (1994:22) a number of concepts exist to describe the degrees of decentralisation among different spheres of government with devolution being the most extensive form. The national governmental authority devolves of its legislative and executive authority to subordinate local units of government which operate in a quasi-autonomous manner outside the direct administrative control structures of the national government. Devolution increases local citizen participation, commitment and involvement with development initiatives (Fox and Meyer, 1995:37).

Devolution takes place through the delegation of authority or responsibility. Delegation is therefore more than just the passing of

functions and duties to officials because it is also the receiving of an obligation and authority as well as the responsibility to enable the official to fulfil his/her task in a meaningful way (Botes 1994:89). The official should therefore receive the necessary training to know how to implement delegated functions. It is often helpful to involve subordinates in the process of delegation, encouraging them to make suggestions about the functions they will perform and therefore developing themselves (Roux *et al.*, 1996:185). With devolution, autonomous units with executive authority are established, and own accountability and status as a legal entity are demanded by means of legal provisions.

1.10.2.2 Communication and intergovernmental relations

A primary strategy that may raise the quality of intergovernmental relations is the creation of formal communication structures. In joint activities between spheres of government, where information and communication are passed along (for example in organisations with a liaison function such as councils, working groups, task forces and commissions) (Falcon and Lan, 1997:321). According to Fox and Meyer (1995:23) communication is the exchanging of thoughts, ideas, perceptions or information in a written, verbal or non-verbal way. It is through the communication process that the objectives of the legislative authority are conveyed to the executive authority or from the national government to the provincial governments. Efforts to improve the quality of intergovernmental relations may include improving communication between spheres of governments and therefore the selection of appropriate communication structures and technologies is very important (Falcone and Lan, 1997:321).

1.10.2.3 Co-ordination and intergovernmental relations

Co-ordination is the process which ensures that activities and functions of the three spheres of government do not overlap and that no duplication of functions occur (Van der Waldt and Du Toit, 1997:192). Co-ordination is a major criteria for an effective system of government consisting of decentralised units. Section 85(1) of the *Constitution of the Republic of South Africa, 1996* (108 of 1998) refers to the co-ordinating of functions of state departments and other administrations. National government should co-ordinate its functions and legislation with the other spheres of government while the national executive authority should co-ordinate the functions of state departments with provincial departments and administrations.

Two intergovernmental structures that have a co-ordinating role are the Intergovernmental Forum (that co-ordinates policy and development in all three spheres of government) and the Forum for Effective Planning and Development (who co-ordinates planning between spheres of government, departments and organs of state responsible for planning) (Discussion Document, 1998:66). The different state departments will have their own co-ordinating structures that will assist them in obtaining their respective objectives.

1.10.3 Fiscal and financial variables

The availability of money and the division of revenue are two of the most important criteria for obtaining government objectives and therefore the national government should create a fiscal relationship with the other two spheres of government by placing limitations on expenditure by means of the budget (Van der Waldt and Du Toit, 1997:167). Equitable shares and allocations of revenue,

that should take into account the national interest as well as the needs and interests of the national government and are determined by objective criteria, thereby emphasising the influence of fiscal and financial variables on intergovernmental relations, are provided for in Section 214(2) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) . According to Roux *et al.*, (1996:181) matters of national importance should be financed on a national basis but when the rendering of certain functions is delegated to a subordinate authority, it is done with the understanding that the national authority will finance the subordinate authority (for example annual subsidies). There are however functional areas of exclusive provincial legislative competence (Schedule five of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). According to Roux *et al.* (1997 :182) there are three possible methods of funding all governmental bodies which have an influence on intergovernmental relations. Firstly, the national government may levy all taxes, make loans and collect fees and thereafter a division of revenue takes place between the three spheres of government. Secondly, the horizontal groupings of governments may be allocated demarcated financial sources and be given the authority to levy taxes on the demarcated sources and, thirdly, the Committee for Interfiscal Relations may propose the sharing of sources of income.

1.10.4 Personnel and human resources problems

Specific personnel problems may occur because of a lack of uniformity, standardisation and co-ordination when recruiting human resources for the different spheres of government. This could result in the national and provincial spheres of government competing to obtain suitable members of staff (Roux *et al.*, 1997:183). The differences in training arrangements, promotion systems and methods determining salary levels in the three spheres of government, can cause conflict between governments and hamper effective governmental relations because no formal arrangements exist to address personnel issues

(Roux *et al.*, 1997:183). Public officials and political office-bearers cannot be separated from the environment in which they function. Environmental influences will include political trends and legislation; economic conditions; social conditions and technological advances (Schwella *et al.*, 1996:37).

The political environment may influence public officials in such a way that they will have their own political preferences that may be in conflict with the policies of the public institutions or organs of state that employ them (Van der Waldt and Du Toit, 1997:167). This conflict in political preferences may influence intergovernmental relations because human resources play a prominent role in the promotion and maintenance of sound relations.

The importance of institutions and structures for intergovernmental relations have been emphasised throughout this study. These institutions and structures are analysed in the following paragraphs.

1.11 STRUCTURES FOR INTERGOVERNMENTAL RELATIONS

Due to the complex nature of intergovernmental relations, structures are created to promote and ensure sound intergovernmental relations. It is important to clarify different intergovernmental institutional arrangements in order to motivate the necessity of structures for intergovernmental relations. The effectiveness of the following structures for intergovernmental relations and its relevance for conservation management are analysed in a later chapter (*Infra* chapter 5).

1.11.1 Legislative intergovernmental institutional arrangements

Legislative intergovernmental relations refer to the structures, functions and terms of reference which are regulated by the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) or other legislation and therefore regulate

the relations between Parliament, especially the National Council of Provinces (NCOP), and the Provincial Legislatures (Mentzel and Fick, 1996:121). An institution created for legislative intergovernmental relations is the Mediation Committee with representatives from the National Assembly and National Council of Provinces (Section 78 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). The Mediation Committee settles conflict between the two Houses of Parliament pertaining to legislation.

1.11.2 Executive intergovernmental institutional arrangements

Executive intergovernmental relations are relations aimed at bringing together executive heads (Premiers, members of Executive Councils of provinces and Ministers) to deal with governmental line functions and lateral issues (Mentzel and Fick, 1996:119). Institutions created to promote executive intergovernmental relations are the Committee of Ministers and Members of Executive Councils (MINMEC) and the Intergovernmental Forum (IGF).

The Committee of Ministers and Members of Executive Councils consists of the national line function Ministers and the provincial Members of the Executive Council of provinces (Setai, 1994:228). Mentzel and Fick (1996:120) regard the Committee of Ministers and Members of Executive Councils (MINMEC) as an informal, advisory and implementational executive structure. This structure deals with the drafting of intergovernmental line-function policies and strategies which may guide the spheres of government in the formulating of own policies; transfer of information; allocation and utilisation of financial resources; executing of policies and strategies; harmonisation of legislation and programmes and consultation and negotiation with regard to national minimum norms and standards in the undertaking of joint projects. Although the contributions of the Committee of Ministers and Members of Executive Councils to the development of efficient and effective intergovernmental relations have been substantial, the

Presidential Review Commission on the Reform and Transformation of the Public Service in South Africa (1998:38) found a number of shortcomings related to the Committee as a unit. The shortcomings may be summarised as follow: the large number of meetings of the Committee of Ministers and Members of the Executive Councils leads to poor attendance or attendance by low ranking officials; the management of meetings and the preparation of supporting documentation are poor; there is a lack of clarity over the decision-making authority of the Committee and meetings are dominated by the national government which may lead to consensual decision-making.

According to Mentzel and Fick (1996:123) the Intergovernmental Forum is regarded as the most important intergovernmental institution because of its role as intergovernmental policy planning body. The Intergovernmental Forum is also concerned with the formulation of intergovernmental policies and strategies; involved with multi-sectoral policy matters as well as financial, fiscal and other governmental resource matters; involved in concurrent line-function competencies because of its conflict potential as well as in the effective and efficient functioning of government systems and constitutional issues. The Intergovernmental Forum has no legal basis for decisions reached and no legal mechanisms are in place to ensure that the spheres of government adhere to decisions taken by the Intergovernmental Forum. Permanent members of the Intergovernmental Forum include the following: the President (*ex officio*); the Executive Deputy President; all Ministers and Deputy Ministers of the national Government; Members of the Provincial Executive Councils; Chairpersons of the National Council of Provinces, the Portfolio Committee on Provincial and Local Government, the Financial and Fiscal Commission, the Public Service Commission and the South African Local Government Association as well as Directors-General of all national government departments and respective provincial governments (Audit Report, 1999:113). Representatives of the Independent Electoral Commission may also be asked to attend meetings when election issues are discussed.

Criticism aimed at the Intergovernmental Forum are the following: agendas of the Intergovernmental Forum lack focus and contain a few matters of substance; meetings of the Intergovernmental Forum are of informative rather than deliberative nature; ministerial attendance of meetings has been poor perhaps because the Intergovernmental Forum appears to have little decision-making authority and the relationship between the Intergovernmental Forum and the Committees of Ministers and Members of Executive Councils is unclear (Presidential Review Commission, 1998:37).

Other examples of executive and legislative intergovernmental structures are: Provincial Intergovernmental Forums, Cabinet Clusters; the Budget Council and the Budget Forum as well as the President's Co-ordinating Council (Discussion Document, 1998:23).

The Provincial Intergovernmental Forums were established to provide assistance to provincial departments in co-ordinating their respective responsibilities and its membership includes the Premiers, Members of the Executive Council of the province, mayors, chairpersons of district councils, regional directors and organised local government representatives (Audit Report, 1999:125). Only a small number of the provinces however have operating Provincial Intergovernmental Forums and these Provincial Intergovernmental Forums do not have decision-making authority.

Six Cabinet Clusters were also formed. The Cabinet Clusters are grouped together in different sectors which bring together Ministers of Cabinet. Meetings take place to discuss issues of mutual interest (Audit Report, 1999:272). The six sectors concerned as well as the Ministers included in the various Cabinet Clusters are mentioned in Table 1/1.

Table 1/1: **Cabinet Clusters**

Social Sector	Education; Health; Welfare; Arts, Science, Culture and Technology; Water Affairs; Forestry; Housing; Sport and Recreation; Finance; Public Service and Administration
Economic Sector	Trade and Industry; Finance; Labour; Mineral and Energy; Public Works; Environment; Public Enterprise; Communication; Transport; Housing; Water and Forestry; Agriculture and Land Affairs; Foreign Affairs; Arts, Culture Science and Technology
Investment and Employment	Trade and Industry; Finance; Labour; Agriculture and Land Affairs; Public Works; Housing; Education; Arts, Science, Culture and Technology; Mineral and Energy; Provincial and Local Government; Transport; Public Service and Administration
International Relations and Security	Foreign Affairs; Defence; Intelligence; Safety and Security; Justice; Home Affairs; Finance; Trade and Industry
Criminal Justice	Safety and Security; Justice; Intelligence; Correctional Services; Foreign Affairs; Home Affairs; Welfare; Finance; Public Service and Administration
Governance and Administration	Public Service and Administration; Provincial and Local Government; Finance; Education; Health; Welfare; Housing; Trade and Industry; Transport; Safety and Security; Water and Forestry; Agriculture and Land Affairs

Source: Department of Provincial and Local Government. *The Intergovernmental Relations Audit*. December 1999. p. 273.

A Co-ordination and Implementation Unit (CIU) in the Office of the Deputy President is also provided for to supply the necessary support and co-ordination

for the various Cabinet Clusters. The role of the Co-ordination and Implementation Unit would be to co-ordinate policy and governance, monitor the implementation process and to reconcile different government activities (Presidential Review Commission, 1998:35). The further creation of the President's Co-ordinating Council should assist in improving relations and co-ordination between national and provincial government and should also help with the development of linkages between intergovernmental institutions and structures. The agenda of the President's Co-ordinating Council should be to address substantive issues pertaining to provincial government with the support of the national Department of Provincial and Local Government (Audit Report, 1999:190).

A new forum for Premiers (namely the President's Co-ordinating Council) was only established on 15 October 1999 to address the need for a forum at the highest executive level to promote national/provincial intergovernmental relations (Audit Report, 1999:102). The previous Forum for Premiers had no formal objective and matters discussed did not contribute towards promoting an efficient and effective executive authority. Items discussed in the previous Forum for Premiers ranged from discussing international twinning agreements, common problems and the co-ordination of economic policies to communication on policy alignment and the powers of the provinces. Criticisms against this Forum of Premiers were numerous and the Audit Report (1999:105) found that this Forum lacked co-ordination, persuasive power, technical capacity, decision-making power and a cross-cutting trust. The new President's Co-ordinating Council should have a clear strategic agenda and promote integrated action and co-operation between all three spheres of government.

Other executive intergovernmental relations structures of importance are the Budget Council and the Local Government Budget Forum. Because the focus of this study is on national-provincial intergovernmental relations, the functioning

of the Local Government Budget Forum is not addressed. The Budget Council is however, a very important intergovernmental structure because of its statutory nature. The Budget Council serves as a statutory financial Committee of Ministers and Members of Executive Councils (MINMEC) and was established in terms of the *Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997)*. The Budget Council consists of the Minister of Finance as well as the various Members of Executive Councils concerned with finance of each province. The Minister of Finance acts as chairperson of the Budget Council (Section 2 of the *Intergovernmental Fiscal Relations Act, 1997 [Act 97 of 1997]*). The functions of the Budget Council will include the consultation on any fiscal, budgetary of financial matters and the evaluation of proposed legislation or policy pertaining to finance. Issues concerning financial management or the monitoring of finances of the provinces may also be discussed in the meeting of the Budget Council twice every financial year (Section 3 and 4 of the *Intergovernmental Fiscal Relations Act, 1997 [Act 97 of 1997]*). The Budget Council, being a statutory body, may make binding decisions and differs from other Committees of Ministers and Members of Executive Councils because of its statutory nature.

1.11.3 Administrative intergovernmental institutional arrangements

Administrative intergovernmental relations are the relations between officials and structures which exist for administrative purposes. Examples of structures for informal intergovernmental relations are the Forum for South African Directors-General (FOSAD) and the Technical Intergovernmental Committee (TIC) (Mentzel and Fick, 1996:123). The Forum for South African Directors-General was created to discuss mutual problems, share experiences and learn from each other in terms of the administration of the different provinces and to promote co-ordination between national and provincial departments. The overarching objective of the Forum for South African Directors-General is to promote Section 41 of the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*

pertaining to co-operative government. National Directors-General as well as Directors-General responsible for the provinces are represented in the Forum. According to the Audit Report (1999:92) the Forum of South African Directors-General should contribute towards promoting intergovernmental relations by encouraging communication as well as vertical and horizontal co-ordination between political and administrative structures in the national and provincial spheres of government. A management committee, comprising of a small number of Directors-General report to the Forum of South African Directors-General. The Department of Provincial and Local Government provides technical support to this Forum.

The Technical Intergovernmental Committee has been created to co-ordinate and debate functions falling outside the competence of the provinces (Mentzel and Fick, 1996:125). The role of this above-mentioned structure is to provide technical, administrative and advisory support to executive intergovernmental structures such as the Committee of Ministers and Members of the Executive Councils and the Intergovernmental Forum (Mentzel and Fick, 1996:123). The Technical Intergovernmental Committee has however been criticised for its failure to promote intergovernmental relations in the national sphere of government and the reason may be the failure of legislative intergovernmental structures leading to the poor functioning of technical support committees. Mechanisms are needed to promote consistency in policy formulation regarding intergovernmental relations to ensure compliance with decisions taken by intergovernmental structures and institutions.

1.11.4 Advisory intergovernmental institutional arrangements

The role of advisory intergovernmental structures is to give advice and make recommendations. Examples of advisory intergovernmental institutional structures are the Public Service Commission (PSC) and the Financial and

Fiscal Commission (FFC). According to Section 196 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) the functions of the Public Service Commission include the investigating, monitoring and evaluation of personnel practices in the public service; proposing measures to ensure effective and efficient performance in the public sector; giving directions on aspects such as personnel procedures relating to recruitment, transfers, promotions and dismissals and advising national and provincial organs of state regarding personnel practices.

The Financial and Fiscal Commission is established in accordance with Section 220 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and makes recommendations regarding financial matters in every sphere of government. Financial intergovernmental relations will be guided by the contributions of the Financial and Fiscal Commission.

Relating to advisory intergovernmental structures for conservation management, a Committee for Environmental Co-ordination may also be established in terms of the *National Environmental Management Act, 1998* (Act 107 of 1998) to co-ordinate actions taken by departments which may have an influence on the protection of the environment (*Infra* paragraph 3.4.2). The Committee may also advise departments on matters affecting the environment; draw up reports and investigate the state of the environment; investigate and make recommendations regarding the assignment and delegation of functions between organs of state; make recommendations to co-ordinate the application of integrated environmental management and make recommendations regarding the harmonisation of the environmental functions of all relevant national departments and spheres of government. The Committee, as provided for, will consist of the Director-General of Environmental Affairs and Tourism (to act as chairperson), the directors-general of a number of national state departments, the provincial heads of departments appointed in concurrence with Members of Executive

Councils of the nine provinces and a representative of the national organisation for local government. The Committee may also divide into subcommittees or working groups (*National Environmental Management Act, 1998* [Act 107 of 1998]). The Committee for Environmental Co-ordination and its subcommittees would therefore be one of the ideal structures to promote intergovernmental relations pertaining to conservation management because of the involvement of both the national and provincial administrations. The Committee for Environmental Co-ordination, as provided for in the *National Environmental Management Act, 1998* (Act 107 of 1998) was, however, not established by the end of December 1999 (Director: Biodiversity and Heritage, 1999).

A National Environmental Advisory Forum, consisting of between 12 to 15 members appointed by the Minister of Environmental Affairs and Tourism, is provided for by the *National Environmental Management Act, 1998* (Act 107 of 1998). The purpose of this envisaged forum is to inform and advise the Minister of Environmental Affairs and Tourism about the views of interested parties on the application of national environmental management principles (*Infra* paragraph 3.4.1). Members are nominated by organised labour and business or any other community based organisation and appointed by the Minister of Environmental Affairs and Tourism after consultation with the Members of the Executive Councils of the different provinces as well as the Committees of the National Assembly and the National Council of Provinces that scrutinise environmental affairs. Members of the National Environmental Advisory Forum should have the necessary skill, experience and expertise to carry out the functions of the Forum. By the end of December 1999 a National Environmental Advisory Forum was not yet established.

The Department of Provincial and Local Government is in the process of formalising the systems of intergovernmental relations by drafting legislation on intergovernmental relations and is therefore playing an important role in the

facilitation and co-ordination of relations between different spheres of government. During 1999 an audit was conducted whereby all existing structures and processes for intergovernmental relations in South Africa were analysed. Various extensive interviews were conducted to determine the current reality of intergovernmental relations across the three spheres of government. The themes of the audit are explained in Table 1/2.

Table 1/2: Themes of the Intergovernmental Relations Audit

Operation and structure	This component of the audit seeks to obtain empirical data on existing intergovernmental institutions.
The strategic role of intergovernmental institutions	To record officials' understanding of the role, potential and efficacy of the key intergovernmental relations institutions.
Operational linkages	To explore the way the departments/sectors and spheres of government link up with the various intergovernmental structures.
Intersectoral co-operation	To determine how sectors across the various spheres of government are co-ordinated through intergovernmental institutions.
The policy formulation process	To describe the process of policy formulation in and across the various sectors and spheres of government and to discern the level and extent of participation in policy formulation.
Dispute resolution	To determine the nature of disputes that may have arisen since 1994 across spheres and sectors of government and to evaluate mechanisms for dispute resolution.
Information management and technology	To explore the use, capacity and potential of information technology for communication, storage of documents and the monitoring of performances of intergovernmental structures.

Source: Levy, N. and Tapscott, C. 1999. *Intergovernmental Relations - The case for an audit*. Paper delivered at the Conference on Intergovernmental Relations and Provincial Government. March 1999.

The recommendations and suggestions that will emanate from this audit will benefit the Department of Provincial and Local Government in the formulation of legislation regarding intergovernmental relations. The audit results will be published for consideration by various stakeholders.

All structures for intergovernmental relations need to be stable and durable to promote the principles of co-operation. The formalisation of intergovernmental structures will lead to national legislation concerning intergovernmental relations and subsequently to provincial legislation on such matters. The results of the audit concerned, may be a valuable source for the formulation of legislation pertaining to intergovernmental relations.

There are a number of challenges facing intergovernmental relations in South Africa. The following paragraphs focus on these challenges.

1.12 CHALLENGES FACING INTERGOVERNMENTAL RELATIONS

Conservation managers and public officials should be aware of the challenges facing intergovernmental relations in South Africa. Four challenges facing intergovernmental relations in South Africa are explained in the following section (Discussion Document, 1998:14).

1.12.1 Strengthening co-ordination

Planning, policy activities and budgets need to be co-ordinated in order to better intergovernmental relations between the three spheres of government. A number of national and provincial departments are not monitoring performance of service delivery and clear performance indicators are not set while the national government often set policy and

deadlines for implementation without considering the financial and organisational implications for the provinces. The strategic role and effectiveness of the Intergovernmental Forum (IGF) need consideration as well as the quality of the relationship between the Intergovernmental Forum and the Committee of Ministers and Members of Executive Councils (MINMEC). Co-ordination should also be strengthened in order to prevent the duplication and overlapping of functions between the three spheres of government and intergovernmental structures and institutions.

1.12.2 Operation principles regulating intergovernmental structures

Operational principles regulating intergovernmental structures need to be established because the relationship between intergovernmental structures and institutions is unclear. The relationship between executive intergovernmental structures and the National Council of Provinces is unclear particularly in terms of the co-ordinating role of the National Council of Provinces.

1.12.3 The reporting role of intergovernmental structures

The absence of reporting by intergovernmental structures, that were established informally, make it impossible to assess the performance of these structures as well as their effectiveness and efficiency. It is therefore necessary to formalise the reporting role of intergovernmental structures.

1.12.4 Institutional capacity of provincial and local government

The devolution of functions to provincial and local governments should be in line with their capacity to implement these functions in order to prevent

unfunded mandates being devolved to provincial and local government (Discussion Document, 1998:14). It is necessary that national government not only has policy on the intervention of national government, but also on the resumption of functions delegated to the other spheres.

1.13 CONCLUSION

Intergovernmental relations refer to the communication about and co-ordination of activities between governmental institutions and the sharing of resources such as constitutional/legal, financial, political and information resources. In order to understand the complex nature of intergovernmental relations, this study focus on the approaches as well as the classification of intergovernmental relations by referring to the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* as well as by describing the composition of the three spheres of government. The dependence of the maintaining of basic values and principles and fundamental rules of conduct and the establishment of good governance on an effective and efficiently functioning system of intergovernmental relations as well as the influence of the behaviour and attitudes of people in intergovernmental relations are explained. For the purpose of this study, further focus will be on intergovernmental relations pertaining to conservation management between the national and provincial spheres of government.

The form of government in South Africa has a significant impact on the manner in which intergovernmental relations are conducted. The success of a compromise between unitary and federal forms of government are influenced by the value systems of the population as well as the will of political leaders and office-bearers. Furthermore, governmental relations are influenced by generic factors such as the organisational arrangements, financial and fiscal issues, personnel issues and policy-making. Aspects such as the influence of

decentralisation, communication and co-operation on intergovernmental relations cannot be ignored. The formalisation of intergovernmental relations into structures by means of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and possible future legislation regarding intergovernmental relations, emphasise the need to alter the current informal system of intergovernmental relations to ensure the minimising of conflict between the spheres of government and the promotion of the general welfare of society. The current reality of intergovernmental relations in South Africa will inevitably form the scope, objectives and timing of an Act of Parliament regulating intergovernmental relations. The *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) however does not stipulate whether intergovernmental relations and dispute settlement should be dealt with in one act or whether non-legislative ways should be applied to formalise intergovernmental relations.

More efficient monitoring and assessment of the operation of current structures and institutions for intergovernmental relations is necessary to eliminate any shortcomings or limitations. Improved consultation and information sharing between and within sectors in all three spheres of government as well as the involvement of the community in the intergovernmental process require attention. Clarity on the obligations of different spheres of government concerning concurrent responsibilities, to avoid overlapping and duplication of functions, is necessary and serious consideration should be given to the asymmetrical devolution of functions and the lack of capacity of national, provincial and local governments to implement functions.

CHAPTER 2

A COMPARATIVE ANALYSIS OF INTERGOVERNMENTAL RELATIONS

2.1 INTRODUCTION

When analysing intergovernmental relations pertaining to conservation management, it is necessary to compare the nature and structures for intergovernmental relations in South Africa with the realities of intergovernmental relations in other states. The comparisons provide an opportunity to study similar or different trends pertaining to intergovernmental relations in other states and supply authorities responsible for the development of a policy for intergovernmental relations in South Africa, with information that may assist in the formalisation of future legislation for intergovernmental relations. In order to compare intergovernmental relations in South Africa with intergovernmental relations in other states, it is important to focus on the constitutional dispensations of the different states as well as the influence of forms of government on intergovernmental relations. Aspects such as the influence of centralisation or decentralisation as well as co-operation between different spheres of government should also be borne in mind.

Although every state has its own history and constitutional provisions, valuable lessons can be learnt from analysing key aspects of intergovernmental relations in states other than South Africa. An analysis of the successes and failures of intergovernmental relations in other developing states, such as Brazil and India, may provide valuable information on the study of intergovernmental relations and may also contribute towards promoting intergovernmental relations in South Africa. In the following chapter, intergovernmental relations in South Africa are compared to key aspects of intergovernmental relations in a number of selected states.

2.2 INTERGOVERNMENTAL RELATIONS IN BRAZIL

The state of Brazil is currently a federation consisting of 27 states with each state having its own Constitution which is very similar than the federal Constitution which was proclaimed in 1988 (Soares, 1998:67). Brasil had its first republican Constitution in 1891, which was based on the Constitution of the United States of America, and which established a bicameral Congress. The different states had equal representation in the Congress even though great disparities existed among the states in terms of population distribution, income and economic activities (Fleischer, 1998:45). A President and governors, that were named State Presidents, were elected and the states were given autonomy in terms of political and fiscal matters. Municipal governments were also established and were very dependent on the states for the appointment of public officials and for public works resources (Fleischer, 1998:42). Municipal governments were rated in terms of their political beliefs. Those municipal governments that adhered to the same political principles as the federal and state governments were favoured more than those that were not in the same political camp. By means of military intervention by the federal government, certain states were later replaced by states that followed the same political principles as the federal government so that better federal-state relationships could be established (Fleischer, 1998:43). Intergovernmental relations in Brazil are influenced by the unequal distribution of resources among regions and states, including economic and political resources.

The current federation in Brazil consists of the federal government, which is the main policy initiator, and federal units namely the states and municipalities. These three tiers of government have distinct and concurrent competencies. The different states have the power to legislate on certain matters and also have power over municipalities, while the municipalities may only legislate on local matters which is not already provided for in state provisions (Soares, 1998:68).

The federal government can intervene and overrule competencies of the states after the Supreme Court has ruled on the matter and in cases of national interest, where there is public disorder or state financial trouble (Tapscott, 1998:15). Intervention of the federal government in the affairs of state governments should only occur after the particular matter has been thoroughly discussed and formal provisions to overrule are made in the Constitution through petition from the executive to the Supreme Court, through an appeal to the judiciary or an intervention decree to be confirmed by Congress or State Assembly (Soares, 1998:70). An informal means of intervention is described by Soares (1998:71) as follows:

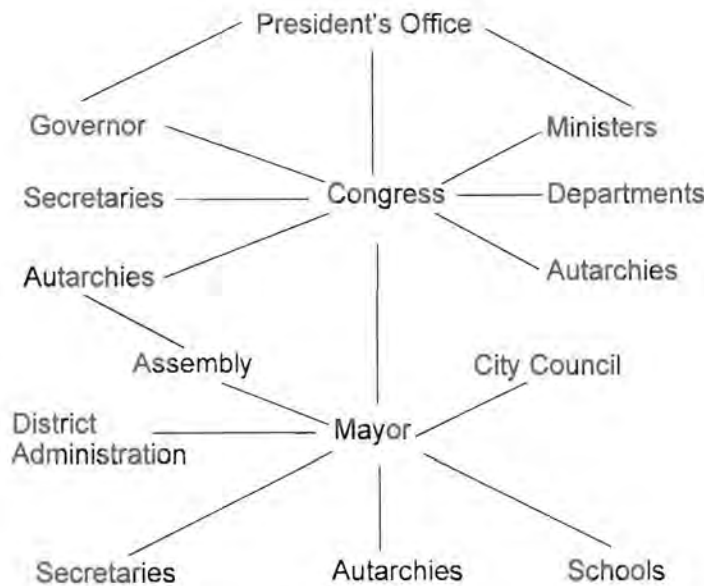
“An infrequent, but informal and customary, means to overrule and intervene is the anticipation of legislation over the same subject while it is still under public discussion within the state or municipality, thus allowing a federal law to implement a policy in a different way, within the same principles”.

In the states of Brazil, governors are elected and have a lot of economic power. A number of the governors have previously been mayors and/or senators more than once (Fleischer, 1998:47). The governors control the budget of the state, the local media, state police and are also concerned with the making of political appointments (Tapscott, 1998:18). Governors influence the delegation of the state in Congress and therefore the President and Ministers in the federal government have to acknowledge the demands of the governors when discussing policy decisions and evaluating conflicting demands (especially when Congress has to approve a decision). Intergovernmental relations in Brazil therefore have a strong political character. Brazil also has a very centralised presidential form of government which is in charge of all financial matters, including the state-operated banks. A large number of the governors have majorities in their state legislatures and are also responsible for the appointment

of judges to the state Supreme Courts (Fleischer, 1998:47). The latter questions the independence of the state's judiciaries.

Each federal unit has government structures that are very similar to one another but have different names, namely states and municipalities have secretaries and sometimes autarchies (Soares, 1998:70). The relationships between different federal units are mostly bottom-up where mayors and state secretaries make demands to federal agencies through congressmen and the legislature of the federal government mostly support cities, state secretaries and autarchies (Soares, 1998:69)(See Figure 2/1).

Figure 2/1: The relationship between the federal government and different federal units in Brazil.



Source: Soares, R. M. 1998. Intergovernmental Relations in Brazil. *Intergovernmental Relations: An International Comparative Study*. Pretoria: Department of Constitutional Development and Provincial Affairs.

Demands, over public policy or the implementation of programmes, made by federal units in Brazil, may only occur after widespread negotiations had taken place (Soares, 1998:71). Negotiations between the federal units and the federal government imply that intergovernmental relations do exist although it is more of an informal nature than through formal intergovernmental structures.

According to Soares (1998:70) overlapping sometimes occurs within the jurisdictions of secretaries by autarchies pertaining to matters of the environment, agriculture, administration and development and therefore conflict among executive authorities does take place. An example of frequent conflict between areas where both the agencies have the resources and capabilities to develop programmes, is the overlapping of conservation and environmental programmes and rules in Brasilia, Paraná and São Paulo. Pressure from the states and municipalities to obtain more financing and political support for their programmes as well as from the Union to obtain support for federal programmes and policies, sometimes encourage interest groups to assist in getting finance and expertise for the implementation of projects in each jurisdiction. Although this assistance should lead to the addressing of all federal, regional and municipal concerns, problems are experienced, for example in the field of environmental policy (Soares, 1998:74). Where complementary environmental programmes have been implemented successfully in Rio de Janeiro and São Paulo, implementation in the Northeast and Brasilia is difficult because interest groups differ in terms of their approaches from the federal government. In the North the three tiers of government also differ with regard to the timing and implementation of environmental policies in the area (Soares, 1998:74). There are problems with regard to intergovernmental relations because of the lack of funds from the national budget for projects and the allocation of federal projects to be implemented by federal offices and agencies or autarchies. Federal programmes are usually undertaken by the federal offices which are situated all over the states and they have agencies in state capitals as well as local offices

in the cities. Where federal agencies do not exist, federal offices and state agencies enter into agreements (which are mostly determined by political leaders and interested allied parties in the states and municipalities and also at the federal level)(Soares, 1998:72). Autarchies also assist when general agreements for co-ordination are undertaken.

Financial intergovernmental relations in Brazil are characterised by the distribution of constitutionally mandated amounts of money among states and municipalities in accordance with the share that is provided for by regulation (Soares, 1998:72). The Union is responsible for the collection of main taxes through its agencies or through state and municipal agreements, and the sharing of money should be directly related to the size of the population, for municipal shares, as well as inversely proportional to *per capita* income for state shares. According to constitutional provisions regarding finance, regional funds should be shared by regions that are less developed to enable them to integrate with other regions (Soares, 1998:72). The transfer of money by the Union to the smaller federal units, such as the states and municipalities, is undertaken through official banks. Approximately all of the states have their own banks, with almost all having financial troubles. States and municipalities are indebted to regional enterprises and their governments because of unpaid loans. This indebtedness leads to the slow initiation of state policies. Over the past three decades, a lot of fiscal autonomy was granted to the states and municipal governments in Brazil, an example being the fact that states are permitted to require loans directly from multi-lateral funding agencies (Tapscott, 1998:25).

In 1987/88 the Constitutional Assembly decided to lower the federal government's share of income from taxes which led to a deficits of the budget of the federal government because the responsibilities of the federal government were not reduced. To address the deficit problem of the federal government, a Fiscal Stabilisation Plan was introduced which gave the Minister of Finance the

power to reduce or abolish transfers to the states and municipalities temporarily (Tapscott, 1998:25). The Fiscal Stabilisation Plan led to the establishment of a continuing bargaining process with the Minister of Finance, governors, state finance secretaries and senators promoting financial intergovernmental relations.

Except for the informal channels of dialogue as means for promoting intergovernmental relations in Brazil, as well as lobbying and communication offices in the capitals of most big cities, structures for intergovernmental relations consist of an Interparliamentary Union and an Association for the Benefit of Municipalities. According to Soares (1998:75) neither of the two structures contribute significantly to the promotion of intergovernmental relations because the main relations between the federal government and federal units take place through politicians. Although governors relate with the two houses of the Congress as well as the President and Ministries, their relations are usually within specific regions.

2.3 INTERGOVERNMENTAL RELATIONS IN INDIA

Although the state of India is classified as a federation, the Constitution of India stipulates that the constitutional structure of India is a Union of States, its 395 Articles and ten Schedules do not refer to the word federal (Mehra, 1998:80). The developing state of India has three levels of government namely the Union or Central Government, State Governments (25) and Union Territories (seven). Intergovernmental relations in India are therefore analysed in terms of these three levels. The history of India is characterised by political uncertainty and debate in the legislature regarding the federal or union nature of the state. There were plights from the Indian National Movement to enforce federal principles in the 1920's while the Nehru Committee Report requested a strong central Union Government for India in 1928 (Mittra, 1928:71). A final report of the Union Powers Committee in 1947, which made proposals regarding the

constitutional structure of India, recognised the territories in India as autonomous units but also stressed the importance of a strong central authority. The proposals were entrenched in the *Indian Provisional Constitution Order of 1947*. Mehra (1998:83) is of the following opinion regarding debates in the Constituent Assembly of India and the Indian federal design:

“The Constituent Assembly debates clearly reflect the fears of centrifugal forces in a multi-cultural state striving for nationhood and the concerns of national integrity overpowering the concerns of grassroots democracy and devolution . The federal design emerging out of the brainstorming in the Constituent Assembly and subsequent federal experiments have been aimed at discovering the manner and extent to which ethno-linguistic diversity should not only be recognised but also assigned a role in the politico-administrative system”.

Even though the Indian Constitution stresses the importance of a strong central government, Schedules five and six of the of the Constitution of India provide for the establishment of Autonomous Regional or District Councils to resolve ethnic conflicts. According to Roy Burman (1993:7), intergovernmental problems were created with the use of the Sixth Schedule in the Indian Constitution. These intergovernmental problems are summarised in Table 2/1.

Table 2/1: **Problems created for intergovernmental relations because of the use of the Sixth Schedule in the Constitution of India**

It is not clear whether the Governor, as the constitutional head of the State, is to be guided by advice of the State Ministry, or whether he can exercise his power based on the resolutions adopted by the Autonomous District Council.

There has been ambiguity regarding the context and conditions of the right of supersession of the District Council by the Union Government.

The power of the Union Government in the disbursement of the share of revenue of the District Council, has not been clear.

Concurrent jurisdiction of some states, even in matters of enactment of customary laws, has been a point of contention.

The right of the State to take over functions like primary education, which are inherent functions of the District Council under the provision of the Constitution, has set off jurisdictional row on several occasions.

The discretionary role of the Union Government in assigning development activities to the District Council has given the State an upper hand.

Source: Burman, B.K.R. 1993. *Federalism in Perspective: Problems and Prospects for North-East India. Mainstream*. 7 August 1993. p. 7.

From the above-mentioned problems created for intergovernmental relations in India, it is evident that the Indian Constitution favours a central union which has the power to create new states and change the boundaries of current states. The union-state relations will therefore impact on intergovernmental relations and the limitations of the authority of the states and the dominance of the Union Government over the states may lead to conflict.

After the new Republic of India had been established, the States Reorganisation Commission (SRC) was created to redraw the internal boundaries of India (Mehra, 1998:85). Several changes were later made to these internal boundaries of India when the Union Government was forced to agree to the proposals of a number of states or regions to become autonomous. The power of the Union Government to change the boundaries and names of states were now limited and democratic principles were adhered to in the stipulations of the Constitution of India. The influence of political parties and leaders in the making of decisions became more important than in the past (Mehra, 1998:86). Articles 245 to 291 of the Constitution of India now regulates intergovernmental relations between the Union Government and State Governments.

The Union-State relations in India can be broken down into three categories namely, legislative, administrative and financial intergovernmental relations. According to Merha (1998:86) the issues of main concern regarding the mentioned categories of Union-State intergovernmental relations are summarised in table 2/2. It is also important to note that three lists of functions to be rendered by the Union and State Governments are mentioned in Article 246 of the Constitution of India, namely the Union list, State list and Concurrent. These list of functions will have and influence on legislative intergovernmental relations in India.

Table 2/2: Legislative, administrative and financial intergovernmental relations in India

Legislative intergovernmental relations	Administrative intergovernmental relations	Financial intergovernmental relations
Although the States are autonomous, parliamentary dominance over state legislatures influences legislative intergovernmental relations.	The executive power of the Union Government is co-extensive with its legislative power and the same applies to the executive power of the States.	Sharing of revenue between the Union Governments and the States are promoted through the existence of a finance Commission.
A list of 47 concurrent competencies exist over which both the Union and State governments can legislate.	The Union Government has control over the State Governments in administrative matters.	The allocations and distributions made by the ten Finance Commissions that have been established and their rewards for proper sharing of resources between the Union and the States has failed to put the question of fiscal federalism in India beyond debate.

<p>A Union law will prevail over a State law when a dispute arises between a law made about a concurrent subject giving the Union Government an advantage over the State Governments.</p>	<p>The Union Government has the power to direct the State Governments when financial propriety needs to be observed and to reduce the salaries of persons serving in connection with the affairs of the Union, for example Judges of the Supreme and High Courts.</p>	<p>The Central (Union) Government have greater power of taxation, but the revenue collected has to be shared in accordance with constitutional principles. The constitutional principles therefore guides financial intergovernmental relations in India.</p>
<p>Powers of Parliament will extent over a State subject in the following circumstances:</p> <p>if the Council of States declares by a resolution that the Parliament may, for a temporary period, make laws with respect to matters in the State List when it is of national interest and for as long as the resolution remains in force; during a period of a Proclamation of Emergency;</p> <p>when two or more States declare that it shall be lawful for Parliament to make law with respect to matters included in the State List relating to those States;</p> <p>when international obligations have to be met; and</p> <p>when a Proclamation of Failure of Constitutional Machinery in a state is made by the President.</p>	<p>The executive functions have usually remained with the States except in the following instances:</p> <p>where a law of Parliament relating to subjects of a concurrent nature delegates certain executive functions specifically in the Union; and</p> <p>where the provisions of the Constitution itself vest certain executive functions upon the Union, for example the implementation of a treaty or international agreements.</p>	<p>The five taxation sharing arrangements in India are the following:</p> <p>duties levied by the Union but collected and appropriated by the States;</p> <p>taxes levied and collected by the Union but assigned to the States;</p> <p>taxes levied and collected by the Union and distributed between the Union and the States;</p> <p>surcharge on certain duties and taxes for purposes of the Union;</p> <p>and</p> <p>taxes which are levied and collected by the Union and may be distributed between the Union and the States.</p>

Source: Mehra, A.K. 1998. Intergovernmental relations in India. *Intergovernmental Relations: An International Comparative Study*. The Department of Constitutional Development and Provincial Affairs. p. 94.

Other institutional arrangements for intergovernmental relations in India are recognised in the Constitution of India. The Parliament of India is able to arbitrate when disputes arise between States concerning the use and management of waters in any inter-State river (Article 262 of the Constitution of India) An Inter-State Council may also be established in India to inquire, give advice and make recommendations pertaining to disputes (Mehra, 1998:95).

To be able to assess the value of comparing intergovernmental relations in Brazil and India with intergovernmental relations in South Africa, it is necessary to highlight some similarities and differences between the institutional structures of the different states. In the following paragraphs intergovernmental relations in Brazil and India are compared with intergovernmental relations in South Africa.

2.4 A COMPARISON OF INTERGOVERNMENTAL RELATIONS IN BRAZIL AND INDIA WITH SOUTH AFRICA

The constitutional structure of Brazil may be compared with the constitutional structure of South Africa in terms of the dividing of competencies between different tiers or spheres of government which in turn necessitates intergovernmental relations. Even though the Constitution of Brazil, being a federation, differs from the constitutional dispensation of South Africa, comparisons can still be made between intergovernmental relations in the two states because of the number of federal elements enshrined in the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* (*Supra* paragraph 1.6.3). The influence that the separation of powers has on intergovernmental relations in Brazil, as in South Africa, emphasises the strong political component in intergovernmental relations in the two states. The political nature of intergovernmental relations is also strengthened by the existence of a number of political parties in both states.

The federal system in Brazil allows for the Federal and State Governments to both have distinct and concurrent competencies and, as in South Africa, it may have a direct influence on legislative intergovernmental relations in the two states. In South Africa, the national government may intervene in the action of provincial governments in certain instances just as the Federal Government in Brazil will override decisions made by the State Governments. Intergovernmental relations in Brazil are mainly informal and seldom structured and may also be compared with the informal nature of intergovernmental relations in South Africa where interaction between national and provincial departments occur by means of e-mail, fax, memorandums or personal visits. The opening of informal channels of communication may however contribute a lot towards resolving conflict between different spheres of government.

Financial intergovernmental relations in Brazil are influenced by the power struggle between the Federal and State Governments. The distribution of funds to the States by the Federal Government is therefore influenced by the political support it receives from the different states. In South Africa, allocation of revenue is more equally distributed and not dependent on the political support of the various provinces (*Supra* paragraph 1.4.2). The most valuable lesson for South Africa to be learnt from the Brazilian financial intergovernmental relations is according to Tapscott (1998:26) the following:

“... where a constitution assigns considerable fiscal autonomy to lower tiers of government, the potential exists for unco-ordinated financial management, overspending and, ultimately, rampant corruption. This is because the provincial governments have little accountability other than to themselves.”

The national government of South Africa will therefore have to monitor and control provincial budgets by strengthening the role of the Budget Council and

Financial Committees of Ministers and Members of Executive Councils of the provinces. As is the need in Brazil, the formalisation of legislation with regard to intergovernmental relations in general should also receive urgent attention in South Africa..

The three tiers of government and the distribution of power in India can be compared to the three spheres of government in South Africa (*Supra* paragraph 1.3). This distribution of power in both states will influence the legislative, executive and administrative intergovernmental relations (the similar classification of intergovernmental relations in the two states need to be noticed). Concurrent competencies to the provinces and national government are assigned in Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) while the *Indian Constitution* also provides for competencies assigned according to a Concurrent List which guides the legislative spheres of the Indian Union Government and the various State Governments. Similar to the case in South Africa, regarding exclusive competencies in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), the Union Government's exclusive responsibilities in India include defence, foreign affairs, banking and specific tax levying (Tapscott, 1998:13). As already mentioned in a previous chapter, the national government in South Africa also has the power to intervene and override provincial decision-making when the national interest has to be protected (*Supra* paragraph 1.3.3). The Union Government in India may also intervene directly in the affairs of the States and this intervention will have an influence on intergovernmental relations in India just as the national government's intervention in provincial issues, under particular circumstances, will also impact on intergovernmental relations in South Africa.

The South African national government is responsible for the collection of income tax as well as for the distribution of revenue collected among the nine

provinces. The Union Government in India has, according to Tapscott (1998:24), greater power to levy taxes and to distribute a portion of the revenue collected to the different States in India. A Finance Commission is further responsible for determining of principles for the distribution of revenue. The Financial and Fiscal Commission in South Africa has similar responsibilities to those of the Finance Commission in India and plays an important role in regulating financial intergovernmental relations (*Supra* paragraph 1.11.4). Valuable lessons can be learnt from comparing intergovernmental relations in South Africa with the same in other states, such as Brazil and India, but the unique situation in South Africa still requires unique legislation to regulate intergovernmental relations. A need for definite structures and institutions for intergovernmental relations is evident and open channels of communication should lead to better interaction between spheres of government.

2.5 CONCLUSION

The constitutional dispensation in South Africa is unique and addresses the needs of the heterogeneous society it represents. Valuable lessons can however be learnt from studying intergovernmental relations in other states even though their constitutional provisions may differ from those mentioned in the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*. Intergovernmental relations in Brazil and India are, in some instances, very similar to governmental relations in South Africa although both states have federal governments. The strong central element in the constitutions of the two selected states however, makes it possible to identify certain similar elements in the study of intergovernmental relations. South Africa has a number of structures and institutions for intergovernmental relations that assist in promoting relations between the three spheres of government. A lack of formal legislation to guide intergovernmental relations may however lead to confusion between national and provincial legislatures where concurrent competencies exist.

Although lessons can be learnt from other states regarding intergovernmental relations, it is still up to the policy-makers of South Africa to evaluate the local situation and to formulate legislation that will promote intergovernmental relations in South Africa.

CHAPTER 3

CONSERVATION MANAGEMENT IN SOUTH AFRICA

3.1 INTRODUCTION

Every person has a right to a protected environment and legislative and other measures should ensure that conservation is promoted, pollution and ecological degradation are prevented and that sustainable development and the use of natural resources are secured (Section 24[b] of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). It is only through effective and efficient conservation management by governmental bodies and statutory organs of state (such as the South African National Parks and provincial conservation authorities) that conservation is promoted.

If conservation management is to succeed in protecting biological diversity there is a real need for knowledge to be shared and guidelines for intergovernmental relations are important (Goldsmith and Warren, 1993:27). Goldsmith and Warren (1993:39) are of the opinion that conservation needs to be founded on scientific principles but that it is an option that may have political currencies, while authors such as Brennan (1987) and Yearly (1991) state that science cannot provide the rationale for fulfilling conservation goals and that both the underlying philosophies of nature conservation and its social acceptance should be emphasised. Conservation should not just be concerned with the scientific understanding of the world, but should also be about the moral duty of people to manage their natural resources. Governmental bodies and organs of state should therefore consider a plurality of arguments, rather than those based only on science, and a variety of philosophies, values and practices on conservation should be considered.

3.2. DEFINITIONS OF RELEVANT CONCEPTS

For the purpose of the study of intergovernmental relations pertaining to conservation management in South Africa, it is essential to define the concept conservation. The concept *conservation* is, according to the Kumleben Report (1998:6), a subsidiary component of the environment and therefore it is necessary to define what is meant by the environment. This study therefore focusses on conservation as part of the total environment. Reference will in some instances be made to both conservation and environmental management because of the focus of the case study (namely the structures for intergovernmental relations pertaining to conservation management focusing on the South African national and selected provincial parks).

3.2.1 The meaning of environment

Individual components of the environment were traditionally identified separately and it has become common to refer to a natural, social, cultural or economic environment. The formulation of conservation and environmental policies in South Africa and the introduction of processes for conservation and environmental management, necessitate clarification of the term *environment*.

The environment is a relational concept emphasising the relationship between man and his surroundings and therefore cannot be defined narrowly as only the physical environment, but should include all factors that determine human existence. An explanation of the concept *environment* should embrace the following components: natural environment refers to the natural world which may include the renewable

and non-renewable natural resources such as air, water, soil, plants and animals; spatial environment which comprises man-made and natural areas such as towns, cities, provinces and states as well as certain landscapes, for example mountains, wetlands, rivers, forests and sea-shores; social environment which comprises aspects such as the family, groups and society; economic environment; cultural historic environment; political environment and the labour environment (Transportation Environmental Management Manual, 1994:3). The environment may therefore refer to the external circumstances, conditions and objects that affect the existence and/or development of an individual, organism or community (Kumleben Report, 1998:6). And any legislation or regulation that is drafted to influence conservation will also have an effect on the environment as a whole. These external and physical conditions, circumstances and objects need to be retained and conserved for future generations to promote the general welfare of society.

3.2.2 The meaning of conservation

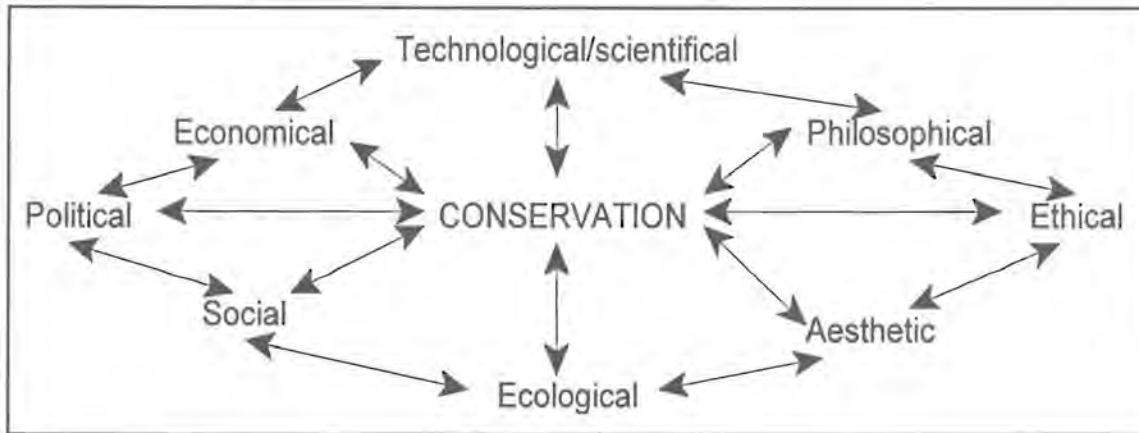
For the purpose of this study, the concept *conservation* will be used although the concept *natural resources* is often used as a substitute. The concept *conservation* is interpreted by some as ambiguous and vaguely conceived because it may possibly retain an anti-development undertone. From the following definitions however and to be in line with Section 24(b) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), which emphasises the importance of the promotion of conservation, reference to conservation is preferred. The concept *conservation* is according to Hugo *et al.* (1997:153):

“the responsible management of people’s use of the natural environment in such a way that it retains the largest, permanent advantages for the present generation and at the same time it should retain the potential to supply the needs and gratify the expectation of future generations”.

According to Tait *et al.* (1988:7) conservation involves the wise use of resources to achieve profitable and efficient use of land and the enhancement of its wildlife, its appearance and historical and cultural associations. From the above-mentioned definitions, and for the purpose of this study, conservation can be defined as the management of human uses of resources and the biosphere so that it yields the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations. The use of natural resources will therefore be a component of conservation for it includes the wise use and management of more than just natural resources. The Convention on Biological Diversity (1992) refers to conservation firstly as *the conservation of biological diversity* and secondly as the *sustainable use of its components* (*Infra* paragraph 3.3.1) (See Annexure A).

Conservation should not be fully explained from the viewpoint of any one discipline because conservation represents a number of interacting themes and is multi-disciplinary (See Figure 3/1). Every one of the themes overlaps with the other and over time, combinations of the various themes may emerge (O’Riordan, 1977:12).

Figure 3/1: **Conservation - a fusion of interacting themes**



Source: O’Riordan, T, 1977. *Perspectives of Resource Management*. London: Pion Limited. p.12.

At the broadest conceptual level the philosophical theme may be found where conservation is viewed as the nurturer of life-sustaining processes, where an individual and the environment are bound together and where people are the guardians of earth and earth the life giver of people (O’Riordan, 1977:12). The contribution of ethics to conservation cannot be ignored for ethics involve the concept of right and wrong and of duty and obligation to promote conservation and is value-based. The aesthetic theme is basically the plea for the preservation and conservation of natural beauty while the ecological theme focuses on the manner in which plants, animals, humans and the elements in the environment interact. The issue of conservation also receives attention from political office bearers, political scientists and students of public administration because of their possible contribution to public policy, classification of problem areas and the development

of guidelines for the promotion of conservation and therefore the political and social themes. The economic theme focuses on the expression of the relationship between the willingness to pay for the promotion of conservation and to sacrifice other needs in the attempt to do so. The technological/scientific theme addresses the debate between the promotion of conservation or technological/scientific progress in spite of conservation (O’Riordan, 1977:14). None of the themes acts in isolation and therefore the concept of conservation should be visualised as a number of interacting forces which are stipulated in the different themes. The value of environmental conservation is underlined by a number of laws and policies regulating conservation in South Africa.

3.2.3 The value of environmental conservation

The value of environmental conservation may be explained in terms of the value of resources because conservation refers to the protection and preservation of resources (Hugo *et al.*, 1997:153). The value of a specific resource is determined on the ground of its economic, ecological, scientific, cultural, nutritional, medicinal, ethical, aesthetic-psychological, recreational and educational value (See Table 3/1).

Table 3/1: **The value of environmental conservation**

VALUE	EXPLANATION
Economic value	Most common way of awarding value to a resource, namely the price or financial value of the resource for example the price of water.



Ecological value	The particular value a resource has because it is able to fulfil a particular function in an ecosystem, for example where certain plants are used to rehabilitate erosion-ravaged areas.
Scientific value	The maintenance of a genetic pool of plant and animal species to be used as models for studying problems that are relevant to the welfare of mankind.
Cultural value	Plants and animals are for example used as emblems of countries or provinces.
Nutritional value	Plants, fruits, leaves and animals may constitute an important part of a population's diet.
Medicinal value	The biochemical and chemical properties of certain plants and animals are of value because it constitutes the ingredients of various medicines and cosmetics.
Ethical/moral justification	Moral justification is based on the belief that species have a moral right to exist, independent of people's use for them, while ethical values come to the fore particularly when decisions must be made in favour of either conservation or development.
Aesthetic-psychological value	Biological diversity adds to the quality of life by providing aesthetically pleasing landscapes.
Recreational and tourist value	Animal life, the sun, beaches, natural beauty and cultural sites are the most important tourist attractions for both overseas and domestic tourists.
Educational value	Natural ecosystems can have an important educational value with regard to nature and people's place in it.

Source: Hugo, M.L., Viljoen, A.T. and Meeuwis, J.M. 1997. *The Ecology of Natural Resource Management: The quest for sustainable living*. Pretoria: Kagiso Tertiary. p. 153

Resources can only be of value to people if it is preserved and therefore conservation management by governmental institutions and organs of state, in all three spheres of government, is necessary. Conservation management and sound intergovernmental relations between the above-mentioned governmental institutions and organs of state involved with conservation, should be promoted to ensure a well functioning environment.

3.3 THE MANAGEMENT OF CONSERVATION

The Minister of Environmental Affairs and Tourism may determine policy for environmental conservation to ensure the protection of the environment against destruction as a result of human activities, deterioration and disturbance. This policy should be aimed at the protection of ecological processes and natural systems as well as the conservation and preservation of biological diversity in the natural environment. The promotion of the effective management of cultural resources and of environmental education (in order to educate communities on the sustainability of the environment and the co-ordination of integrated environmental monitoring programmes) are important reasons for the creation of a conservation and environmental management policy for South Africa. Every competent authority (including organs of the state and the provinces) who has the authority or power by law to influence the environment, should exercise that authority or power in accordance with the policy for environmental management and conservation (*National Environmental Management Act, 1998 [Act 107 of 1998]*).

Conservation management is about when and how to get involved and is thus a human issue where man intervenes to strengthen protected areas and national parks by trying to satisfy needs, such as wildlife and resource protection, recreation,

tourism, education, research as well as cultural survival (Western *et al.*, 1989:134). But conservation should not only be a human issue but a biological issue as well. The sensible and optimal utilisation of resources by managers should place managers in a position to treat the source of a conservation problem by utilising scientific methods rather than treating the symptoms. Conservation managers should therefore have to obtain and improve their management skills. Knowledge about conservation management should be shared and communicated through promoting intergovernmental relations because progressive policies, which integrate national and provincial interests, will benefit society and its environment (Western *et al.*, 1989:134). Conservation management should develop from a descriptive and predictive science to prescriptive management which should include guidelines on how and when to intervene (Western *et al.*, 1989:314). The intervention of conservation managers in governmental bodies and organs of state necessitates a clear defining of conservation goals to guide their actions in promoting conservation in South Africa.

3.3.1 Goals of conservation

Western *et al.* (1989:255) identifies the following conservation goals: the maintenance of biological diversity; ecosystems; ecological processes and sustainability of human activity. Biological diversity or *biodiversity* refers to the genes, evolutionary history and potential of the number and variety of living organism, plants, animals and micro organisms as well as the ecosystems, ecological processes and landscapes of which they are part. The three main components of biological diversity are generic diversity (genes passed on by parents to their offspring which determine the physical and biochemical characteristics), species diversity (the variety and abundance of species within a geographic area) and ecosystem diversity (the variety of ecosystems found within

a certain political or geographical boundary)(Western *et al.*, 1989:255). Ecosystem is the self-sustaining and self-regulating community of organisms, plants and animals and their interaction with one another and their environment (soil, water and air on which they depend) while ecological processes mean the processes relating to the interaction between the plants, animals and humans as well as the elements in their environment (*White Paper on Conservation and Sustainable use of South Africa's Biological Diversity*, 1997 [1997:9]).

Maintaining biological diversity, ecosystems, ecological processes and human sustainability requires efficient management. To achieve the goals of conservation, the different governmental bodies and organs of state should interact with one another on different levels and be guided by different policies pertaining to conservation management.

3.4 POLICY AND CONSERVATION MANAGEMENT

All three spheres of government and all organs of state should play a role in establishing a culture of co-operative government and should be committed to developing practical mechanisms to strengthen co-operation in accordance with the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996). The importance of co-operative governance is also emphasised in Chapter three of the *National Environmental Management Act*, 1998 (Act 107 of 1998) which is committed to a co-operative approach and focuses on procedures for co-operative governance.

3.4.1 Procedures for co-operative governance

Principles for decision-making on matters affecting conservation and the

environment is established by the *National Environmental Management Act, 1998* (Act 107 of 1998). The latter Act seeks to provide for co-operative environmental governance and the management of functions that are situated in various organs of state (*Infra* paragraph 3.4.2), the establishment of a Committee for Environmental Co-ordination (*Supra* paragraph 1.11.3) and a procedure for sharing and aligning environmental functions by way of environmental management and implementation plans.

Every national department exercising functions which may affect the environment and every province should prepare environmental implementation and management plans. The purpose of environmental management and implementation plans is to co-ordinate and harmonise environmental policies and decisions of various national departments that exercise functions that may affect the environment and to give effect to the principle of co-operative government as stipulated in Chapter three of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Further purposes of environmental management and implementation plans are to secure the protection of the environment across the country; prevent unreasonable actions by provinces in respect of the environment and to enable the Minister of Environmental Affairs and Tourism to monitor the achievement, promotion and protection of a sustainable environment. The drafting of environmental management and implementation plans thus imply co-operation through intergovernmental relations because the national departments and various provincial governments should relate with each other to enable them to exchange information or to enable national government to monitor the plans of provincial governments.

The policy-making process, with respect to conservation management and the environment, includes many different role players who exert various degrees of

influence on the policy formulation phase. The goals of public policy are determined through a political process in which citizens participate also in respect of conservation and environmental policies.

3.4.2 Main conservation and environmental policy goals

Any formulation of policy pertaining to conservation management and the environment in South Africa should consider the main conservation and environmental policy goals proposed by the Southern African Development Community's Environment and Land Management Sector (1996:34). The three main goals for a Southern African Development Community-wide policy and strategy for conservation and environment management are, firstly, to protect and improve the health, environment and livelihoods of the people of southern Africa (with priority to the poor majority). The second main goal is to preserve the natural heritage, biological diversity and the life supporting ecosystems in southern Africa and the third goal is to support regional economic development on an equitable and sustainable basis to the benefit of present and future generations. More functional goals of the above-mentioned policy and strategy are to strengthen the analytical, decision-making, legal, institutional and technological capacities for achieving sustainable development in Southern Africa; to increase public information, education and participation on environmental and developmental issues in southern Africa and to expand regional integration and global co-operation on environmental and natural resource management for sustainable development.

Governmental bodies and organs of state should support a co-ordinated approach towards conservation and environmental management. Existing legislation and regulations (regarding conservation and environmental management) should be improved, co-ordinated and consolidated to avoid duplication and conflicting

interpretation. Co-operative governance between national, provincial and local spheres of government will be necessary for the effective implementation of a policy aimed at conservation and environmental management. Policy proposals in the *White Paper on the Conservation and Sustainable use of South Africa's Biological Diversity*, 1997 should have an impact on most national government departments and should also influence provincial and local governments and organs of state. People in governmental bodies and organs of state concerned with conservation management should therefore have knowledge of management functions and skills in order to address the challenges they face, including the challenge of promoting intergovernmental relations through effective structures.

In considering the introduction of new legislation or the amendment of existing legislation relating to a policy aimed at conservation management in South Africa, the *White Paper on the Conservation and Sustainable use of South Africa's Biological Diversity* (1997:95) proposes that the national, provincial and local spheres of government be guided by the following criteria: the role of national government as the custodian of South Africa's biological diversity should be emphasised and strengthened; uniform norms and standards should be established and legislation should be easily implementable and reasonable. Other criteria that should guide the spheres of government should include effective conflict resolution mechanisms; making socio-economic issues of biodiversity an important component of legislation; clarifying the roles and responsibility of governmental bodies and organs of state and addressing the problem of the fragmentation of public institutions. These criteria should be utilised to eliminate existing constraints that have an impact on the implementation of a conservation policy.

Major constraints in the implementation of existing policies for conservation management are the following: inter-institutional fragmentation and conflicts of

interests hamper intergovernmental relations pertaining to environmental matters; the linking of conservation to other competencies such as tourism or agriculture has influenced the allocation of funds for conservation in particular and the ability of government to implement policy has been influenced by the rationalisation process which drained essential expertise (*White Paper in the Conservation and Sustainable use of South Africa's Biological Diversity*, 1997:96). There has also been a lack of government capacity to monitor the implementation of policy and there is confusion regarding the different roles and responsibilities of the three spheres of government in context of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) (Director: Biodiversity and Heritage, 1999).

3.4.3 The influence of policy issues on conservation

Social, economic and political issues may have a direct influence on conservation and should therefore be addressed by conservation managers (*Western et al.*, 1989:306). Social issues may develop because of decisions being made nationally and then imposed on a provincial level without the necessary consultation taking place. Establishing and promoting structures for intergovernmental relations will encourage communication and therefore limit above-mentioned issues (bearing in mind that the environment and the conservation thereof is a concurrent national and provincial function).

Economic issues may arise when policies for conservation management only acknowledge political expediency and neglect the sustainability of such policies. Resource scarcity is not only an economic issue but often a result of political instability and according to *Western et al.* (1989:306) resources are a political issue just as politics is a resource issue. By promoting intergovernmental relations, these issues could be addressed through the exchanging of information on policy matters

and the sustainability and impact thereof on conservation.

In order to analyse conservation management in South Africa, it is necessary to explain the various approaches to conservation management. The exploitation, preservation, utilitarian and ecological approaches as well as the South African approach to conservation management are explained in further detail.

3.5 APPROACHES TO CONSERVATION MANAGEMENT

Owen *et al.* (1995:10) identifies four conservation management approaches which could serve as guidelines to institutions involved in conservation management. A definition of an *approach* is provided in a previous chapter (*Supra* paragraph 1.5). The approaches are exploitation, preservation, utilitarian and ecological or sustainable approaches. The exploitation approach promotes the intensive use of given resources to provide the greatest benefit or profit to the user while the preservation approach is concerned about the protection and preservation of resources for future generations (Owen *et al.*, 1995:11).

The management of renewable resources, for example wildlife, forests, soils and marine life as not to exhaust but replenish it, will be the basis of the utilitarian approach. The ecological or sustainable approach involves the multiple usage of resources without drastically affecting the physical and biological environments because modern conservation strategies operate within a ecological framework which is a dynamic and an organic whole (Owen *et al.*, 1995:11). Human activity should therefore be restricted as not to harm the environment. For the purpose of this study, all four approaches to conservation management could be applicable to the management practices of the institutions involved in conservation management.

South Africa's approach to conservation, which is divided into eight main components, is identified in the *White Paper on the Conservation and Sustainable use of South Africa's Biological Diversity* (1997:24). These eight components are listed in Table 3/2.

Table 3/2: **Components of South Africa's approach to conservation**

Identifying important components of biodiversity and threatening processes.

Maintaining and strengthening existing arrangements to conserve South Africa's indigenous biodiversity, both in and out of protected areas.

Establishing and managing efficiently a representative and effective system of protected areas.

Promoting environmentally sound and sustainable development in areas adjacent to or within protected areas.

Restoring and rehabilitating degraded ecosystems and strengthening and further developing species recovery plans, where appropriate.

Controlling, eradicating and preventing the introduction of harmful alien species which threaten biodiversity.

Regulating the transfer, handling, use and release of genetically modified organisms.

Strengthening measures for the conservation of biological diversity outside of natural habitats (*ex situ* conservation).

Source: *The White Paper in the Conservation and Sustainable use of South Africa's Biological Diversity*. July 1997. p.24.

To enable governmental bodies and organs of state to follow these approaches, knowledge about management principles and functions is necessary. In the following paragraphs, the guiding principles for conservation and environmental management will be explained.

2.6 GUIDING PRINCIPLES FOR CONSERVATION MANAGEMENT

A number of national environmental management principles is set out in the *National Environmental Management Act, 1998* (Act 107 of 1998) that should apply to all spheres of government and organs of state and serve as the general framework within which environmental management plans should be formulated as well as a to guide the interpretation, administration and implementation concerned with the conservation and management of the environment. The principles can be summarised as follows: intergovernmental co-ordination of policies, legislation and actions relating to the environment is necessary. Environmental management should be integrated and people and their needs should be placed first. Other environmental management principles outline that development should be socially, environmentally and economically sustainable; the participation of all affected parties in environmental governance should be promoted; decisions should be taken in a transparent and open manner; conflict resolution mechanisms should be in place to resolve conflicts between parties and equitable access to environmental resources and environmental justice should be pursued.

A number of principles to guide the application, assessment and further development of conservation in South Africa are identified in the *White Paper on the Conservation and Sustainable use of South Africa's Biological Diversity, 1997* (1997:21). The principles are explained in Table 3/3.

Table 3/3: Guiding principles for conservation management

PRINCIPLE	EXPLANATION
Intrinsic value	All life forms and ecological systems have intrinsic value.
Duty of care	All people and organisations should act with due care to conserve and avoid negative impacts on the environment.
Sustainable use	The benefits derived from the use of biological resources depend on sound management practices.
Fair and equitable distribution of benefits	Benefits arising from the use and development of biological resources should be equitably and fairly shared.
Full cost-benefit accounting	Managers and decision-makers should be guided by economic approaches which assess the full social and environmental costs and benefits of projects, plans and policies pertaining to conservation.
Informed and transparent decision-making	Decisions relating to conservation should be based upon the best applicable knowledge available.
Precautionary principle	Where there is a threat of loss of biological diversity but inadequate scientific evidence to prove it, action should be considered to minimise threats.
Accountability and transparency	Those making and implementing decisions relating to conservation will be accountable to the public for their actions through explicit, justifiable processes.
Subsidiarity	Governance responsibilities belong in the sphere of government where they can be most effectively carried out.
Participation	Interested and affected individuals and groups should have an opportunity to participate in decisions about the ways in which biological resources are conserved.
Recognition and protection of traditional knowledge, practices and cultures	Traditional knowledge, practices and cultures supporting conservation will, where possible, be recognised, protected, maintained and promoted.
Co-operation and co-ordination	Because conservation transcends political, institutional and social boundaries, an enabling framework will be provided for the future co-operation and co-ordination of conservation related activities.
Integration	The conservation of biological diversity should be integrated strategically in all spheres of government, namely national, provincial and local to implement the goals and objectives of conservation policies effectively.

Global and international responsibilities	South Africa has a shared responsibility for ensuring conservation beyond our borders.
Evaluation and review	Conservation policy should not be an end in itself, but rather part of an iterative process which will be monitored and reviewed regularly.

Source: *White Paper on the Conservation and Sustainable use of South Africa's biological diversity*. July 1997. p.20.

The application, assessment and further development of conservation should occur in terms of sustainable development. Sustainable development refers to the meeting of basic needs of all people and providing for the opportunity for a better life for all through the acceptance of consumption standards. Sustainable development is also a process of change in which human needs should be addressed through the efficient management and use of resources, technological development, investments and institutional change (Hugo *et al.*, 1997:186). The objectives of sustainable development, which refer to short terms goals, are according to Hugo *et al.* (1997:176) the following:

“sustaining ecosystems; developing opportunities for non-material (recreational and aesthetic) use of natural resources; maintaining essential ecological processes; maintaining an improving the quality of life and developing a long-term sustainable economy”.

Sustainable development is therefore aimed at conserving all natural resources for future generations. The World Conservation Union (1991) proposed the following principles for promoting sustainable development, namely promoting respect and care for the community of life; improving the quality of human life; conserving the earth's vitality and diversity and minimising the depletion of non-renewable

resources. Keeping development within the earth's carrying capacity; altering personal attitudes and practices; enabling communities to care for their own environments; providing a national framework for integrating development and conservation and creating a global alliance are further principles for the promotion of sustainable development. None of the objectives and principles of sustainable development can be achieved without the efficient and effective management of conservation.

The guiding principles for conservation management should be adhered to when governmental departments and organs of state are involved with the drafting of legislation or any policy regarding conservation. When being accountable and responsible to the public, public managers should also adhere to the normative guidelines of public administration which includes the maintenance of high ethical norms and standards (*Supra* paragraph 1.8).

3.6.1 Ethics and conservation management

The making of value judgements concerning the conservation of the environment, not only involves knowledge about the management of the preservation of natural resources, but also involves ethical considerations. These ethical considerations are called environmental ethics and refer to the critical thinking with regard to policies that have been developed or still have to be developed with regard to environmental problems, problems facing conservation as well as the principles upon which those policies are based (Bucholz, 1998:47). An ethical approach provides a means of questioning traditional approaches and encourages new ways of thinking about the environment. Ethics is a concern for the actions and practices that are aimed at improving the general welfare of society and is the quest for the understanding of what is right and wrong as well as creating conditions to promote

a good life. Ethics requires a person to reason, analyse and seek guidance and therefore calls people to action. Denhardt (1991:102) is of the opinion that it is easier to resolve ethical problems if the parties involved agree about basic principles, such as principles of conservation and environmental management or laws pertaining to conservation management. Most of the decisions concerning conservation management are taken in a democracy where conservation goals are set by a political process and compromise and where guidance is provided in laws and regulations which may be confusing, unclear or ambiguous. Conservation managers should guard against confusing and unclear information and policies and should accept their ethical responsibility to work towards creating an environment where honesty is consistent and diverse opinions are accepted. People involved in conservation management should therefore conduct themselves in an ethical way and ensure the preservation, protection and enhancement of the environment for future generations. Conservation and environmental policies should be aimed at creating conditions for supporting human life. Activities destroying the environment should be avoided.

The study of management functions and skills should contribute towards the understanding of conservation management in general. A definition and explanation of the concept *management* is necessary before the management functions and skills can be explained.

3.7 MANAGEMENT EXPLAINED

For the purpose of analysing conservation management it is important to define management. Fox and Meyer (1995:77) define management as a situation where a person has to perform functions such as policy-making, planning, organising, leading, control and evaluation within a general environment (political, economic,

social, technological and cultural) and makes use of skills (such as decision-making) to perform certain applications, for example policy analysis, strategic management and organisational development by applying of managerial aids, such as computer technology and information management. Management is also defined as a set of basic functions such as planning, organising, leading and controlling which make a contribution to organisational effectiveness and efficiency when correctly implemented (Hampton, 1986:21). Haimann, *et al.* (1985:5) refers to the management of an institution as those people responsible for the attainment, organising and combining of resources for the purpose of achieving certain objectives. Managers are therefore responsible for the utilisation of resources to be able to achieve a goal optimally by making use of management processes.

When used in the context of conservation, management refers to all functions, methods, strategies and techniques devised and used to achieve predetermined conservation goals and therefore management is the active component of conservation (Bennet, 1983:3). An analysis of certain management functions is necessary to assist the conservation manager in the performance of daily activities.

3.8 MANAGEMENT FUNCTIONS

For the purposes of this study the following management functions are discussed: planning, leading and controlling. The role and influence of other management functions, such as organising and policy, were explained in previous paragraphs (*Supra* paragraphs 1.10.1 and 1.10.2).

3.8.1 Planning

According to Gerber *et al.* (1988:8) planning is a pro-active process where key decision-makers of an institution will structure objectives, goals and programmes based on opportunities, challenges and restrictions in order to implement strategies. Planning is deciding what must be done, how it should be done, when it should be done and who should do it. Planning is therefore necessary to be able to formulate goals and objectives as well as procedures to achieve those objectives. Planning is a core function of government inferred from the powers delegated to executive authorities by the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), namely to develop policy; prepare and initiate legislation; prepare budgets and determine priorities for spending. All these above-mentioned activities are planning intensive activities.

Planning is by implication an intergovernmental process. Provincial and development planning are listed as concurrent national and provincial functional areas and are also actions requiring co-ordination for the purpose of co-operative government. Intergovernmental structures are means for co-ordinating planning in certain functional areas and planning impacts on every intergovernmental structure's management activities and therefore role players in intergovernmental structures for conservation and environmental management should have to plan their functions and activities to ensure that their objectives and goals are achieved.

3.8.1.1 The importance of planning in conservation management

The reasons for the importance of conservation management planning are adapted from Fox *et al.* (1991:49) and are discussed in Table 3/4:

Table 3/4: **Reasons for the importance of planning for conservation management**

REASON	EXPLANATION
Planning promotes the handling of change.	Through the planning process the manager can plan for change in order to enable a smooth transition.
Planning provides a sense of purpose.	To enable the manager to gather information about what should be done as well as when and how the goal should be achieved.
Planning provides means for participation.	Through the planning process internal and external stakeholders can become involved in generating and selecting possible alternatives.
Planning enables managers to make predictions.	During the planning process, guidelines and standards are set to give managers and stakeholders a better idea of the goals the were set.
Planning makes control easier.	By comparing the standards, guidelines and objectives set in the planning process with the results of an action, control is facilitated by the planning.

Source: Fox, W., Schwella, E. and Wissink, H. 1991. *Public Management*. Kenwyn: Juta. p.46.

Conservation managers should be directly and indirectly involved in identifying political issues concerning conservation. A conservation plan and strategy will be most meaningful when linked to agendas for the implementation thereof as well as establishing co-ordination mechanisms to implement the plan (Western *et al.*, 1989:320). Planning is therefore a process consisting of a number of phases.

3.8.1.2 The planning process

Planning is a process that includes a range of different activities and phases. In terms of co-operative government, the three spheres of government are required to co-ordinate their activities. The phases in the planning process are illustrated in Table 3/5.

Table 3/5: **Phases in the planning process**

PHASE	
One	Scanning the environment
Two	Determining objectives
Three	Forecasting
Four	Identifying alternative plans of action
Five	Selecting alternatives
Six	Implementing plans
Seven	Evaluating the implemented plans

Source: Fox, W., Schwella, E. and Wissink, H. 1991. *Public Management*. Kenwyn: Juta. p.50.

During the first phase of in the process of environmental scanning, conservation managers should evaluate the environment and search for information which could identify obstacles and possibilities in the institution which could be used in the establishment of objectives. It is important for managers to be able to make predictions about possible changes in order to anticipate those changes when planning an objective. The second phase will involve the determination of objectives to give direction to the planning process. These objectives will, in the end, be used to compare the results of the planning with the set objectives (Fox *et al.*, 1991:50). Prediction or forecasting is necessary to enable the conservation manager to look towards the future and therefore to identify the factors that may have an influence on the functioning of the institution. Predicting the future is essential for the determination of different plans of action (the fourth phase in the planning process).

When identifying alternative plans of action, conservation managers should prioritise and therefore reduce the action plan by making use of techniques for example brainstorming or through the application of participative management. After alternative action plans have been identified, a suitable plan should be selected. The goals and objectives as well as the availability of resources of the institution should be considered rationally when selecting the most advantageous plan of action. During the implementation of the action plan, conservation managers should keep the budget and personnel skills in mind because these are essential to meet set standards and objectives. In the last phase of the planning process, the results should be evaluated against the set objectives to determine whether the set standards were met (Fox *et al.*, 1991:51). Evaluation should take place continually during the whole planning process to monitor any deviation from predetermined objectives.

National government should establish a framework for intergovernmental structures to facilitate intergovernmental planning processes in concurrent national and provincial functional areas and should co-ordinate planning activities. Provincial governments should co-ordinate their own planning activities within a province and establish procedures and structures for intergovernmental co-ordination within the framework of the Act envisaged by Section 41(2) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). To be able to establish a framework and manage conservation in South Africa, it is necessary for conservation managers to be leaders in their fields.

3.8.2 Leading

Leading is the function assigned to officials whom are appointed in higher positions than other officials and whom are responsible for the attaining of a goal through guiding others. Leading refers to an individual's ability to influence the attitudes and behaviour of others in such a way that the set objectives are reached (Andrews, 1985:242). Leading necessitates leadership qualities and therefore it is important to define the term leadership. Fox and Meyer (1995:72) define leadership as a personality characteristic which encompasses the relationship between the wants of the leader and the expectations of the follower as well as the demands of the institution. Yukl (1981:3) is of the opinion that leadership is the interaction between people where the one influences the other in such a way that the person or group of people will feel that the suggested changed behaviour could be to their advantage. From the definitions of leadership, it can be concluded that leadership indicates a certain relationship among people where the attitude and behaviour of a person or group of people are influenced in by one person in such a way, that it may lead to the attainment of an objective.

The complex nature of conservation and environmental problems and issues places specific challenges to the conservation manager's leadership abilities. Successful leaders should possess specific abilities and characteristics. The abilities and characteristics are explained in the Table 3/6.

Table 3/6: **Examples of abilities and characteristics of successful leaders**

ABILITY AND CHARACTERISTIC	EXPLANATION
Power motive	Successful leaders enjoy being in positions of power. They think about how to influence other people's behaviour and they care about their personal status in relation to those around them.
Achievement motive	They enjoy achieving.
Problem-solving ability	They are resourceful and enjoy solving problems.
Self-confidence	Leaders should be self-confident without being overbearing. This inspires confidence in subordinates.
Internal locus of control	Effective leaders believe that they are the primary cause of what happens to them.
Sense of humour	Humour helps to relieve tension and boredom and reduce hostility in the workplace.
Vision	This is particularly important to top managers since they should visualise where the institution is heading.
Courage	Managers need courage when it may be necessary to express ideas that deviate from the norm.

Source: Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for Excellence in the Public Sector*. Kenwyn: Juta. p.199.

A leader retains his/her leadership when he/she aims at obtaining objectives and goals together with subordinates and encourages subordinates to achieve their highest potential. The following are means a leader should apply to retain his/her leadership: should obtain the right to regulate or direct the behaviour of subordinates from a higher authority; should promote co-operation between subordinates by asking the views of subordinates and he/she has the authority to influence the actions of subordinates through the reprimanding, dismissing or praising of behaviour (Botes, 1994:14).

According to Muller (1996:35) leadership in conservation and environmental management can be explained in terms of a circle of distinct, but interrelated values and behaviour. The components of the circle are being compassionate, knowing what is and could be, acting independently, sharing power, honouring and conserving resources and promoting change. Compassionate leadership focuses on respect and the acceptance of oneself and others as well as the environment. Leadership, by means of discovering what is and what could be, is a creative process involving rationality and intuition which will involve evaluating and analysing information through group activity. Independent leadership can promote co-operation among people and the recognition of value interdependencies, while the sharing of power promotes participation in interdisciplinary conservation and environmental problem solving through consensus building. The conservation and honouring of resources require that the leader should try to be open to new values and attitudes of conservation and preservation and not treat money, facilities and technology as the only means of achieving conservation objectives. Leadership should emphasise the management of change and create opportunities for creativity to address resistance to change.

The way in which a leader influences subordinates will depend on the leadership style he/she follows. *Leadership style* may be defined as the behaviour of the leader as well as what is done, what is emphasised by the leader and how the leader deals with subordinates (Fox *et al.*, 1991:94). Table 3/7 describes the most widely used leadership styles.

Table 3/7: **Leadership styles**

LEADERSHIP STYLE	EXPLANATION
Laissez-faire	This type of leader does not attempt to control or lead subordinates. A degree of responsibility is accepted but there is virtually no communication between leader and subordinate and subordinates set their own objectives.
Autocratic	A high degree of direction from the leader and minimum or no participation in planning and control from subordinates. Leaders spend a high portion of their time giving orders and making disruptive commands and giving non-objective praise and criticism.
Bureaucratic	The leader's behaviour is characterised by a high degree of reliance on rules and regulations and the use of procedures to which both leaders and subordinates subscribe.
Democratic	Characterised by situations where subordinates elect their leader, voting on every matter takes place and group discussions are encouraged. The terms employee-centred, equalitarian, consultative and participative are often used more or less simultaneously with democratic leadership.

Team	Involves relatively frequent group meetings of a consultative and problem-solving nature. More extensive within-team interaction.
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Source: Fox, W., Schwella, E. and Wissink, H. 1991. *Public Management*. Kenwyn: Juta. p. 95.

The situation within which a leader and subordinate find themselves will determine the leadership style needed. In general, a high degree of participation and co-operation is preferred when leading subordinates in the public sector. Democratic behaviour in a leader will result in a more positive attitude of subordinates towards the leader and therefore subordinates may be more co-operative and productive.

Leading refers to the influence that a leader may exert on the behaviour of subordinates with influence being the effect of one party (agent) on another party (target). Fox *et al.* (1991:96) summarises 11 forms of influence accompanied by the features associated with the agent and target (See Table 3/8).

Table 3/8: **Influence processes in leadership**

INFLUENCE	EXPLANATION	AGENT	TARGET
Legitimate request	Target person recognises the <i>right</i> of the agent to make a request.	Legitimate justification	Relevant values
Instrumental compliance	A person is induced to alter his/her behaviour by an agent's promise to ensure some desired outcome.	Control over rewards; credibility of promise	Relevant needs, openness to manipulation



Coercion	Compliance induced by agent's threat to ensure outcomes such as physical pain, economic loss or public embarrassment if the target person fails to comply.	Control over punishments; credibility of threat	Fear, openness to intimidation
Rational persuasion	Does not require any control over desirable or undesirable outcomes by the agent.	Insight; technical expertise; persuasive ability	Relevant values and needs
Rational faith	The suggestion of a particular agent is sufficient to evoke compliance by the target person, without any explanation necessary.	Technical expertise; credibility	Low expertise, relevant need; trust of agent
Inspirational appeal	Target person is induced to do something that appears to be a necessary expression of his/her values and ideals.	Insight into values and beliefs; persuasive ability	Relevant values and beliefs
Indoctrination	To directly induce the internalisation of values and beliefs that will facilitate influence over organisational members.	Control over social situation; relevant skills	Alienation, relevant needs
Information distortion	A person's impressions and attitudes are influenced by an agent who is unable to limit the information received by the person.	Credibility as information source	Use of information for impression-formation and decision-making
Situation engineering	A person's attitudes and behaviour are influenced indirectly by manipulating certain aspects of the physical and social situation.	Control of relevant aspect of situation	Willingness to accept situation
Personal identification	People imitate the behaviour of a greatly admired agent and develop attitudes similar to those he/she expresses.	Attractiveness, charisma	Admiration of agent

Decision identification	A person perceives he/she has substantial influence over the final choice in the process of decision-making.	Willingness to allow participation; relevant skills	Desire to participate; objectives consistent with agent objectives
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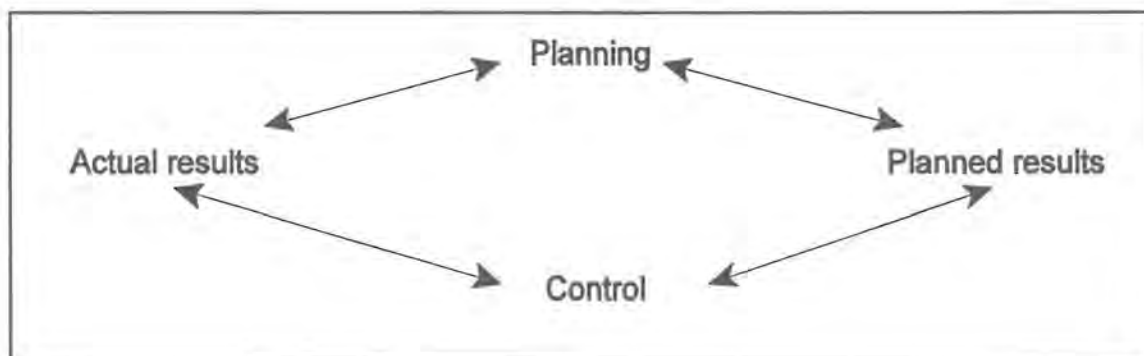
Source: Fox, W., Schwella, E. and Wissink, H. 1991. *Public Management*. Kenwyn: Juta. p. 97.

The use of a particular process of influence in leadership will be dictated by the situation in which a conservation manager find himself/herself. Effective leadership will depend on the application of specific styles of leadership in different circumstances and in rendering particular functions. Particular influences will also evoke different reactions from the person being influenced and therefore it is important for leaders to acquire the necessary skills in order to direct subordinates in achieving set objectives. The conservation manager, as a leader, should be committed to environmental conservation and should have a clear vision of a sustainable society. Muller (1996:28) is of the opinion that a sustainable world cannot be achieved if it cannot be envisaged and that visioning is imagining what one really wants. A vision of a sustainable world should be built from the contributions of a number of people where honest and respectful leaders, efficiency, equality and justice as well as high social values are the top priorities. Leadership involves helping and assisting a group to become aware of new directions, integrates the group's vision and triggers a stimulus for group action. The actions of individuals and groups in governmental bodies and organs of state need to be controlled to ensure the achievement of objectives, goals and standards.

3.8.3 Control

Controlling is the process through which the results achieved are compared with the standards set in the planning stage of the management process (Hampton, 1986:23). Control mechanisms will entitle managers to influence, determine and direct the behaviour and activities of organisation members in an effort to encourage change or to try to provide adjustments of a proposed plan or to deviate from objectives within the allowable limits (therefore also being the authority to give orders or to restrain activity) (Fox and Meyer, 1995:28). There are a number of reasons for the implementation of effective control systems which could be summarised as follows: to standardise action and increase efficiency; efficiency in planning can be evaluated; to prevent malpractices and waste; to encourage delegation because delegated authority can be better evaluated (Van der Waldt and Du Toit, 1997:201). Control is the uninterrupted monitoring process where planned results may be compared with the actual results (See Figure 3/2)

Figure 3/2: **Control as a monitoring process**



Source: Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for Excellence in the Public Sector*. Kenwyn: Juta. p. 202

In conservation and environmental management, it is important that government play a regulatory and monitoring role and the conservation manager should, apart from making sure that the correct procedures are followed in terms of legal and administrative requirements, evaluate recommendations from interested parties to ensure that informed decisions are possible. An effective control system should be timely applied and deviations from planned activities should be recognised in time in order to prevent problems that may occur. Flexibility of a control system is important to ensure adaptability to changes in the internal and external environment and a comprehensive, but cost-effective control system is preferred. Criteria used in a control system should be understandable, realistic, valid, efficient and effective. Control imply that focus should be on factors that are strategic to an institution's performance (Fox *et al.*, 1991:121).

Conservation managers should be aware of the different steps in the control process. Van der Waldt and Du Toit (1997:203) describe the four steps as follows: performance standards should be set in terms of productivity, effectiveness and cost-effectiveness and secondly, the actual performance should be measured and actual results should be monitored. The actual performance should thirdly be compared with the set standards and any deviations should be analysed. Corrective action should lastly be undertaken to rectify any deviations from the original plan. The performance of an institution can be controlled by using specific performance criteria, namely quantity, quality, cost and time (Fox *et al.*, 1991:120). Quantity assesses measurable outputs, while quality is often more difficult to measure. To measure quality, it is necessary to have information on, for example dimension and form. Institutional input and output can be translated into monetary terms to determine the cost-effectiveness. Efficiency can be determined in terms of the time it takes to complete a task, function or project.

Control can take place informally, through informal interaction and communication, for example by means of meetings or memoranda, or formally by means of formal activities such as measuring, comparing and correcting (Fox *et al.*, 1991:119). Measuring performance may occur through personal observation, statistical and oral reports as well as written reports. Comparing actual performance with the desired performance and correcting the deviations are steps in the control process and therefore examples of formal control measures. Different types of control are identified by Van der Waldt and Du Toit (1997:202) and are described in Table 3/9.

Table 3/9: **Different types of control**

TYPE	EXPLANATION
Pre-action control	This type of control foresees problems and tries to solve them before they occur. Policies, procedures and standards may be necessary to eliminate problems.
Simultaneous control	Is applied while a project is being implemented. The purpose is to prevent costs from escalating owing to errors by identifying and solving problems in good time.
Post-action control	It is exercised only once the whole process has been completed although the whole process can be controlled in one action.
Yes/no screening control	A yes/no checkpoint means that the process cannot continue before all the standards have been met.
Financial control	Includes forecast income statements and current and capital budgets. Comparisons between actual and budgeted figures are made during the year and management tries to achieve or improve the desired result.

Steering control	An area requiring many control points in public institutions and aspects to be checked include productivity and quality.
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Source: Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for Excellence in the Public Sector*. Kenwyn: Juta. p.202.

Control should take place during all the stages of a project to ensure that set standards and objectives are met. Because of the fact the control is an uninterrupted monitoring process, it is important for conservation managers to adapt a monitoring programme to ensure that a project is progressing as it should. Monitoring may, according to Muller (1996:31) include: firstly, the checking of actions to ensure that they are according to the approved conditions; secondly, checking that all measures are adhered to during the implementation stage; thirdly, checking the efficacy of the measures and, fourthly, monitoring the particular conservation and environmental variables. The interlocking powers and functions stipulated in the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* and the *National Environmental Management Act, 1998 (Act 107 of 1998)* and the interrelated roles of the three spheres of government, require all spheres of government to monitor and control the performance of government as a whole with regard to the implementation of laws, policies and programmes. All the spheres of government should ensure that they have the capacity and necessary institutions to monitor performance. Controlling and monitoring of intergovernmental relations pertaining to conservation management will have an influence on determining whether executive organs of state are able to exercise their constitutional powers and implement their functions effectively and efficiently. The quality and effectiveness of laws, policies and activities should be determined and the quality of the performance of intergovernmental structures should be measured against their strategic purposes. A number of structures and institutions for

intergovernmental relations will have a role to play in the monitoring of the implementation of policies and programmes, for example the Intergovernmental Forum, Directors-General Forum, Financial and Fiscal Commission and the Committee of Ministers and Members of Executive Councils (*Supra* paragraph 1.11).

Not only is it important for conservation managers to have knowledge about the various management functions, but management skills is also necessary to ensure effective performance of functions and rendering of services. The various management skills are explained in the following paragraphs.

3.9 MANAGEMENT SKILLS

A manager should be able to interpret a particular situation and take appropriate action often within a short period of time. This above-mentioned situation will test a person's skill as a manager. Managerial success is based on the manager's ability to take decisions, communicate (share information) and manage conflict (dispute settlement). For the purpose of this study, focus will be on decision-making only. The sharing of information and management of conflict were analysed in a previous chapter (*Supra* paragraphs 1.3.4 and 1.4.4).

3.9.1 Decision-making

Decision-making is the most universal management activity because it is involved in all functions of management. Decision-making is the making of a choice from two or more alternatives based on thorough debating or just through a reflex action or hunch (Robbins, 1984:57). Conservation management is a decision-making process where solutions regarding the manner, timing and preservation of natural

resources are sought within a political, economic, social and institutional framework. Fox *et al.* (1995:33) define decision-making as the analysing of information, evaluation of alternatives and the choosing of a “best” policy or course of action by making use of the steps in the rational decision-making process. These steps in the rational decision-making process are listed in table 3/10.

Table 3/10: **Steps in the rational decision-making process**

STEPS IN THE RATIONAL DECISION-MAKING PROCESS
1. Analysing the problem
2. Collecting data
3. Classifying and analysing data
4. Preparing data
5. Cataloguing alternative solutions
6. Evaluating the alternatives
7. Taking the decision
8. Implementing the decision
9. Obtaining feedback on the effect of the decision

Source: Fox, W. and Meyer, I.H. 1995. *Public Administration Dictionary*. Kenwyn: Juta. p.33.

When a particular problem is analysed, it is important to gather enough and suitable data to be able to define the problem and diagnose the causes of the problem. A large number of alternatives should be developed to ensure that the decision taken is based on enough information. The decision-making process is basically a choice among alternatives, but the judgement of the desirability or undesirability of any alternative relies on the analysing of the problem or the statement of a specific goal.

The conservation manager should therefore understand how and why particular goals for the formulation of conservation and environmental policies are set. Governmental bodies and organs of state should consult with various interested parties, including the conservation manager, to ensure that the goals of environmental and conservation policies address the interest of the community at large. O'Riordan (1977:112) is of the following opinion regarding decision-making and public policies:

"the public policies should be made more flexible to keep options open, yet become more clear and consistent to permit sound and stable decision-making for all aspects of environmental management".

To enable conservation managers to make informed decisions, the opinions of interested parties and interest groups need to be considered. A number of factors may influence decision-making and conservation managers should be aware of these factors to enable them to guard against the impact of thereof on their behaviour. Van der Waldt and Du Toit (1997:224) identify the following factors that can influence decision making: suitability of available information, intelligence, training and experience of the decision-maker, personality factors such as the flexibility of the person, intuition, emotional factors such as fear and resistance, contingency factors, crises situations, time pressure and political factors. These factors may also have an influence on decisions affecting conservation and environmental policies and knowledge thereof should be able to assist conservation managers in their decision-making.

Roux *et al.* (1997:123) identify different types of decisions. The types of decisions are differentiated in Table 3/11.

Table 3/11: Types of decisions

TYPE OF DECISION	EXPLANATION
Impulsive decision-making	Occurs on the spur of the moment and no discretion, value judgement or other alternatives are taken into account.
Intuitive decision-making	A high degree of rationality or clarity of thought is implied. The decision-maker has a hunch that the decision of alternative will have the desired result.
Programmed decision-making	Standing decisions exist in order to give the public manager guidance in the making of repetitive and routine decisions. Objectives, standards, procedures, methods and policy are all examples of programmed decision-making.
Unprogrammed decision-making	These decisions require a large measure of creativity and an even greater measure of discretion must be made and the decisions are usually decisions that are made for a special purpose such as programmes, strategies and budgets.
Single choice decisions	The decision-maker has only two choices: accept the alternative or reject it.

Source: Roux, N.L., Brynard, P.A., Botes, P.S. and Fourie, D.J. 1997. *Critical Issues in Public Management and Administration in South Africa*. Pretoria: Kagiso Tertiary. p.125.

Conservation managers will, at some time or another, be confronted with the making of all the various types of decisions. Programmed, unprogrammed and single choice decisions will be more popular because the decisions of public managers are open to public scrutiny. Conservation managers should not only

have knowledge about the types of decisions but should also know that his/her decisions may be met with some criticism. The manager should, according to Botes (1994:83), observe the following conditions when making decisions: maintain good working relations and be frank, be involved with his/her decisions, remember that decision-making requires communication with subordinates, have knowledge about conflict management when people don't agree with decision, be flexible and encourage creativity, be sensitive to social values, be objective and responsible. Conservation managers should determine how, in which way, when and who will be affected by decisions taken and decisions should always in accordance with the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*, other legislation as well as policies and the values of the community should be taken into account when making decisions that will affect them.

3.10 VALUES AND CONSERVATION MANAGEMENT

Because of the variation of human values, conservation management may be influenced. In a democracy it is necessary to attempt to accommodate the values of almost all constituencies. A pure reservationist may view a national park as something to be conserved while a company executive may see the same park as a resource to be used for expanding industry (Bennet, 1983:7). Resolving value conflicts is a principal task of conservation management and the way in which value conflicts is resolved, depends on the legislative authorities of national, provincial and local governments and therefore, political intergovernmental relations is necessary because management decisions pertaining to natural resource and environmental conservation, may be political decisions. Value conflict is closely related to integrated environmental management proposed by the *National Environmental Management Act, 1998 (Act 107 of 1998)*.

3.11 INTEGRATED ENVIRONMENTAL MANAGEMENT

The concept of integrated environmental management in South Africa was developed because it was realised that the environment underwent changes whenever new development was undertaken. The potential impact on the environment, socio-economic conditions and the cultural heritage of activities, that necessitates authorisation by law and which significantly affect the environment, should be investigated prior to their implementation and reported to the organ of state that is charged with allowing the implementation of the activity (*National Environmental Management Act*, 1998 [Act 107 of 1998]). The Minister of Environmental Affairs and Tourism should therefore, in concurrence with the various Members of Executive Councils concerned with conservation management in the provinces, identify activities undertaken without prior authorisation; identify geographical areas where activities for development cannot commence without prior authorisation and prepare compilations of information that specify the attributes of the environment in particular areas that need to be considered when a new activity influencing the environment is undertaken. The interaction between the Minister of Environmental Affairs and Tourism and the Members of Executive Councils of the different provinces as well as the organs of state necessitates horizontal and vertical intergovernmental relations (*Supra* paragraph 1.7.1 and 1.7.2).

3.11.1 Defining the concept *integrated environmental management*

Hugo *et al.* (1997:200) define integrated environmental management as the following:

“ *a framework for harmony between development and environment*”.

Integrated environmental management should ensure that all environmental factors are considered when development is planned or decision relating to development is made. The importance for integrated environmental management is also emphasised in Chapter five of the *National Environmental Management Act, 1998* (Act 107 of 1998) which focuses on the general objectives and the implementation of integrated environmental management.

3.11.2 General objectives of integrated environmental management

The general objectives of integrated environmental management are, according to the *National Environmental Management Act, 1998* (Act 107 of 1998), to promote the integration of the principles of environmental management into the making of all decisions which may have a significant effect on the environment; identify and evaluate the actual and potential impact of activities on the environment to be able to minimise negative impacts and promote compliance with the principles of environmental management. Other general objectives are to ensure that the impact of activities on the environment receive the necessary consideration before actions are undertaken; ensure adequate opportunity for public participation in decisions that may affect the environment; ensure the consideration of environmental attributes in management and decision-making which may have an impact on the environment and identify and employ the modes of environmental management in accordance with the principles of environmental management (*Supra* paragraph 2.6). Conservation managers should therefore consider the principles of environment management when taking decisions, but should also abide by the principles of integrated environmental management.

3.11.3 The principles of integrated environmental management

The Department of Environmental Affairs and Tourism published basic principles for integrated environmental management in a Discussion Document in 1996. Principles refer to the most basic basis or foundation of an issue and the principles should form the basis for the development of any project which will have an effect on the environment. The principles of integrated environmental management are the following: informed decision-making, accountability for decisions made, a participatory approach in the planning of proposals and consultation with interested and affected parties. Other principles for integrated environmental management include due consideration of alternative options, an attempt to limit negative impacts and emphasise positive impacts of proposals, democratic recognition of individual rights and obligations, compliance with the principles of integrated environmental management during all stages of the planning and implementing of proposals and the opportunity for public and expert input in the decision-making process.

Integrated environmental management should, according to Hugo *et al.* (1997:202), play a role in conservation and environmental management processes and conservation managers should recognise the impact of political influences, economic factors, technological developments and environmental laws on conservation management. The implementation of the above-mentioned principles for integrated environmental management will require conservation managers to have the necessary management skills, knowledge of management functions and structures as well as institutions for intergovernmental relations to be able to relate to governmental bodies and organs of state concerning issues pertaining to conservation management.

3.12 CONCLUSION

Conservation management is the responsible management of the environment including the utilisation of natural resources to ensure its preservation for future generations. Because conservation is a subsidiary component of the environment, a definition of the concept environment is necessary to focus on both the natural as well as the human component of the environment. The involvement of various governmental bodies and organs of state in the conservation process, emphasises the importance of structures and institutions for intergovernmental relations to regulate the vertical and horizontal relations between parties involved in conservation and to assist in achieving the goals of conservation.

The value of conservation in South Africa depends on the value people place on different resources and therefore the economic, ecological, cultural, nutritional, recreational and other grounds on which the value of a particular resource is determined, may assist conservation managers in retaining the environment for future generations. To assist conservation managers in governmental bodies and organs of state to conserve the environment, a number of conservation and environmental policies are formulated, stipulating the importance of co-operative governance and outlining the main conservation and environmental policy goals. The influence of social, economical and political policy issues on conservation in South Africa emphasises the complex nature of conservation management and the importance of acknowledging the different approaches to conservation management and their applicability to South Africa.

The importance of structures and institutions for intergovernmental relations to assist governmental bodies and organs of state in following the guiding principles for conservation management cannot be overstated. Principles such as

intergovernmental co-ordination and harmonisation of policies and legislation relating to the environment, the integrated nature of environmental management, the making of decisions in an open and transparent manner and the participation of all interested parties in environmental governance emphasise the importance of structures and institutions for intergovernmental relations.

Thorough knowledge pertaining to management functions and management skills are necessary to enable conservation managers to achieve conservation and environmental policy goals and to implement the guiding principles of environmental management. Planning in conservation management ensures that predictions can be made and that conservation managers are prepared for change. The conservation manager should, through his/her participation in the planning process on different levels, play an invaluable role in the development of conservation goals and objectives. Effective leadership, as a management function, depends on the use of specific leadership styles in a particular situation and the leader should have certain abilities and characteristics to be able to act in the best interest of his/her subordinates. A visionary leader will actively seek and facilitate change and therefore promote conservation management. Control and monitoring of activities, goals and objectives will enable conservation managers to compare the actual results with desired results and take corrective action, where and when necessary.

Conservation managers functioning in a rapidly changing political, technological, social and economic society increasingly have more complex choices to make and should therefore take decisions promptly and without hesitation. Involving subordinates as well as interested and affected parties in the decision-making process, will enable the conservation manager to make decisions aimed at promoting the general welfare of society. The challenge facing conservation managers in governmental bodies and organs of state is the linking and integration

of developmental goals and sound conservation and environmental management practices to ensure that integrated environmental management is promoted. Integrated environmental management provides a framework for harmony between development and the environment and ensures that all environmental factors are taken into consideration when development is planned. In the highest positions in the public sector the management and professional skills are qualitatively different than skills required at the lower levels, although not necessarily more important. At the higher management levels, technical related skills are less important and more focus is on generic skills and competencies related to the formulation of policy, developing management plans, the managing of human resources and the co-ordination of policies. Integrated environmental management promotes co-operation between governmental bodies and organs of state as well as affected parties and therefore structures and institutions for intergovernmental relations are necessary to promote horizontal and vertical intergovernmental relations pertaining to conservation management.

CHAPTER 4

SOUTH AFRICAN NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS

4.1 INTRODUCTION

Conservation has already been defined as the management of human utilisation of resources and the biosphere so that it yields the greatest sustainable benefit to present generations, while maintaining its potential to meet the needs and aspirations of future generations (*Supra* paragraph 3.2.2). Institutions and organs of state are therefore established by legislation to ensure that conservation goals are attained and managed for the promotion of the general welfare of present and future societies. At present, 5,8 percent of the total surface of South Africa has officially been declared conservation areas that need to be managed while approximately three percent has lower conservation status (Hugo *et al.*, 1997:160). National Parks and provincial parks form part of the officially declared conservation areas.

Concurrent national and provincial legislative competence to certain functional spheres of government are provided for in Section 44 (1)(a)(ii) together with Section 104 (1)(b)(i) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996). These competencies are stipulated in Schedule four of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), one of which is *nature conservation*, excluding national parks, national botanical gardens and marine resources. Formally proclaimed national parks are therefore the exclusive preserve of national competence but, the Kumleben Report on the Institutional Arrangements for Nature Conservation in South Africa (1998:15) states the following:

“the fact that national parks is a stated exception by implication a measure of provincial competence in respect of other spheres of conservation was intended to continue”.

The various provinces are therefore responsible for all conservation matters except for the management of national parks. The principles of co-operative government and intergovernmental relations should therefore be followed where concurrent competence exists (*Supra* paragraph 1.2.2). It is the responsibility of the Department of Environmental Affairs and Tourism to formulate general policies concerning conservation management and the implementation of these policies should be undertaken by different governmental bodies and organs of state in the national, provincial and local spheres of government.

An explanation of the different national and provincial institutional arrangements for conservation management is necessary to be able to analyse intergovernmental relations pertaining to conservation management. Focus will be on the South African National Parks and selected provincial parks. Clarification of the various terms used in this chapter is important, especially the terms national parks and provincial parks or protected areas.

4.2 CLARIFICATION OF TERMS

Besides official conservation areas proclaimed by legislation as national parks and equivalent provincial protected areas, South Africa also has other conservation areas such as private game (nature) reserves, zoos and terrestrial and marine protected areas. A classification of some of these conservation areas are indicated in Table 4/1 even though it does not form part of the focus of this study.

Table 4/1: **Classification of terrestrial and marine protected areas in South Africa**

CATEGORIES	DESCRIPTION
Scientific reserves and wilderness areas	An area of land or sea possessing some outstanding ecosystems, natural features, species of flora, fauna and/or cultural resources of scientific importance. A wilderness area is a large area of unmodified land or water retaining its natural character and influence without permanent physical structures or significant habitation.
National monuments and areas of cultural significance	A national of cultural feature or an area of outstanding scenic, scientific, educational or inspirational value.
Habitat and wildlife management areas	Areas subject to human intervention, based on research into the requirements of specific species for nesting, feeding and survival.
Protected land and seascapes	Areas that are products of the harmonious interaction of people and nature, often aesthetically unique patterns of human settlement. Traditional practices associated with agriculture, grazing or fishing, are evident.
Sustainable use areas	An area managed to ensure the long-term protection and maintenance of its biological diversity, while providing a sustainable flow of natural products.

Source: Hugo, M.L., Viljoen, A.T. and Meeuwis, J.M. 1997. *The Ecology of Natural Resource Management: The quest for sustainable living*. Pretoria: Kagiso Tertiary, p 162.

This study refers to national parks and provincial parks or protected areas only. Clarification of these terms is necessary.

4.2.1 National Parks

National parks should protect a nation's ecological diversity, its genetic wealth and its relatively large natural and scenic areas of national and international significance for scientific, educational and recreational use (Selman, 1992:19). According to the Kumleben Report (1998:7) the term *national parks*, as generally understood in conservation circles, refers to parks that have been proclaimed as a result of statutory recognition at national level. A national park is a large piece of land, lake, wetland or a portion of the sea, which is preserved in its natural state, together with all the plant and animals which occur there as well as the natural features such as soil and geology of and area as well as the man-made structures of cultural and historical importance (Anon, 1998:34).

The proclamation of national parks is provided for in the *National Parks Act*, 1976 (Act 57 of 1976) as amended. The objective of the constitution of a national park is the establishment, preservation and study therein of wild animals, marine and plant life and objects of geological, archaeological, historical, ethnological, oceanographic, educational and other scientific interests, in such a manner that the area which constitutes the park will be retained in its natural state. Further details pertaining to the objectives and criteria for selection and management are given in the following paragraph (*Infra* paragraph 4.2.2). South Africa has 17 officially proclaimed national parks of which a list, proclamation date and size are outlined in Table 4/2.

Table 4/2: Surface areas of the national parks of South Africa

NATIONAL PARKS	PROCLAMATION DATE	AREA IN HECTARES
Kruger Game	1926	1 962 361
Addo Elephant & Zuurberg	1931	51 309
Kalahari Gemsbok	1931	959 103
Mountain Zebra	1937	6 536
Bontebok	1961	3 236
Golden Gate	1963	11 633
Tsitsikama	1964	63 942
Augrabies Waterfall	1966	14 745
Groenkloof	1968	4
Wilderness	1977	10 600
Karoo	1977	43 261
West Coast	1985	32 949
Knysna Lake	1985	15 000
Tankwa-Karoo	1986	27 064
Vaalbos	1986	22 697
Richtersveld	1991	162 445
Marakele	1992	38 000
TOTAL		1 424 431

Source: Hugo, M.L., Viljoen, A.T. and Meeuwis, J.M. 1997. *The Ecology of Natural Resource Management: The quest for sustainable living*. Pretoria: Kagiso Tertiary. p 161.

National parks should, as far as possible, include representative samples of the biological regions, ecosystems, natural communities and species of the country and should be managed comprehensively (Western *et al.*, 1989:140). Comprehensive

conservation management requires knowledge regarding the management functions in order to develop plans for each national park, have efficient organisation, control and monitor mechanisms for the effective and efficient management of a national park and integrate the park into the development process (*Supra* paragraph 3.8).

4.2.2 Protected areas

In the past, conservation areas were created by provincial enactments of the four former provinces of South Africa namely, the Transvaal, Orange Free State, Natal and Cape Province. The conservation areas were known as provincial nature reserves or provincial parks and no clear criteria existed for their establishment. Some conservation areas were also created in the former TBVC states (Transkei, Bophuthatswana, Venda and Ciskei) (Kumleben Report, 1998:8). With the creation of nine provinces in South Africa in 1994, different approaches to conservation were followed by the various provinces in terms of the character, administration, number and extent of provincial nature reserves. In the *White Paper on Conservation and Sustainable use of South Africa's Biological Diversity* (1997:18) a number of major concerns regarding conservation management were expressed:

"... the fragmented, polarised and inefficient administrative and legislative structures created by apartheid resulted in no fewer than 17 government departments having a primary responsibility of nature conservation prior to the April 1994 elections. This situation did not improve with the establishment of new provinces and government structures. Divided responsibilities, together with a duplication of effort, a profusion of laws, and most importantly a lack of co-ordination, have been major factors hampering the effective conservation of biodiversity".

It is therefore clear from these concerns that uncertainty concerning the legislative structures and the divided responsibility for conservation management may lead to poor intergovernmental relations. In the provinces of KwaZulu-Natal and Mpumalanga for example, the existence of both a statutory organ of state and a provincial department for conservation management imply divided responsibilities for conservation management in this province.

A protected area is explained as a geographically defined area designated and managed to achieve specific conservation objectives and which is dedicated primary to the protection and enjoyment of natural and cultural heritage, to the maintenance of biodiversity and to the maintenance of life support systems (*White Paper on Conservation and Sustainable use of South Africa's Biological Diversity* [1997:103]). South Africa presently has 21 types of protected areas which can be grouped under six internationally recognised management categories (See Table 4/3).

Table 4/3: **Protected Area Categories**

CATEGORY	NAME	MANAGEMENT OBJECTIVE	SOUTH AFRICAN LEGAL OR OTHER EQUIVALENT CATEGORY
Category 1a	Scientific Reserves	Managed mainly for scientific research and monitoring	Special nature reserves and wilderness areas
Category 1b	Wilderness Area	Managed mainly for wilderness protection, subsistence and recreation	Special nature reserves and wilderness areas

Category II	National Parks and Equivalent Reserves	Managed mainly for ecosystem protection and recreation	National parks, provincial parks and nature reserves
Category III	Natural Monuments and Areas of Cultural Significance	Managed mainly for conservation of specific natural or cultural features	Natural monuments, monuments, botanical gardens, zoological gardens, natural heritage sites and sites of conservation significance
Category IV	Habitat and Wildlife Management Areas	Managed mainly for conservation through management intervention	Provincial, local and private nature reserves and conservancies
Category V	Protected Land and Seascapes	Managed mainly for land and seascape conservation and recreation	Protected natural environments, natural resource areas, scenic landscapes and urban landscapes
Category VI	Managed Resource Protected Area	Managed mainly for the sustainable use of natural ecosystems	Mountain catchment areas

Source: *White Paper on Conservation and Sustainable use of South Africa's Biological Diversity*. July 1997. p. 31.

The various types of protected areas are managed by a number of different bodies including the South African National Parks, the Department of Water Affairs and Forestry, the Department of Environmental Affairs and Tourism, the South African National Defense Force, the National Botanical Institute, provincial conservation agencies, numerous local authorities and various private and public landowners.

Ten Acts of Parliament and 13 provincial Ordinances and Acts regulate protected areas in South Africa (*White Paper on Conservation and Sustainable use of South Africa's Biological Diversity*, 1997:27).

Each one of the categories is defined in further detail in the *White Paper on Conservation and Sustainable use of South Africa's Biological Diversity*, 1998. This study is primarily concerned with category II, namely national parks and equivalent reserves proclaimed in accordance with appropriate and empowering national and provincial legislation and comprise land of which the state is the present registered owner. A further definition of the category II parks and its objectives and criteria for selection and management are explained in Table 4/4.

Table 4/4: **Category II - National Parks and Equivalent Reserves**

DEFINITION	OBJECTIVES	CRITERIA FOR SELECTION AND MANAGEMENT
A national park or equivalent reserve is a relatively large outstanding natural area of land and/or sea designated to protect the ecological integrity of one or more ecosystems for this and future generations, to exclude exploitation or intensive occupation of the area and to provide a foundation for spiritual, scientific, educational, recreational and cultural opportunities for visitors.	To protect natural and scenic areas of national or international significance for spiritual, scientific, educational, recreational and tourism purposes. The area should perpetuate, in a natural state, representative samples of physiographic regions, biotic communities and genetic resources and species, to provide ecological stability and diversity. Cultural resources which may occur in these areas will also be promoted.	National parks and equivalent reserves encompass outstanding and extensive examples of at least one of the recognised biomes of the country in a near natural state or which has potential to be rehabilitated to such a state. These are of sufficient size to sustain viable, free-living populations of all wild plant and animal species which occur naturally or which occurred in historical times, including predators, without requiring unrealistic control measures to safeguard adjacent farming practices or other development. Preservation of the natural environment will at all times receive the highest priority. These areas are open for controlled access to all members of the public. These areas are managed by either the National Parks Board or a competent nationally recognised authority.

Source: *Kumleben Report on the Institutional Arrangements for Nature Conservation in South Africa*. October 1998. p. 11.

According to the Kumleben Report (1998:13) there are currently 28 category II protected areas where 17 are being controlled by the South African National Parks and 11 by the KwaZulu-Natal province. A number of current protected areas, however, do not qualify to be classified as a protected area, while other protected areas are incorrectly classified. This incorrect classification may, according to the Kumleben Report (1998:21), be a result of cheap land being available in the past, donations by private individuals or the decision of politicians or bureaucrats to protect a particular species at a given time. A clearer and more detailed classification of existing protected areas are necessary to address the incorrect classification.

A provincial protected area is mainly a national asset. It is often wrongly perceived that a protected area is the property of the province in which it is situated.

“Although the management and control of a protected area are vested in a provincial authority, the ultimate decision on the determination of a protected area ought to be the responsibility of the national government (Kumleben Report, 1998:24)”.

The above-mentioned situation will have a definite influence on vertical intergovernmental relations between a national and provincial authority. An analysis of the role, functions and responsibilities, as well as legislation regulating the South African National Parks as well as KwaZulu-Natal and Mpumalanga protected areas are therefore necessary.

4.3 THE SOUTH AFRICAN NATIONAL PARKS AND THE KWAZULU-NATAL AND MPUMALANGA PROTECTED AREAS

National parks should be controlled by the highest conservation authority of a state because they are national assets. In South Africa the highest conservation authority is the South African National Parks which has to ensure that the 17 national parks are managed for the benefit of all the people in South Africa.

4.3.1 South African National Parks

The South African National Parks has been involved in conservation and through its World Conservation Union (WCU) membership runs bilateral projects, provides assistance, encouragement and advice on issues regarding the protection and use of natural resources. The vision of the South African National Parks is that national parks will be the pride and joy of all South Africans, while their mission is to acquire and manage a system of national parks that represents the indigenous wildlife, vegetation, landscapes and significant cultural assets of South Africa for the pride and benefit of the nation (See Annexure C)(South African National Parks 1999). In January 1995, a Transformation Task group was appointed (TTG) to monitor and promote the transformation process within the South African National Parks and strategies were developed for their transformation. The transformation mission of the South African National Parks is to transform an established system for the management of the natural environment to one which encompasses cultural resources, and which engages all sections of the community (Tema, 1997:52). The 12 key strategic areas for transformation identified by the Transformation Task Group are explained in Table 4/5.

Table 4/5: **Strategic areas for transformation of the South African National Parks**

STRATEGIC AREAS	EXPLANATION
Human relations	To transform current negative relations between employees of South African National Parks, encouraging staff to be positive and productive and supportive of the mission and objectives of the South African National Parks.
People development	To facilitate the identification of people who have the potential for growth.
Business development	To ensure that business opportunities and contracts are open to all entrepreneurs, consultants and suppliers.
Affirmative action	To correct the imbalance of the past by recruiting and creating opportunities for all.
Elimination of systems and processes	Elimination of systems and processes which hinder the implementation of the mission and values of South African National Parks.
Alignment of South African National Parks' structure	Alignment of the structure so that it affirms and confirms the mission and values of South African National Parks.
Corporate image	To address the overall visual corporate identity of South African National Parks.
Optimisation of the quality of services and hospitality	To develop strategies that will maximise income generated from high quality services provided by South African National Parks.
Gender	To develop a comprehensive gender policy to address issues that affect men and women in the workplace.
Language policy	To address the question of an official language.

Land claims policy and strategies	To facilitate reconciliation and increase the legitimacy and credibility of South African National Parks amongst communities that in the past have been forcefully removed from their land to create parks.
Cultural resources and heritage management	To formulate policies and strategies to ensure that historical rites and cultural resources within the parks are developed to promote cultural sensitivity, accurate recording and interpretation of their cultural significance.

Source: Tema, F. 1997. SA National Parks: a Transforming Organisation. *Custos*. May 1997. p.52.

The transformation statement of the South African National Parks is according to Tema (1997:53) the following:

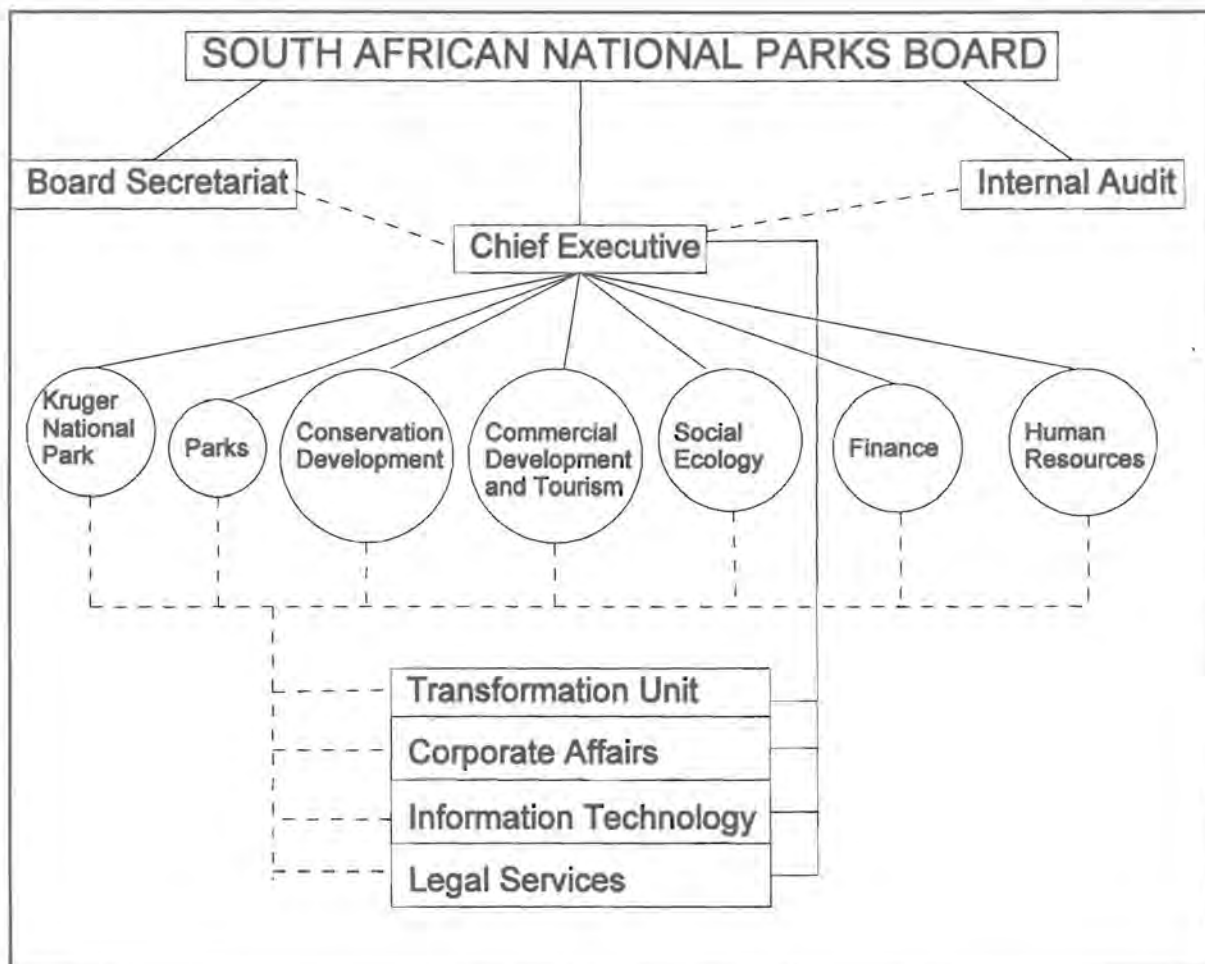
“South African National Parks is striving to transfer power and control of resources from the minority that had been appointed and privileged by an undemocratic system, to the majority that participates in the new democratic process. It is also directing the benefits of its activities to providing for all South Africans, rather than the more wealthy and privileged sections of society”.

The South African National Parks is therefore a dynamic organisation which is determined to identify strengths and potential in order to achieve a transformation strategy by confronting the legacies that inhibit the organisation and establish key results for change to guide the conservation of national parks for the enjoyment of the general public. Certain values that demonstrate a firm commitment to the transformation process are promoted by the South African National Parks namely

to have respect for all individuals, to recognise different value systems and promote social equity. South African National Parks co-operates and shares information within and outside of the organisation and strives to be sincere and honest in its dealings with different parties. South African National Parks strives to provide a high quality of service to all and to maintain a culture of transparency through openness and communication (South African National Parks, 1999). Other values of the South African National Parks are to uphold environmental ethics in relation to conservation of resources and to be dynamic in responding to the changing environment and community needs. South African National Parks therefore places a high priority on the normative guidelines as previously explained (*Supra* paragraph 1.8). Under the guardianship of the South African National Parks, national parks have developed from fenced-in conservation areas to national treasures which belong to all South Africans and which highlights a spirit of consultation and reconciliation in conservation management.

The South African National Parks are managed by a board consisting of 18 members appointed by the Minister of Environmental Affairs and Tourism for a period not exceeding five years: one person nominated by each of the Premiers of the nine provinces, who is by virtue of knowledge capable of promoting the objectives of the board in an unbiased manner; and nine members appointed by the Minister of Environmental Affairs and Tourism in consultation with the Cabinet or a Cabinet Committee (*National Parks Act, 1976 [Act 57 of 1976] as amended*). One of the members shall be designated by the Minister of Environmental Affairs and Tourism to act as chairperson of the board. The board shall control, manage and maintain the national parks to meet the objectives set out in section four of the *National Parks Act, 1976 (Act 57 of 1976)*, as amended, and utilise its revenue for that purpose. The corporate plan of the South African National Parks Board is illustrated in Figure 4/1.

Figure 4/1: The corporate plan of the South African National Parks



Source: South African National Parks corporate plan. June 1998.

4.3.2 Institutions for KwaZulu-Natal protected areas

The amalgamation of the previous Natal Parks Board and the provincial Department of Nature Conservation was undertaken with the promulgation of the *KwaZulu-Natal Nature Conservation Management Act, 1997* (Act 9 of 1997). Some of the sections of the afore-mentioned act are in the process of being amended with the introduction of the *KwaZulu-Natal Nature Conservation Management Amendment*

Bill, 1999 which provides for institutional structures for nature conservation in the province of KwaZulu-Natal and establishes control bodies and mechanisms to monitor conservation management. The amendments will however not have a major impact on the focus of this study. Conservation management in the province of KwaZulu Natal is the responsibility of the KwaZulu-Natal Nature Conservation Board (*KwaZulu-Natal Nature Conservation Management Act*, 1997 [Act 9 of 1997]). The KwaZulu-Natal Nature Conservation Board consists of between nine and 14 members appointed by the Member of the KwaZulu-Natal Executive Council under whose portfolio the responsibility for the protection and conservation of the environment and of nature conservation resides as well as the Chief Executive Officer who will act as an *ex officio* member. The members of the Board should have an interest in nature conservation and should be appointed from the following categories (See Table 4/6):

Table 4/6: **Categories from which members of the KwaZulu-Natal Nature Conservation Board should be appointed**

- (a) At least one, but not more the two persons nominated by the House of Traditional Leaders; and from non-governmental organisations, institutions or groups established for the advancement of nature conservation or environmental protection within the province;
- (b) one person from community-based organisations in rural areas in the province; with extensive knowledge of the business sector; with extensive knowledge and experience of environmental law; with extensive knowledge and experience of labour matters; from organised agriculture and with extensive knowledge of the protection and management of heritage resources; and
- (c) not more than three other persons, selected by the member of the KwaZulu-Natal Executive Council concerned with the protection and conservation of the environment, to enhance the competence of the Board.

Source: *KwaZulu-Natal Nature Conservation Management Act*, 1997 (Act 9 of 1997)

The primary functions of the KwaZulu-Natal Nature Conservation Board are, according to the *KwaZulu-Natal Nature Conservation Management Act, 1997* (Act 9 of 1997), to supervise and direct conservation management within the province and protected areas and to develop and promote ecotourism facilities within the protected areas. The KwaZulu-Natal Nature Conservation Board may also undertake investigations and advise the Member of the Executive Council concerned with conservation with regard to legislation and policies pertaining to conservation as well as the financing and co-ordination of projects associated with protected areas. Other functions of the KwaZulu-Natal Nature Conservation Board are listed in Table 4/7.

Table 4/7: Functions of the KwaZulu-Natal Nature Conservation Board

May enter into agreements with statutory bodies; organs of state; or persons or bodies approved by the member of the Executive Council concerned with conservation in the KwaZulu-Natal province in terms of which the Board undertakes to perform a function on behalf of such body, organ or person.

Determine conditions and set norms and standards for nature conservation activities and the management of protected areas; the sustainable use of all indigenous plants and animals throughout the province and the regulation of import, export and utilisation of indigenous and non-indigenous wild plants and animals throughout the province.

Ensure the protection and management of heritage resources within protected areas.

May borrow money or obtain overdraft facilities from a bank or other financial institution and acquire an interest or partnership in companies subject to the prior approval of the member of the Executive Council concerned with conservation and the Minister of Finance.

Enter into agreements, contracts and joint ventures with other institutions, organisations and bodies and into trans-frontier undertakings for the promotion of nature conservation.

Establish committees from within the ranks of its members to which specific matters or classes of matters may be referred for investigation.

Submit a report and audited set of financial statements to the member of the Executive Council concerned with conservation on the activities of the Board, the Conservation Service and local boards which should be tabled in Parliament.

Source: *KwaZulu-Natal Nature Conservation Management Act, 1997* (Act 9 of 1997)

The objectives of the KwaZulu-Natal Nature Conservation Board is to ensure that the diversity of life forms and biological processes in KwaZulu-Natal are maintained within protected areas which contribute to conservation, prevent the man-induced extinction of any species indigenous to KwaZulu-Natal, promote the utilisation of wildlife resources in KwaZulu-Natal and exercise control in order to ensure that all forms of utilisation are sustainable. Further objectives include the promotion of awareness of the functioning and importance of the biosphere, providing public access to protected areas and appropriate services including opportunities for scientific study, and conduct its activities effectively and efficiently through people dedicated to service and committed to nature conservation (*KwaZulu-Natal Nature Conservation Management Act, 1997 [Act 9 of 1997]*).

The *KwaZulu-Natal Nature Conservation Management Act, 1997 (Act 9 of 1997)* also provides for the establishment of the KwaZulu-Natal Nature Conservation Service and for local boards that are accountable to the KwaZulu-Natal Nature Conservation Board for the performance of their functions, powers and duties (*Supra* Table 4/7).

4.3.2.1 KwaZulu-Natal Nature Conservation Service

The KwaZulu-Natal Nature Conservation Service is headed by a Chief Executive Officer appointed by the Member of the Executive Council concerned with nature conservation in consultation with the KwaZulu-Natal Nature Conservation Board. The KwaZulu-Natal Nature Conservation Service consists of posts arranged in an organisational structure which is determined by the Member of the Executive Council concerned with conservation in consultation with the KwaZulu-Natal Nature Conservation Board and, after consultation with, organised labour (Section 21 of the

KwaZulu-Natal Nature Conservation Management Act, 1997 [Act 9 of 1997]). The main functions of the KwaZulu-Natal Nature Conservation Service is the promotion of nature conservation inside and outside protected areas and to provide support to the KwaZulu-Natal Nature Conservation Board

4.3.2.2 Local boards for protected areas

The Member of the Executive Council concerned with conservation in the province, may, in consultation with the KwaZulu-Natal Nature Conservation Board, establish a local board in respect of a protected area or areas to promote local decision-making regarding the management of nature conservation and heritage resources within protected areas as well as to promote the integration of the activities of the protected area into that of the surrounding area (*KwaZulu-Natal Nature Conservation Management Act, 1997 [Act 9 of 1997]*) . The local board, in consultation with the KwaZulu-Natal Nature Conservation Service, should compile and monitor the execution of management plans pertaining to protected areas for which such a board was appointed. These management plans should promote the developmental needs of people living in or adjacent to the protected area; promote education programmes pertaining to conservation and determine local policies on nature conservation, including resource management and protection, development of ecotourism, scientific research and co-operation and co-ordination with other bodies involved with conservation (Section 27 of the *KwaZulu-Natal Nature Conservation Management Act, 1997 [Act 9 of 1997]*).

4.3.3 Institutions for Mpumalanga protected areas

Protected areas in the province of Mpumalanga are managed by a statutory board namely the Mpumalanga Parks Board. Although the Mpumalanga province does

not have category II protected areas, the Kruger National Park, which is the largest national park in South Africa, is situated in this province. The Mpumalanga Parks Board is however concerned with conservation management through the management of categories IV and VI protected areas (*Supra* paragraph 4.2.2). The Mpumalanga Parks Board consists of not more than nine members, two of whom are appointed by the Member of the Executive Council concerned with environmental affairs and agriculture as Chairperson and Deputy Chairperson (*Mpumalanga Parks Board Amendment Act, 1998 [Act 9 of 1998]*). One member from the Board will also be appointed as the *ex officio* Chief Executive Officer. Members of the Mpumalanga Parks Board are appointed for different periods and upon different conditions but are normally appointed for a two year period. The objectives of the Mpumalanga Parks Board are summarised in Table 4/8.

Table 4/8: **Objectives of the Mpumalanga Parks Board**

To provide effective conservation management of the natural resources of the province and promote the sustainable utilisation thereof.
Give due regard to national and provincial policies, strategies and programmes in respect of reconstruction and development, environmental affairs, eco-tourism and outdoor recreation.
Promote the creation of economic and employment opportunities, particularly for local disadvantaged persons and communities.
Promote the participation by urban and rural local government structures, the private sector, civil society, communities and individual citizens in public sector policy-making, strategic planning and programme and project implementation, including the establishment of various structures and processes for consultation, co-ordination, engagement and negotiation.
Promote the employment of local human resources and ensuring non-discrimination in hiring, promoting and training of personnel.
Achieve transparency and accountability in public administration.
Promote public awareness and education regarding conservation management of natural resources.
Ensure equitable accessibility by all people to the Province's conservation areas.

Maintain environmentally sound development practices and to promote biodiversity in conservation areas.

Endeavour to make, in so far possible, the Board's operations and activities self-financing in their operation.

Promote the earning of foreign exchange, particularly through eco-tourism.
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Source: Section 14 of the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998).

The powers and functions of the Mpumalanga Parks Board are also outlined in the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998). These functions will include the inventorying, assessing and monitoring of natural resources in the province, administering and managing laws in respect of conservation and the evaluation of development proposals, recreation policies and strategies relating to conservation. Other functions will include the promotion of public awareness and education regarding conservation, providing information and services on conservation management and contributing to the advancement of scientific knowledge in respect of conservation. The members of the Mpumalanga Parks Board are in constant contact, mostly through its Chief Executive Officer, with the Member of the Executive Council concerned with the environment and agriculture, to advise him/her about an appropriate policy as well as the legislative, administrative and financial framework regarding conservation management in the province (General Manager: Research and Development, 2000).

The Mpumalanga Parks Board may appoint, from among its members, committees to assist in the obtaining of their objectives and the rendering of functions. Other individuals may also be co-opted to serve on a committee and to participated as a member but serve in an advisory capacity (*Mpumalanga Parks Board Amendment Act, 1998* [Act 9 of 1998]).

The Mpumalanga Parks Board has two departments that report to the current acting Chief Executive Officer namely the Conservation Department that represents the core business of the Mpumalanga and Corporate Services that provides the technical support (General Manager: Research and Development, 2000). The Corporate Services Department renders all generic functions that would be associated with an organisation. The Conservation Department answers to a Senior General Manager and has five units with various sub-units that are outlined in Table 4/9.

Table 4/9: **Units in the Conservation Department of the Mpumalanga Parks Board**

Research and Development (General Manager)	Protected Areas Management (General Manager)	Wildlife Protection Services (General Manager)	Production Units	Engineering Services
Ecological and Development Planning (including a small Information Management Unit)	Facilities Management	Special Investigation	Plant Production	Reports to the Senior General Manager
Conservation Auditing	Community Relations	Permits Administration	Fish Production	
Aquatic Research	Protected Areas Managers	Land Administration	Mammal Production	
Terrestrial Research		Professional Hunting and problem animal control	Reports to the Senior General Managers	

Source: General Manager: Research and Development. Mpumalanga Parks Board. March 2000.

Effective intergovernmental relations between governmental bodies and institutions concerned with conservation management, such as the South African National Parks and its board as well as the KwaZulu-Natal Nature Conservation Board, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are of utmost importance to enable co-ordination of policies and legislation and to promote the principles of co-operative governance. Intergovernmental relations pertaining to conservation management in the various provinces, including the case study provinces relevant to this study namely KwaZulu-Natal and Mpumalanga, are influenced by the existence of different institutional arrangements concerning conservation management in South Africa (*Infra* paragraph 4.4). Differences of opinions exist concerning the necessity of centralisation of management of protected areas or having devolved management structures for protected areas. The various views are analysed in the following paragraph.

4.4 A CENTRALISED OR DEVOLVED MANAGEMENT STRUCTURE FOR PROTECTED AREAS

The debate on the type of management structure of protected areas and whether protected areas should become national parks in terms of the *National Parks Act, 1976* (Act 57 of 1976) as amended, or whether national parks should be devolved, by deproclamation, and managed by provincial authority is still continuing. The outcome of the debate on centralisation and devolution will have an influence on intergovernmental relations pertaining to conservation management in South Africa. The concepts of centralisation and devolution were explained in a previous chapter (*Supra* paragraph 1.10.2.1). By stipulating that national parks is an exception to the provisions in Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) regarding concurrent competence, implies that the management

and governance of all other protected areas should be mainly a provincial matter. According to the Kumleben Report (1998:17), the arguments favouring either a central or provincial authority reflect in a conservation management context, the pros and cons of having either unitary or federal structures (*Supra* paragraph 1.6.3). The factors favouring either a central authority (for example the South African National Parks) or a provincial authority are explained in Table 4/10.

Table 4/10: **Factors favouring a central authority or provincial authority for protected areas**

FACTORS FAVOURING A CENTRAL AUTHORITY	FACTORS FAVOURING PROVINCIAL AUTHORITY
The provincial conservation authorities lack the financial and other resources to manage their protected areas effectively and in a responsible manner.	The consideration that motivate the establishment of a federal element in governance rather than a unitary state apply a fortiori to conservation. A provincial authority is better placed to meet the nature conservation requirements of a particular province.
National parks enjoy greater international status and acclaim because of the epithet which have benefits in fund-raising from abroad, overseas tourism and in various other spheres sphere international recognition is important.	Protected areas that are the responsibility of the people of a particular province have their loyal and generous support financially and in other spheres.
A centralised authority is better placed to apply a uniform policy and management procedures, particularly since there are nine provinces in South Africa.	The involvement of local communities in the cause of nature conservation in the vicinity of a protected area is more readily attained at a provincial level.

<p>With specialised knowledge in the field of conservation and management in short supply, it is more economic and effective to have a concentrated source of such skills.</p>	<p>It is unsatisfactory to have “pockets” of national parks with different legislation, policy and personnel within a province, when all other protected areas, and matters relating to nature conservation generally, are outside the borders of national parks and in the hands of a provincial authority: ecosystems do not acknowledge artificial boundaries.</p>
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Source: Adapted from the *Kumleben Report on the Institutional Arrangements for Nature Conservation in South Africa*. October 1998. p. 18.

The debate is not yet concluded and proponents of either the centralised or devolved structures need to communicate their viewpoints in order to reach a compromise. The outcome of the debate will have a profound influence on intergovernmental relations pertaining to conservation management. Focus in this study will be on the current situation concerning intergovernmental relations pertaining to conservation management as described in previous paragraphs (*Supra* paragraph 4.3). Although this study focuses on the relations between the South African National Parks, the KwaZulu-Natal Nature Conservation Service and KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board as institutions concerned with conservation management, it is still necessary to explain the diverse institutional arrangements that exist for conservation management in general. The Department of Environmental Affairs and Tourism is the national department consisting of seven Chief Directorates that is concerned with specialist disciplines, with conservation management only comprising a small component (*Infra* paragraph 4.6). The current situation pertaining to conservation

management in the provinces are outlined in Table 4.11, where the position and prominence given to conservation management are not the same in any of the provinces.

Table 4.11: Provincial institutional arrangements pertaining to conservation management

Eastern Cape Province	Mother Department: Economic Affairs, Environment and Tourism. A Sub-directorate of Environmental Management exists next to a Sub-directorate of Nature Conservation, within a Directorate of Environmental Protection. The responsibilities of environmental and conservation management are spread amongst five regions, with a single official responsible for environmental impact assessments per region.
Free State Province	Mother Department: Environmental Affairs and Tourism. The Directorate of Environmental Affairs has four sub-directorates namely, Environmental Awareness, Environmental Management, Legal and Control and Scientific Support Services. Within the Environmental Management sub-directorate there are five officials responsible for the functions within the discipline.
Gauteng	Mother department: Agriculture, Conservation and Environment. The Directorate of Environment has four sub-directorates namely, Environmental Assessment, Waste, Inspectorate and Environmental Education.
Mpumalanga	Mother Department: Agriculture, Conservation and Environment. The Environmental Management Directorate of the Department comprises three sub-directorates, namely strategic planning, integrated environmental management and waste management. It is a relatively small component with less than twenty people covering the province. The conservation statutory organ of state is the Mpumalanga Parks Board which deals with the management of protected areas in that province (<i>Supra</i> paragraph 4.3.3).
Northern Province	Mother Department: Agriculture, Land and Environmental Affairs. A Directorate of Environmental Management exists at the head office level. With the responsibilities of impact assessments, pollution and waste management and permits. A complicated spread of environmental management responsibilities exists within the regions, which do not report to this Directorate. Because of recent restructuring, there is still not complete clarity on the structure and internal linkages.

North West Province	Mother Department: Agriculture, Conservation and Environment. The Chief Directorate of Conservation and Environment has five programmes namely: Environmental Impact Prevention Services, Environmental Empowerment and Education, Regulations and Inspectorate, Environmental Extension and Awareness Development and Environmental Monitoring. A sixth programme has also been proposed.
Northern Cape	Mother Department: Agriculture, Conservation, Environment and Land Reform. The Environmental Management component comprises a total of four officials, which resort under the scientific services division within the Directorate of Nature Conservation.
Western Cape	This province is reaching the end of a transformation process. Indications are that there will be a separate Department of Environment, Culture and Sport, with a number of units within the environment component. The functions of nature conservation will reside with a statutory organ of state.

Source: Zunkel, K. 1999. Paper on A Paradigm for the Institutionalisation of Environmental Management in South Africa. p.5.

It is clear from the outline of the institutional arrangements in the various provinces pertaining to conservation management, that there may be confusion regarding the management of protected areas in the provinces. Except for the provinces of KwaZulu-Natal, Mpumalanga and, perhaps in future, the province of the Western Cape conservation management is the responsibility of provincial departments with more than one functional area to address. A duplication of responsibilities and a neglect of the conservation component in the department may occur that may impact on intergovernmental relations pertaining to conservation management. Protected areas in South Africa cannot be managed without necessary funding. The financial resources of protected areas are explained in the following paragraph.

4.5 FINANCIAL RESOURCES OF PROTECTED AREAS MANAGED BY THE SOUTH AFRICAN NATIONAL PARKS AND THE KWAZULU-NATAL AND MPUMALANGA PROVINCES

Funding for conservation management in a protected area is essential to ensure the wise utilisation of resources to achieve efficient use of land and the enhancement of its wildlife, its appearance and historical and cultural associations. The South African National Parks submit an annual budget to the Department of Environmental Affairs and Tourism outlining their priorities and needs. The Department of Environmental Affairs and Tourism then allocates a portion of its funds, obtained from the National Revenue Fund, to the South African National Parks. The allocation forms only a small part of the South African National Parks' total budget. The total budget of the South African National Parks is managed by the Board (*Supra* paragraph 4.3.1). According to the *National Parks Act, 1976* (Act 57 of 1976) as amended, the revenue of the Board shall consist of the following: voluntary subscriptions, donations and bequests from the public; fees or other money received or raised as well as fines received or recovered under the *National Parks Act, 1976* (Act 57 of 1976); annual grants-in-aid out of money appropriated by Parliament and any money which may be placed at its disposal from other sources. The Board of the South African National Parks are obligated to keep detailed account of all revenue received and money spent and the accounts of the board are audited by the Auditor-General. A National Parks Land Acquisition Fund is also established in accordance with the *National Parks Act, 1976* (Act 57 of 1976), as amended, which will be managed and controlled by the Board of the South African National Parks. The National Parks Land Acquisition Fund consists of money received from Parliament, loans, donations and subscriptions and should be used to purchase land or mineral rights for the purpose of a park or for a portion of a park or to defray expenses undertaken by the board to manage the fund.

Financial intergovernmental relations therefore take place between the South African National Parks, the Department of Environmental Affairs and Tourism as well as Parliament.

The nature conservation budget of the a province forms part of the general provincial budget and the provinces receive only a portion of their funds from the National Revenue Fund. Less than one percent of the provincial budget is spent on the environment with only a portion thereof being given to conservation management (Kumleben Report,1998:33). The KwaZulu-Natal Nature Conservation Board may however, subject to the prior approval of the Members of the Executive Council concerned with conservation and finance, borrow money or obtain overdraft facilities from financial institutions; acquire interests in companies or partnerships and acquire, sell, lease, hire or exchange immovable property (*KwaZulu-Natal Nature Conservation Management Act, 1997 [Act 9 of 1997]*). Other sources of income are therefore also available to the provinces. Intergovernmental relations also exist in terms of financial resources for protected areas and conservation management in the sense that the KwaZulu-Natal province is partially dependent on funding from national government for the performing of functions and the rendering of services.

The financial arrangements of the Mpumalanga Parks Board are described in the *Mpumalanga Parks Board Amendment Act, 1998 (Act 9 of 1998)* and the relations between the Mpumalanga Parks Board and the Member of the Executive Council responsible for agriculture, conservation and the environment are evident. Although the revenue of the Mpumalanga Parks Board is obtained by means of subscriptions, donations and bequests by it from the public or through money raised in terms of the *Mpumalanga Parks Board Amendment Act, 1998 (Act 9 of 1998)*. Funds are also raised through penalties, fines and proceeds from sales of forfeited or

recovered items allocated to the Board. A small component of revenue of the Mpumalanga Parks Board is allocated to the Board by the Provincial Legislature of Mpumalanga through the provincial Department of Agriculture, Conservation and Environment. The Mpumalanga Parks Board should therefore submit quarterly and annual reports to the Member of the Executive Council responsible for agriculture, conservation and environmental affairs which set out the objectives and functions of the Board, state the manner in which the Board has achieved its objectives and should contain information pertaining to the efficient and effective application of financial and other resources (*Mpumalanga Parks Board Amendment Act, 1998* [Act 9 of 1998]). The Chief Executive Officer and the Mpumalanga Parks Board are therefore accountable to the Member of the Executive Council responsible for agriculture, conservation and the environment and, hence, to the Provincial Legislature. As a statutory organ of the state, the Mpumalanga Parks Board may, subject to Section 230 of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), borrow money on overdraft from a bank and operate accounts with banks and other financial institutions and also determine fees, charges, tariffs and prices for the rendering of services or the use of facilities, goods or products.

The national Department of Environmental Affairs and Tourism plays an important role in intergovernmental relations, especially financial intergovernmental relations. It is therefore necessary to explain the role of the Department of Environmental Affairs and Tourism in intergovernmental relations pertaining to conservation management by outlining and indicating the vision and mission of this department and by supplying detail regarding the structure and functioning of its chief directorates.

4.6 THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

The Department of Environmental Affairs and Tourism is a national government department with the vision of leading environmental management and tourism in the interest of sustainable development for all. The mission of the Department of Environmental Affairs and Tourism is to contribute towards the improvement of the quality of life of all South Africans by promoting the sustainable development, utilisation and protection of natural and cultural resources and harnessing the skills, experience and knowledge of the environment of all South Africans. Fostering equitable access to the benefits derived from natural and cultural resources and empowering the South African public and organisations through participation, environmental education, capacity building, research and information services, are also important characteristics of the mission of the Department of Environmental Affairs and Tourism. The Department of Environmental Affairs and Tourism is committed to ensuring that all international participation and obligations are undertaken in the context of South Africa's environmental policies and principles and to establish responsible tourism that ensures environmental sustainability which contributes to a better quality of life (Department of Environmental Affairs and Tourism information poster, 1999). Working together with all relevant stakeholders and spheres of government (including the South African National Parks and KwaZulu-Natal and Mpumalanga conservation authorities) in the spirit of effective governance, forms part of the mission of the Department of Environmental Affairs and Tourism, implying that intergovernmental relations should be promoted.

The Minister of Environmental Affairs and Tourism is the political head of the department and is assisted by a Deputy Minister. The Director-General of the Department of Environmental Affairs and Tourism is situated in Cape Town and acts as the administrative head of the department assisted by two Deputy Directors-

General namely for tourism and resource management and for environmental quality and information management. The organisational arrangements of the Department of Environmental Affairs and Tourism including the role and components of its seven chief directorates are outlined in Annexure B.

The seven chief directorates of the Department of Environmental Affairs and Tourism are: the chief directorates of tourism; biodiversity and heritage; marine and coastal management; corporate services; environmental quality and protection; environmental information management and communication services and the weather bureau (Department of Environmental Affairs and Tourism, 1999:1). Each one of the chief directorates has a specific role within the Department of Environmental Affairs and Tourism and is also divided into various components. Of importance for this study is the Chief Directorate: Biodiversity and Heritage because it is this chief directorate that relates to the South African National Parks as well as the provincial conservation authorities on matters pertaining to conservation management in particular (Director: Biodiversity and Heritage, 1999). The effectiveness and efficiency of current structures for the promotion of intergovernmental relations in general, as well as between the Department of Environmental Affairs and Tourism, the South African National Parks and the selected provincial conservation authorities of KwaZulu-Natal and Mpumalanga are explained in the following chapter.

4.7 CONCLUSION

The South African National Parks and its board, as well as the KwaZulu-Natal Nature Conservation Services and the KwaZulu-Natal Nature Conservation Board are institutions concerned with conservation management. To abide by the principles of co-operative governmental and intergovernmental relations, the

institutions need to relate with one another to ensure that conservation goals in national parks and provincial protected areas are attained. Fragmentation, the lack of co-ordination and the duplication of efforts need to be addressed through sound intergovernmental relations pertaining to conservation management. Institutions and structures for intergovernmental relations should be utilised effectively to eliminate the factors hampering conservation in South Africa, especially category II national parks and equivalent protected areas which are proclaimed in accordance with appropriate and empowering national and provincial legislation.

The South African National Parks and KwaZulu-Natal Nature Conservation Service and their boards, as well as the Mpumalanga Parks Board should manage and control national parks and provincial protected areas respectively in accordance with the appropriate legislation and under the guardianship of the Department of Environmental Affairs and Tourism. Because of the confusing stipulation in Section 44 (1)(a)(ii) and Section 104 (1)(b)(i) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) concerning the concurrent competencies of national and provincial governments, where nature conservation is a concurrent competency and national parks are excluded, co-operation between the institutions for conservation management is essential. The national Department of Environmental Affairs and Tourism, however, plays an important role in the intergovernmental relations between institutions concerned with conservation management. The constitutional, financial, political and information-sharing interdependence of the institutions concerned with conservation management should be acknowledged and conflict pertaining to either a centralised or devolved management structure for protected areas need to be addressed by making use of existing structures and institutions for intergovernmental relations or by creating new structures if the existing ones prove to be ineffective.

CHAPTER 5

A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

5.1 INTRODUCTION

The composition and functions of various structures and institutions for intergovernmental relations were explained in a previous chapter but not all of these structures and institutions are applicable to intergovernmental relations between the South African National Parks and the selected provincial conservation authorities (*Supra* paragraph 1.11). A large number of the structures for intergovernmental relations focuses on the promotion of intergovernmental relations in general and not necessarily on national-provincial intergovernmental relations. It is however necessary to analyse relevant structures and institutions for intergovernmental relations to be able to explain whether the structures contribute directly or indirectly to the promotion of intergovernmental relations pertaining to conservation management, with specific reference to the statutory organs of state concerned with the management of national parks and provincial protected areas (such as the South African National Parks and the selected provincial conservation authorities). Because of the very small and indirect role that some of the structures for intergovernmental relations play in promoting intergovernmental relations pertaining to conservation management in particular, no further attention is given to the following structures, namely the President's Co-ordinating Council, the Mediation Committee, the Public Service Commission and the Financial and Fiscal Commission. In this chapter a model for intergovernmental relations pertaining to conservation management is developed to assist legislatures, officials and practitioners in co-ordinating the management of national parks and provincial protected areas. The demarcation of the study, as described in the

introductory chapter, guides the focus of the recommendations and suggestions in the development of a model for intergovernmental relations pertaining to conservation management. Before the proposed model for intergovernmental relations pertaining to conservation management is however described, it is necessary to analyse the relevance of current structures for intergovernmental relations with regard to conservation management in particular.

5.2 THE RELEVANCE OF STRUCTURES FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

Emphasis will have to be on the effectiveness and relevance of structures for intergovernmental relations in order to promote co-operation between the selected statutory organs of state specifically concerned with the management of national parks and selected provincial protected areas. The study of national-provincial intergovernmental relations pertaining to conservation management is necessary because of the stipulations in Section 44(1)(a)(ii) together with Section 104 (1)(b)(i) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) that provide for concurrent national and provincial legislative competencies, including nature conservation. These stipulations imply that the national and provincial spheres of government should co-operate and interact with one another to promote intergovernmental relations. Although the management of national parks is excluded from Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and is only regarded as a national competence, the mere existence of spheres of government necessitates intergovernmental relations. Statutory organs of state, responsible for the management of national parks and provincial protected areas, should interact with one another and encourage joint decision-making, consultation and co-ordination and develop intergovernmental structures to assist with the process of interaction and co-ordination. The current structures for intergovernmental relations and their relevance to conservation management are analysed in the following paragraphs.

5.2.1 The National Council of Provinces

The National Council of Provinces, as a House of Parliament, could serve as an important instrument in the promotion of intergovernmental relations in South Africa (*Supra* paragraph 1.3.1). Section 42 (4) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) states the following concerning the National Council of Provinces:

“the National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces”.

The National Council of Provinces therefore has an important role to play in the legislative process especially concerning matters of concurrent legislative competence of the national and provincial spheres of government (including nature conservation). With regard to Schedule four matters, stipulated in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), the National Council of Provinces may veto a national bill in the absence of a two third majority in the National Assembly. The view of the National Council of Provinces is important when there is a conflict between national and provincial legislation (Sections 76 and 146 [4] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The role of the National Council of Provinces with regard to promoting intergovernmental relations pertaining to conservation management in particular, is aimed at introducing and approving legislation regarding conservation issues. If structures for the promotion of intergovernmental relations pertaining to conservation management, and the management of provincial protected areas in particular, are included in bills that serve before the National Council of Provinces, the approval of such bills could directly impact on

intergovernmental relations concerning conservation management. Institutions involved in the management of national parks and provincial protected areas (such as the South African National Parks, KwaZulu-Natal Nature Conservation Service and KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board) contribute towards the formulation of certain legislation pertaining to conservation management through other macro structures such as the National Council of Provinces. For consideration by the National Council of Provinces, the role of the selected statutory organs of state is acknowledged very indirectly through their contribution in providing input.

The National Council of Provinces also has a review function pertaining to subordinate legislation that emanated originally from national or provincial legislation (Section 146[6-8] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Such legislation may include legislation pertaining to conservation management and may also impact on the promotion of intergovernmental relations between statutory organs of state concerned therewith. Where a province cannot or does not fulfil an obligation and where the national executive assumes responsibility for that function, the National Council of Provinces should be notified and approve the intervention within a specified period of time (Section 100 [2] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Such an intervention may also occur when institutions concerned with the management of provincial protected areas cannot or do not fulfil their obligations. The National Council of Provinces does, however, not address the need for a formal micro structure for intergovernmental relations pertaining to conservation management. The role of the National Council of Provinces in promoting intergovernmental relations on a macro level has been criticised by the Audit Report on Intergovernmental Relations (1999:45). Some of the criticisms are listed in Table 5/1.

Table 5/1: **Criticisms aimed at the National Council of Provinces**

The National Council of Provinces had not been effective in applying itself sufficiently to its primary concern, namely to focus on provincial issues.
The National Council of Provinces was unfocused which resulted to some extent in a duplication of roles between the National Assembly and the National Council of Provinces.
The relationship of the National Council of Provinces had not been satisfactory resulting in technical and organisational difficulties in briefing the legislatures properly.
Permanent delegates of the National Council of Provinces did not function optimally as they lacked the capacity and resources to interrogate the practical and policy implications of bills.
The role of the special delegates in the National Council of Provinces is unclear and they do not contribute much to bringing matters to the National Council of Province's table.
The Members of Executive Councils of the provinces are not participating in the National Council of Provinces to their fullest potential and do not value the actions of the National Council of Provinces.
The three component parts of the National Council of Provinces, namely the provincial legislatures, the permanent delegates and organised local government do not function optimally.

Source: Department of Provincial and Local Government. *The Intergovernmental Relations Audit: Towards a Culture of Co-operative Government*. December 1999. p. 45.

These above-mentioned criticisms need to be investigated and addressed further to enable the National Council of Provinces to function effectively as a house of Parliament. The National Council of Provinces can only become a more effective institution by being reinforced and by becoming more focused in playing an intergovernmental relations role by promoting its legislative and oversight functions (Audit Report, 1999:50). The National Council of Provinces faces the challenge of promoting the interests of the provinces. This task should be emphasised by addressing the criticisms against it and strengthening the capacity of all its members.

5.2.2 The Cabinet Cluster and Budget Forum

The Cabinet Cluster and Budget Forum are so far removed from the statutory organs of state concerned with conservation management and do not serve as structures for intergovernmental relations that have a direct influence on conservation management (*Supra* paragraph 1.11.2). The Ministers of Environmental Affairs and Tourism as well as Provincial and Local Government, serving in various Cabinet Cluster Committees, have an indirect connotation to the statutory organs of state concerned with conservation management. The Minister of Environmental Affairs and Tourism is the political head of the Department of Environmental Affairs and Tourism that facilitates the role of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation (*Supra* paragraph 4.6 and *Infra* paragraph 5.2.5). The Minister of Provincial and Local Government is responsible for formulating legislation pertaining to intergovernmental relations in general. The Minister of Finance and the Members of the Executive Councils concerned with finance, that serve in the Budget Council, are only connected to the statutory organs of state by means of the transfers that the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board receive from the Department of Environmental Affairs and Tourism and the provincial departments of Agriculture and Environmental Affairs of KwaZulu-Natal and Agriculture, Conservation and the Environment of Mpumalanga respectively (*Supra* paragraph 4.5). The Minister of Finance incorporates the budget of the Department of Environmental Affairs and Tourism into the national budget while the Members of the Executive Councils concerned with finance decides on the transfer payments to the provincial department from which the statutory organs receive some of their funds. Because of the fact the Cabinet Clusters and Budget Council are so far removed from structures for intergovernmental relations pertaining to conservation management, no further explanation regarding these structures is given (*Supra* paragraph 1.11.2).

5.2.3 Forum for South African Directors-General (FOSAD)

The value of the Forum of South African Directors-General for intergovernmental relations pertaining to conservation management lies only in the role that the Directors-General of Environmental Affairs and Tourism and of Provincial and Local Government can play in the meetings of the Forum. These two Directors-General are in contact with statutory organs of state concerned with conservation management through their respective departments. The Department of Environmental Affairs and Tourism facilitates, through its Technical Committee for the Environment and Nature Conservation and its working groups, meetings in which the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board are represented (*Infra* paragraph 5.2.5). The Director-General of Provincial and Local Government is responsible for the formulation of legislation pertaining to intergovernmental relations in general and this legislation will have an impact on intergovernmental relations pertaining to conservation management as well.

5.2.4 The Intergovernmental Forum (IGF)

The Intergovernmental Forum is a structure for intergovernmental relations and was established to promote co-operation and joint decision-making between Ministers and Premiers on any matter of common interest and may therefore also impact on conservation management. The functions, composition and shortcomings of the Intergovernmental Forum are described in a previous chapter with the main functions being the establishment and implementation of an integrated and co-ordinated intergovernmental relations policy framework addressing issues such as multi-sectoral or lateral policy issues, finance and fiscal matters and constitutional concerns (*Supra* paragraph 1.11.2). It is important to notice, however, that the Minister of Provincial and Local Government presides over meetings of the Intergovernmental Forum and is also

responsible for the co-ordination of the activities of this Forum. The Minister of Provincial and Local Government is also closely involved with a focus group on intergovernmental relations by means of the fact that the Director-General of the Department of Provincial and Local Government, as the chair of the focus group, has to report to the Minister regarding the consideration of policy matters relating to intergovernmental relations (Discussion Document, 1999:7).

The relevance of the Intergovernmental Forum to this study in particular, is with regard to the involvement of the Intergovernmental Forum in the formulation of policy regarding intergovernmental relations in general, which will necessarily also impact on intergovernmental relations pertaining to conservation management. Although the statutory organs of state, such as the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are not directly involved in the meetings of the Intergovernmental Forum, decisions of the Intergovernmental Forum will have an influence on their activities with regard to the Forum's contribution to the drafting of legislation pertaining to intergovernmental relations in general. The Intergovernmental Forum is however a macro forum and cannot contribute towards the promotion of conservation management and in particular the management of national parks and provincial protected areas.

An Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations, but the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) does not envisage that government be undertaken by intergovernmental forums (Section 42[2] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The Intergovernmental Forum has no legal basis for decisions and suggestions made and can only furnish the Department of Provincial and Local Government, who is responsible for the drafting of legislation regarding intergovernmental relations, with advice and support. The Intergovernmental Forum focuses on the

promotion and management of co-operation at the macro level and is the intergovernmental structure with the closest link between Cabinet and other decision makers at the executive level of government (Levy and Tapscott, 1999:8). Despite its important role in the promotion of intergovernmental relations, criticisms aimed at the Intergovernmental Forum are numerous and its future role need to be addressed (*Supra* paragraph 1.11.2). A clearer description of the issues that the Intergovernmental Forum should address, for example whether they should address policy, administrative, social or economic issues, are also important to increase its role in the promotion of intergovernmental relations and co-operative government (Levy and Tapscott, 1999:9). The role of the Intergovernmental Forum in terms of monitoring and co-ordinating policy regarding intergovernmental relations need to be strengthened and its decisions should be more deliberative than informative. If the decision-making authority of the Intergovernmental Forum is increased, it may lead to greater attendance and participation of the Ministers in meetings.

5.2.5 Committee of Ministers and Members of Executive Councils (MINMEC)

Another structure created to promote executive intergovernmental relations are the Committee of Ministers and Members of Executive Councils which consist of national line function Ministers (such as the Minister of Environmental Affairs and Tourism) and provincial Members of Executive Councils (such as the Members of the Executive Councils of KwaZulu-Natal and Mpumalanga concerned with conservation management) (*Supra* paragraph 1.11.2). The purpose of the respective Committees is to harmonise sectoral policies and strategies and to formulate intergovernmental policies and strategies which may serve as guidelines to the various governments in the formulation of their own policies and strategies (Discussion Document, 1999:62).

Based on the outline of the respective Committees of Ministers and Members of the Executive Councils, a specific Committee of Ministers and Members of Executive Councils was established to function as an intergovernmental structure for conservation management (the MINMEC: Environment and Nature Conservation). The aim of this Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation is to reach agreement at political executive level on issues of environmental and nature conservation concern to the provinces and national government (Department of Environmental Affairs and Tourism, 1996:1). This Committee of Ministers and Members of Executive Councils will act as the focal point for the Minister of Environmental Affairs and Tourism as well as the various provincial Members of the Executive Councils responsible for the environment and nature conservation. Although the statutory organs of state (such as the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board in KwaZulu-Natal and the Mpumalanga Parks Board in Mpumalanga) are not under the guardianship of the respective provincial departments responsible for the environment and nature conservation, they do however receive transfer payments from the provincial departments (Chief Executive Officer, 1999). The link of these statutory organs of state to the Department of Agriculture and Environmental Affairs in KwaZulu-Natal and the Department of Agriculture, Conservation and the Environment in Mpumalanga is strictly financial because of the part of the provincial departments' budget that are transferred to the statutory organs of state to promote and manage conservation in their provinces. The respective organs of state have a direct line of communication to the two Members of the Executive Councils responsible for the environment and conservation in KwaZulu-Natal and Mpumalanga through their Chief Executive Officers (*Supra* paragraph 3.5). The Members of the Executive Councils who are represented in the Committee of Ministers and Members of the Executive Councils for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) are therefore indirectly also representative of the

various statutory organs of state in this Committee. This particular Committee of Ministers and Members of the Executive Councils wanted to be advised by administrative staff for the rendering of functions and therefore a Technical/Heads of Departments Committee (Technical/HOD MINMEC), consisting of the Director-General and two Deputy Directors-General of the Department of Environmental Affairs and Tourism, heads of provincial departments responsible for conservation management as well as the Chief Executive Officers of the South African National Parks and National Botanical Institute was established (Director: Biodiversity and Heritage, 1999). The role, procedures and administration of this above-mentioned Committee are explained in Table 5/2.

Table 5/2: The role, procedures and administration of the MINMEC: Environment and Nature Conservation

ROLE	PROCEDURES AND ADMINISTRATION
Discussion of the following matters:	Politicians may place items on the agenda.
current , proposed and new policies;	The Technical Committee (Technical MINMEC) should recommend items to be placed on the MINMEC agenda.
current, proposed and new legislation, regulations and standards;	The Technical Committee (Technical MINMEC) will support and advise MINMEC.
matters relating to the funding of the environment and nature conservation competency;	The Department of Environmental Affairs and Tourism will provide administrative support to MINMEC.
proposed signing and implementation of international conventions;	Agendas will be circulated to members not later than two weeks before meetings.
human resource development and improvement of environmental management system through overseas assistance;	Minutes will be circulated no later than one week after MINMEC meetings.

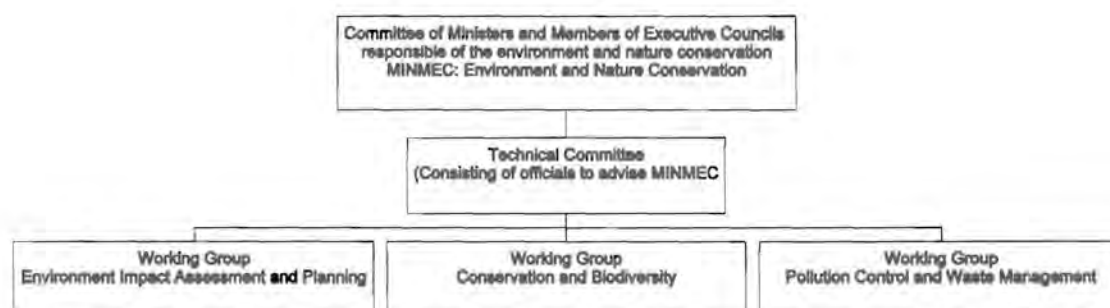
overseas experts in South Africa who may wish to meet with provinces of the national department;	The Minister of Environmental Affairs and Tourism will chair the meetings and the chair should be neutral.
major conferences and workshops to be held in South Africa which require national or provincial input; and	Meetings should be held at least every five weeks or more frequently if necessary and every effort should be made to reach consensus.
overseas visits by delegations assembled by the Department of Environmental Affairs and Tourism.	Meetings venues will be rotated between the provinces and an agenda for meeting dates should be drawn up six months in advance.

Source: Department of Environmental Affairs and Tourism. *Internal memorandum*. September 1996.

At a meeting towards the end of 1998, the Technical Committee of the Committee of Ministers and Members of Executive Councils decided that all intergovernmental co-ordination in the environment and nature conservation sector of government, should be managed by three working groups, namely the Working Groups for Conservation and Biodiversity, Environmental Impact Assessments and Planning as well as Pollution Control and Waste Management (Department of Environmental Affairs and Tourism, 1998:1). The main purpose of the working groups, established as sub-units of the Committee of Ministers and Members of Executive Councils, was for the national Department of Environmental Affairs and Tourism and its provincial counterparts to properly arrange and co-ordinate their concurrent environmental responsibilities and functions. Each of the working groups should be chaired by an official at least at Chief Director level in the Department of Environmental Affairs and Tourism and should meet on a regular basis. The provincial representatives to working groups, including officials of the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, should be formally identified in writing by their Heads of Departments or Chief Executive Officers (Department of Environmental Affairs and Tourism, 1998:2). Chairpersons of the various working groups are required to attend the Technical Committee meetings to

report on their progress and should also ensure that detailed minutes are kept at every working group meeting and made available to the Technical Committee members in time. Figure 5/1 indicates the relations between the Committee of Ministers and Members of Executive Councils and its Technical Committee for environment and nature conservation as well as the working groups.

Figure 5/1: **Committee of Minister and Members of Executive Councils**



Source: Adapted from Department of Environmental Affairs and Tourism.
Internal Memorandum. December 1998.

For the purpose of this study, focus is on the functioning of the specific Committee of the Ministers and Members of Executive Councils: Environment and Nature Conservation as a whole, but also on the Working Group: Conservation and Biodiversity. The reason for this particular focus is a result of the case study dealing with intergovernmental relations between institutions concerned with conservation management, in particular the South African National Parks and the provincial conservation authorities of KwaZulu-Natal and Mpumalanga. It is in the Working Group: Conservation and Biodiversity that the South African National Parks as well as the different provinces are represented.

The purpose of the working groups is to address and discuss problems between the Department of Environmental Affairs and Tourism, the South African National

Parks and the conservation authorities in the provinces, such as the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board. Because of the fact that the South African National Parks is also included in the Working Group: Conservation and Biodiversity, areas which require co-ordination pertaining to conservation management between the Department of Environmental Affairs and Tourism, the South African National Parks as well as the provinces can be identified. Information and experience-sharing, consultation and communication are necessary in fulfilling the concurrent national and provincial legislative competencies and functions (Schedule four of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Even though national parks are excluded from the concurrent national and provincial legislative competencies as being an exclusive national competence, the implication is still that other conservation issues should be the responsibility of provincial governments. The Working Group: Conservation and Biodiversity however, recognised the importance of co-ordination between national and provincial institutions by including the South African National Parks and provincial conservation authorities as members (Department of Environmental Affairs and Tourism, 1998:2).

The Working Group: Conservation and Biodiversity is an issue-orientated group that addresses issues such as co-ordination; information-sharing; capacity building; conservation management training; management of funding including foreign funding and conventions and international agreements (Department of Environmental Affairs and Tourism, 1999:3). The Department of Environmental Affairs and Tourism acts as the co-ordinator of the working group meetings and services the provinces through co-ordination, communication and facilitation of meetings. Conclusions reached at the Working Group: Conservation and Biodiversity meetings should be passed on to the Technical Committee of the Committee of Ministers and Members of Executive Councils: Environment and

Nature Conservation for discussion. The Technical Committee will then advise the Committee of Ministers and Members of the Executive Councils (MINMEC: Environment and Conservation) on conservation and biodiversity issues. The process of sharing information and communicating in the Working Group: Conservation and Biodiversity and the reporting of its findings to the Committee of Ministers and Members of Executive Councils of provinces is outlined in Table 5/3.

Table 5/3 The process of information-sharing in the Working Group: Conservation and Biodiversity

Step 1	Committee of Ministers and Members of the Executive Council of provinces for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) requests the Technical Committee to advise them on particular issues pertaining to conservation.
Step 2	The Technical Committee requests the Working Groups on Conservation and Biodiversity to make recommendations to them pertaining to the mentioned issues regarding conservation.
Step 3	The Working Group on Conservation and Biodiversity discusses conservation issues in their meetings and reports their findings and suggestions to the Technical Committee.
Step 4	The Technical Committee discusses the findings and suggestions of the Working Group on Conservation and Biodiversity.
Step 5	The Technical Committee advises the Committee of Ministers and Members of Executive Councils of the provinces (MINMEC: Environment and Nature Conservation) on the particular matters discussed.

Source: *Adapted from the Minutes of the Working Group Conservation and Biodiversity*. 23 March 1999, p. 4.

Although the three working groups all focus on different aspects of the environment and conservation, they are still sub-units of the specific Committee of Ministers and Members of Executive Councils: Environment and Nature

Conservation. There is however a large number of Committees of Minister and Members of Executive Councils (MINMECS), each one addressing different functions.

In a previous chapter, the shortcomings of the Committees of Ministers and Members of the Executive Councils, as structures for the promotion of intergovernmental relations, are explained (*Supra* paragraph 1.11.2). Although the contributions of the Committees of Ministers and Members of Executive Councils to intergovernmental relations and co-operation have been substantial, the contributions are not without deficiencies and constraints. Policy formulation in the Committees of Ministers and Members of the Executive Councils is fragmented because of the fact that the latter are mainly sectorally focused and do not pay enough attention to related functional areas (Levy and Tapscott, 1999:8). Because of the large number of meetings held by the various Committees of Ministers and Members of Executive Councils, attendance of and technical support for meetings are poor. A clearly defined organisational and administrative infrastructure is necessary to support and promote the growing number of functions of these Committees because their functions range from the harmonisation of legislation and negotiation on national norms and standards to the monitoring and development of joint projects and defining the roles and responsibilities of the national and provincial spheres of government (Levy and Tapscott, 1999:8). The capacity of the Committees of Ministers and Members of Executive Councils could be strengthened by creating an office and secretariate to distribute agendas of meetings to relevant parties well in advance and to allow for national and provincial representatives to formulate their viewpoints and require the necessary mandates to participate successfully in meetings. If representatives of members serving in the Committees of Ministers and Members of Executive Councils do not have the proper mandate from their respective Ministers or Members of Executive Councils of the provinces for participating in the meetings, lengthy follow-up debates occur. Members have

to return to either their Ministers or Members of the Executive Councils to provide feedback regarding decisions made (Ramatlhodi, 1999:3). Regulations for the requirement of mandates should address the above-mentioned problem. The Committee of Ministers and Members of the Executive Councils should be a consensus-seeking structure and Ministers and Members of Executive Councils should be encouraged to participate on an equal basis to avoid domination of national government in the meetings (*Supra* paragraph 1.11.2). Decisions taken in the meetings of the various Committees of Ministers and Members of Executive Councils should be communicated, by means of an office and secretariate, to all national and provincial departments and statutory organs of state affected by the decisions.

The Committee of Ministers and Members of Executive Councils (the MINMEC: Environment and Nature Conservation) consists of political office-bearers (*Supra* paragraph 1.11.4). The Technical/Heads of Departments Committee and members serving in the various working groups however, consist of appointed officials such as the Director-General of the Department of Environmental Affairs and Tourism and officials within that Department, as well as Chief Executive Officers of statutory organs of state (for example Chief Executive Officers of the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board). Other appointed officials include the heads of provincial departments responsible for the environment and conservation. A shortcoming in the present system of governance is uncertainty concerning the responsibilities of Ministers and Members of Executive Councils of provinces and the senior officials respectively (Presidential Review Commission, 1998:22). The latter is addressed in the following paragraph.

5.2.5.1 The political-administrative interface

In a democratic state, such as the Republic of South Africa, there is a

need for both elected and appointed officials to ensure effective governance and the implementation of legislation. It is therefore necessary to define and explain their respective distinctive but complementary roles (See Table 5/4).

Table 5/4: **The role of elected and appointed officials**

The role of the elected official is to:	The role of the appointed official is to:
provide vision and policy direction;	inform and advise elected officials accurately completely and on time;
oversee and monitor the implementation of policy;	implement policy and ministerial decisions efficiently and effectively;
secure support from colleagues in the form of necessary resources for their ministries and departments to effectively carry out policy;	be fully accountable to Ministers and Members of Executive Councils and, where appropriate, Parliament;
represent the ministry in Cabinet and Parliament or the Members of Executive Councils of provinces to represent the provincial department in the Provincial Legislature;	utilise, in the carrying out of functions, all relevant sources of data and advise to give their Ministers/Members of Executive Councils the broadest possible basis for policy consideration and determination;
account publicly for the performance of the Ministry;	co-ordinate, control, manage and communicate within their departments.
take collective responsibility for Cabinet/ Executive Council decisions and to be accountable to the legislature for their actions.	

Source: Presidential Review Commission. *Report on the Reform and Transformation of the Public Service in South Africa*. February 1998. p.22.

Elected officials need to transfer the concerns of the people of South Africa into implementable policies and should possess political debating and public presentation skills. Elected officials should be able to bring to

their offices the authority given to them by the democratic process as well as political leadership to be able to address the needs of the people of South Africa. Appointed officials need the professional and technical skills in administration and management to be able to interpret and implement the policies made by the elected officials as well as the ability, knowledge and experience to render services to society (Presidential Review Commission, 1998:23). Both elected and appointed officials should also adhere to the guiding principles of public administration (*Supra* paragraph 1.8). It is therefore necessary to clearly define the role and functions of elected and appointed officials and to promote a common understanding among all of the principles and practices of government, administration and management.

One of the shortcomings of the Committees of Minister and Members of Executive Councils and the Intergovernmental Forum is the confusing relations between these two structures. The relations between the Intergovernmental Forum and the Committees of Ministers and Members of Executive Councils are therefore further investigated.

5.2.5.2 Relations between the Intergovernmental Forum (IGF) and the Committees of Ministers and Members of Executive Councils (MINMECS)

Deliberations in the various Committees of Ministers and Members of Executive Councils are, according to the Presidential Review Commission (1998:36) less overarching, detailed and sectoral in nature (such as issues of conservation management dealt with in the meetings of Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation) than the issues discussed in the Intergovernmental Forum. The Committees of Ministers and Members of

the Executive Councils are responsible for co-ordination of line function matters between the national and provincial departments. Consequently relatively little remains for the Intergovernmental Forum to do. While the Intergovernmental Forum is responsible for the promotion of intergovernmental relations and co-operation at the macro level (management of co-operative governance), the Committees of Ministers and Members of Executive Councils are important for improving intergovernmental relations at the micro level (between national and provincial departments) (Levy and Tapscott, 1998:8). These two intergovernmental structures therefore need to co-ordinate their activities and functions in order to share information and communicate the respective decisions to one another. Decisions taken should be adequately monitored and it is evident from the shortcomings of the Intergovernmental Forum as well as the Committee of Ministers and Members of Executive Councils that it is not the case in either of the two structures. The present informal nature of governmental relations in South Africa does not provide for formal description of the objectives of either the Intergovernmental Forum or Committees of Minister and Members of the Executive Councils. Relations between the above-mentioned Forum and Committees can be promoted by allocating the responsibility of co-ordinating intergovernmental structures to the Office of the Deputy President (*Supra* paragraph 1.11.2). A further important intergovernmental structure for conservation management is the Committee for Environmental Co-ordination.

5.2.6 The Committee for Environmental Co-ordination (CEC) and the National Environmental Advisory Forum

The establishment of a Committee for Environmental Co-ordination was first outlined in accordance with the *Environmental Conservation Act, 1989 (Act 73*

of 1989). The functions of the Committee for Environmental Co-ordination were to co-ordinate actions of departments which will have an impact on the protection and utilisation of the environment; promote co-operation between departments concerned with environmental and conservation management and advise departments about matters affecting the environment (Section 13 of the *Environmental Conservation Act*, 1989 [Act 73 of 1989]). It is clear that, because of its co-ordinating role, the Committee for Environmental Co-ordination could have contributed significantly to promoting intergovernmental relations pertaining to conservation management. The Committee of Environmental Co-ordination consisted of the Director-General and Deputy Director-General of the Department of Environmental Affairs and Tourism as well as the Directors-General of various national departments and provincial administrations. An executive committee, elected from its members, as well as a number of sub-committees were established by the Committee for Environmental Co-ordination. The following sub-committees were established by the Committee for Environmental Co-ordination: the Sub-committees of Biodiversity, Agenda 21, Climate Change, Environmental Education and Environmental Impact Management (Director: Biodiversity and Heritage, 1999). Statutory organs of state such as the South African National Parks, the then KwaZulu-Natal Parks and Wildlife and the Mpumalanga Parks Board were included as members of the Sub-committee: Biodiversity. Although the sub-committees could have been an important structure for intergovernmental relations, criticisms against their effective functioning were numerous. The sub-committees had no real decision-making power and proposals made to the Committee for Environmental Co-ordination, and its executive committee, could not be evaluated effectively because of the poor attendance by the various Directors-General (Director: Environmental Impact Management, 1999). In a Report of the Committee on the Restructuring of the Council for the Environment and other related matters (1995:4) it was suggested, after numerous inputs from interested parties, that the functions of the Committee for Environmental Co-ordination be reviewed to

ascertain whether there was a need for functions to be performed by a structure of that nature. The Committee for Environmental Co-ordination in its former form, was subsequently dissolved.

The three working groups, forming part of the Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation, took over the functions of co-ordinating activities of institutions and organs of state concerned with conservation management. The *Environmental Management Act*, 1998 (107 of 1998) however, again provided for the establishment of a new Committee for Environmental Co-ordination but by the time of the completion of this study, it was not yet established (Director: Environmental Impact Management, 1999).

As mentioned in a previous chapter, a National Environmental Advisory Forum may be appointed by the Minister of Environmental Affairs and Tourism as provided for in the *National Environmental Management Act*, 1998 (Act 107 of 1998) (*Supra* paragraph 1.11.4). When established, the National Environmental Advisory Forum will furnish the Minister of Environmental Affairs and Tourism with advice regarding environmental and conservation issues. Member of this Forum are nominated by various parties, but members of statutory organs of state (such as the South African National Parks, KwaZulu-Natal Nature Conservation Service or the Mpumalanga Parks Board) will not automatically be included in the nominations. The National Environmental Advisory Forum will therefore not be the relevant structure to implement intergovernmental relations pertaining to conservation management and, specifically, the management of national parks and provincial protected areas.

5.3 A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO THE MANAGEMENT OF NATIONAL PARKS AND SELECTED PROVINCIAL PROTECTED AREAS

The research reported thus far, reveals an urgent need for a structure to promote intergovernmental relations between organs of state responsible for the management of national parks and provincial protected areas. *Intergovernmental relations between the statutory organs of state concerned with the management of national parks and provincial protected areas are important because of the interdependence of these organs of state on political resources in order to share information and consult with one another on matters of mutual interest. Matters of mutual interest could include the sustainable utilisation of wildlife; determining measures for protected species; critical habitats that need to be safeguarded; the import and export of protected and other species and the acquisition of land for nature conservation purposes (Hughes, 1998:8). Intergovernmental relations between the selected statutory organs of state are also necessary for development of the socio-economic environment in which they function.*

An area of concern pertaining to conservation management is the large difference in institutional arrangements for environmental and conservation management among the nine provinces (*Supra* paragraph 4.4). Only the provinces of KwaZulu-Natal and Mpumalanga (the Western Cape and North West provinces were in the process of establishing statutory boards) have statutory organs of state responsible for the management of provincial protected areas. National parks are managed by the South African National Parks, which is a statutory organ of state. The different institutional arrangements among provinces, regarding conservation management, currently hampers effective intergovernmental relations pertaining to the management of national parks and provincial protected areas. Uniform institutional arrangements need to exist to

ensure that healthy horizontal and vertical intergovernmental relations can take place. In some provinces, the environment and conservation management component is combined with other portfolios such as agriculture, economic or land affairs. The ideal is that environment and conservation management should exist as an independent department. All provinces should however consider establishing statutory organs of state to manage provincial protected areas and address conservation management issues. Separate provincial departments should exist to address other environmental matters and issues falling outside the competencies of these statutory organs of state.

Advantages of having statutory organs of state to manage national parks and provincial protected areas are that they are managed by a board. The board should comprise a variety of people with the relevant skills and expertise. Statutory boards are in the position to raise and distribute funds and donations at their own discretion. If all provinces have the same institutional arrangements for the management of provincial protected areas there would be no confusion as to who should serve on the structures for intergovernmental relations pertaining to conservation management. Clear lines of communication should exist and vertical intergovernmental relations with the South African National Parks would be promoted because all institutions concerned with the management of national parks and provincial protected areas would be managed by statutory organs of state, sharing mutual objectives.

A centralised or devolved management structure for national parks and provincial protected areas is a contentious issue in South Africa. In a submission of the Chief Executive Officer of the KwaZulu-Natal Nature Conservation Service to the Kumleben Board of Investigation into the Institutional Arrangements for Nature Conservation in South Africa in April 1998, it was stated that “... *the criteria for the management of any protected area must be based on capacity and capacity within an agency and not on an agency's*

hierarchy in government". The biggest national park, the Kruger National Park, should continue to be managed by the South African National Parks. Other national parks and provincial protected areas, falling within the boundaries of a province, should be managed by the statutory board of that province. National government should however provide the provinces with much needed funding, human and other resources in order to enable provinces to manage national parks and provincial protected areas as national treasures.

To protect the Kruger National Park in South Africa during 1926, the South African National Parks system was based on the United States of America model, where certain protected areas (national parks) were isolated from other nature conservation activities run by the states (Hughes, 1989:9). The other national parks were only established after 1926. The Australian, French, German and British model is suggested as being more applicable to the South African situation for the management of national parks and provincial protected areas. A national conservation authority that co-ordinates activities and undertakes international agreements is established, while the management of all conservation activities, including the management of national parks and provincial protected areas are handled by the relevant province or state. The latter model integrates all activities related to nature conservation without creating confusion among national and provincial spheres of government. Board members are local residents with staff being more accessible to the public they serve (Hughes, 1998:10). In South Africa, the implementation of the second model will have to include capacity building in the various provinces and the management of our largest national park will have to be conducted by a statutory organ of state established exclusively for that purpose. The two provinces in which the park is situated will have to be represented by members from each province on the Board.

A structure for intergovernmental relations, focusing exclusively on promoting interaction and co-ordination between statutory organs of state responsible for the management of national parks and provincial protected areas, is necessary to ensure the integration of conservation management and sustainable use. This model for intergovernmental relations pertaining to conservation management is based only on the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board, as part of the focus of this study. This proposed model could, however, also be applicable to other provinces that choose to manage category II protected areas by means of a statutory organ of state in the future (*Supra* paragraph 4.2.2). The proposed intergovernmental structure could be named the Forum for Protected Areas Management and would complement the meetings of the current Working Group: Conservation and Biodiversity as part of the Committee of Ministers and Members of Executive Council concerned with the Environment and Nature Conservation. The proposed Forum for Protected Areas Management will however only address issues pertaining to the management of category II protected areas. The three working groups of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation, will deal with all issues pertaining to the environment and nature conservation as a whole. Because representatives of the statutory organs of state concerned with the management of protected areas are not represented in the Committee for Environmental Co-ordination, as proposed by the *Environmental Management Act, 1998* (Act 107 of 1998) these statutory organs need their own structure to promote conservation management.

The Forum for Protected Areas Management will consist of the Chief Executive Officers of all statutory organs of state in the national and provincial spheres of government concerned with the management of category II protected areas. A chairman could be elected at the first meeting and the Forum could then also

decide how regularly the Forum for Protected Areas Management should meet. The chairman of the Forum for Protected Areas Management will then submit proposals of the Forum to the Technical/Heads of Departments Committee as part of the Committee of Ministers and Members of Executive Councils for the Environment and Nature Conservation for further consideration.

Criteria for the classification of protected areas may be a sensitive issue among the authorities involved in the management of protected areas. It is recommended that the South African categories remain the same as prescribed by the Commission for Protected Areas of the International Union for the Conservation of Nature (IUCN) (*Supra* paragraph 3.2.2). The Forum for Protected Areas Management should however, in its meetings, also address the updating of the classification of protected areas for the South African situation as some provincial protected areas may be classified as national parks and *vice versa*.

Intergovernmental relations between the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board are at present handled more informally than formally. Examples entail informal telephone conversations, e-mail messages and informal meetings. Although the value of informal intergovernmental relations should not be underestimated, a formal structure, such as the Forum for Protected Areas Management, could ensure that suggestions and decisions taken are noticed and taken seriously by policy-makers through the Committee of Ministers and Members of Executive Councils.

5.4 CONCLUSION

The fragmented nature of institutional arrangements for conservation management in South Africa, especially institutions involved in the management

of protected areas, negatively influences intergovernmental relations. Statutory organs of state concerned with the management of protected areas exist on a national level in the form of the South African National Parks and in only a small number of provinces in South Africa. It is recommended that all provinces introduce statutory organs of state which should be responsible for the management of protected areas. These proposed uniform institutional arrangements could promote intergovernmental relations pertaining to the management of protected areas.

Contentious issues regarding conservation management (such as deciding between a devolved or centralised authority for the management of protected areas and the classification of protected areas) are issues that can be addressed in the meeting of the Forum for Protected Areas Management. This Forum should be created to address issues pertaining to the management of category II protected areas only and should consist of statutory organs of state responsible for the management of category II protected areas, as well as provinces that has category II protected areas within their provincial boundaries. Activities of the Forum for Protected Areas Management should compliment the functions of the Working Group: Conservation and Biodiversity of the Committee of Ministers and Members of the Executive Council: Environment and Nature Conservation. Various shortcomings in the functioning of various Committees of Ministers and Members of Executive Councils were identified, and should be addressed. The Department of Provincial and Local Government can play an important role in addressing these shortcomings by formulating policy pertaining to intergovernmental relations. Informal intergovernmental relations exist between various statutory organs of state concerned with protected areas management, but the Forum for Protected Areas Management should serve as a formal structure for the promotion of intergovernmental relations. Although other structures for environmental co-ordination and intergovernmental relations, such as the Committee for Environmental Co-ordination and the National Environmental Advisory Forum, are provided for, the statutory organs of state, such as the South African National Parks, the KwaZulu-Natal Nature

Conservation Service and the Mpumalanga Parks Board play only a minor or no role at all in those structures. The proposed Forum for Protected Areas Management should promote intergovernmental relations pertaining to conservation management, with reference to the management of protected areas in particular, because only issues relating to the management of protected areas will be addressed at its meetings. The need for a structure for intergovernmental relations, such as the proposed Forum for Protected Areas Management, is evident and the implementation thereof should be promoted.

CHAPTER 6

CONSERVATION MANAGEMENT AND INTERGOVERNMENTAL RELATIONS: AN EVALUATION

6.1 INTRODUCTION

The principles of co-operative government and intergovernmental relations in South Africa, outlined in Section 41 of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), emphasise the importance of co-operation between the three spheres of government. The three spheres of government are distinctive, but interrelated, and should interact and consult with one another whenever new policy and legislation are considered. Intergovernmental relations between various statutory organs of state are also important because such organs of state exercise power or perform functions in terms of the national or provincial constitutions or in terms of other legislation.

This thesis focuses on the study of intergovernmental relations pertaining to conservation management in South Africa, because intergovernmental relations should be promoted at all times, and therefore also where conservation management is concerned. Section 44(1)(a)(ii) together with Section 104(1)(b)(i) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) provide for concurrent national and provincial legislative competence and according to Schedule four of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), one of the concurrent functions is nature conservation. Although national parks, as part of the case study in this thesis, are mentioned as an exception as being an exclusive national competence, it is implied that other conservation issues are still the responsibility of the provinces. Statutory organs of state responsible for the management of protected areas should therefore, through formal and informal processes as well as structures for intergovernmental relations, interact and consult with one another and

encourage joint decision-making and co-ordination. Although the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) provides for exclusive and concurrent competencies for which the spheres of government should take responsibility, it however does not provide guidelines on how national and provincial institutions should co-ordinate and integrate their activities. Various structures for intergovernmental relations were created but shortcomings hamper the effective promotion of intergovernmental relations. The management of intergovernmental relations and the efficacy of current structures for intergovernmental relations and their capacity to influence policy need urgent attention.

6.2 INTERGOVERNMENTAL RELATIONS IN SOUTH AFRICA

Although the study of intergovernmental relations is complex due to the many responsibilities of government and the increasing number of governmental institutions and organs of state, the analysis of intergovernmental relations in South Africa in general is important to be able to understand intergovernmental relations pertaining to conservation management. The nature of interaction between the spheres of government varies constantly in terms of the degree of co-operation. The success of intergovernmental relations is subject to the level and quality of participation by the key role-players in the system of intergovernmental relations. Intergovernmental relations is a mechanism for formal and informal, multi-sectoral and sectoral as well as legislative, executive and administrative interaction that entails joint decision-making, consultation and co-ordination between spheres of government at a vertical and horizontal level.

A main component of intergovernmental relations is co-operation among spheres of government where co-operative government represents the basic values of the government and encourages healthy debate. Co-operative government may take place on a legislative, executive, judicial and administrative level and is

about partnership and abiding by the values connected to it, namely national unity, peace, proper co-operation and co-ordination, effective communication and the avoiding of conflict. Different spheres of government are interdependent because of shared resources such as constitutional, financial, political resources and also on resources for information-sharing and consultation. The spheres of government should therefore be transparent in the formulation of policy and follow an inclusive approach to governing. Intergovernmental relations should also be guided by the normative guidelines of public administration.

An evaluation of the various general structures for intergovernmental relations highlights their contributions towards promoting intergovernmental relations but also emphasises their various shortcomings. Structures such as the Committees of Ministers and Members of Executive Councils are emphasised because of their relevance to the promotion of intergovernmental relations pertaining to conservation management (through its Technical/Heads of Departments Committee and three working groups). Although the Committee of Ministers and Members of Executive Councils is known for being an informal, advisory and implementational executive structure, (which deals with the drafting of intergovernmental line-function policies and strategies), the role of the Committee in harmonising legislation and programmes and its consulting role with regard to the implementation of national minimum norms and standards in the undertaking of joint projects, are also acknowledged. The large number of meetings of the Committee of Ministers and Members of the Executive Councils, as well as poor attendance of these meetings by members and the lack of supporting documentation are shortcomings that need to be addressed by the Department of Provincial and Local Government, when formulating legislation pertaining to intergovernmental relations in South Africa. Other structures for intergovernmental relations pertaining to conservation management that are discussed are the Committee for Environmental Co-ordination and the National Environmental Advisory Forum. Although the *National Environmental*

Management Act, 1998 (Act 107 of 1998) makes provision for the establishment of these structures, no effort has been made for such establishment during the time this study was conducted and completed. The macro role played by the Intergovernmental Forum and the minor indirect role played by statutory organs of state concerned with conservation management within the Intergovernmental Forum, do not make the Intergovernmental Forum the ideal structure for the promotion of intergovernmental relations pertaining to conservation management in particular. An analysis of the current realities of intergovernmental relations in South Africa provides a basis for the evaluation of intergovernmental relations pertaining to conservation management in particular.

6.3 A COMPARATIVE ANALYSIS OF INTERGOVERNMENTAL RELATIONS

Although South Africa is unique in terms of its history and constitutional provisions, an analysis of intergovernmental relations in states such as Brazil and India provides valuable information to South Africa in terms of lessons learnt by these states and a better understanding of intergovernmental relations, in general. A comparison of intergovernmental relations in Brazil and India provides an opportunity for the study of similar trends in intergovernmental relations in other states.

Similarities exist in Brazil, India and South Africa in terms of the existence of a division of power that may exert an influence on intergovernmental relations in the three states. Distinct and concurrent competencies exist between the spheres or tiers of government in Brazil, India and South Africa. Similarities are also found pertaining to the division of revenue when analysing the financial systems of South African and Brazil. Similarities are also found when comparing the role of the Financial and Fiscal Commission in South Africa with that of the Finance Commission in India. These similarities may assist policy-makers in the formulation of policy pertaining to intergovernmental relations in South Africa.

It is however important to note that policy-makers should acknowledge the specific unique situation pertaining to intergovernmental relations in South Africa. Although valuable lessons can be learnt from other states, policy should specifically address the South African situation and need.

6.4 CONSERVATION MANAGEMENT IN SOUTH AFRICA

Conservation management refers to the responsible management of people's utilisation of the natural environment and resources so that it retains the largest, permanent advantages for the present generation. At the same time it should retain the potential to supply the needs and gratify the expectation of future generations (*Supra* paragraph 3.2.2). The value of conservation management in South Africa is determined in terms of its economic, ecological, scientific, cultural, nutritional, medicinal, ethical, aesthetic, recreational and educational value. Therefore the management of conservation is important and should be aimed at the protection of ecological processes and natural systems as well as the conservation and preservation of biological diversity. Institutions, such as statutory organs of state concerned with conservation management, should strive to achieve the goals of conservation and keep the main conservation and environmental policy goals in mind when conserving and managing protected areas.

Governmental bodies and organs of state should support a co-ordinated approach towards conservation management and should incorporate the principles of co-operative government and intergovernmental relations into their policies. The guiding principles for conservation management should be adhered to at all times and the application, assessment and further development of conservation should occur in terms of sustainable development.

In order to manage conservation effectively and according to the principles of co-operation, conservation managers should acquire or possess the necessary management skills. When used in the context of conservation, management refers to all functions, methods, strategies and techniques devised and used to achieve predetermined conservation goals. Management functions such as planning, leading and control should be studied by conservation managers and their management skills, such as decision-making and conflict management should be developed in order to manage national parks and provincial protected areas successfully. Conservation managers serving in statutory organs of state such as the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, function in a rapidly changing political, technological, social and economic environment and therefore have to interact and relate to one another when making decisions and policy pertaining to conservation management and the management of national parks and provincial protected areas.

6.5 SOUTH AFRICAN NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS

An explanation of the different national and provincial institutional arrangements for conservation management is necessary for the effective analysis of intergovernmental relations pertaining to conservation management. The focus of this study is on the management of category II protected areas, namely national parks and equivalent reserves. The South African National Parks is a statutory organ of state responsible for the management of national parks in South Africa. The two provinces selected for this study are KwaZulu-Natal and Mpumalanga, because KwaZulu-Natal has the largest number of category II protected areas to manage, while the largest national park is situated in the Mpumalanga Province. National parks refer to parks that have been proclaimed as a result of statutory recognition at national level while a protected area is

defined as a geographically defined area designated and managed to achieve specific conservation objectives which is dedicated primary to the protection and enjoyment of natural and cultural heritage. Provincial protected areas in KwaZulu-Natal is managed by the KwaZulu-Natal Nature Conservation Service through the KwaZulu-Natal Nature Conservation Board and in Mpumalanga by the Mpumalanga Parks Board. Although provincial departments concerned with the management of the total environment exist, the position and prominence given to environmental management differs. The environmental management component in KwaZulu-Natal is part of the provincial Department of Agriculture and Environmental Affairs and in Mpumalanga of the provincial Department of Agriculture, Conservation and the Environment. The only connection that the statutory organs of state, (concerned with conservation management in KwaZulu-Natal and Mpumalanga), have with these provincial departments, is through its financial arrangements. Only a small portion of funds allocated to provincial environmental issues is passed on to nature conservation and another portion is allocated to the conservation management component via the provincial departments. The Chief Executive Officers of the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board are responsible to the various Members of the Executive Councils concerned with Agriculture and Environment and Agriculture, Conservation and Environment respectively because of the funds allocated to them. The South African National Parks is connected to the Department of Environmental Affairs and Tourism because this national department allocates a portion of its funds to the South African National Parks. The Department of Environmental Affairs and Tourism is also responsible for providing technical support to the Committee of Ministers and Members of the Executive Councils responsible for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) and its role in promoting intergovernmental relations pertaining to conservation management cannot be ignored.

6.6 STRUCTURES FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

In the analysis of structures for the promotion of intergovernmental relations pertaining to conservation management in particular, only one structure can be identified where all relevant parties to this case study is represented, namely the Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation. It is through the Technical/Heads of Departments Committee of this particular Committee of Ministers and Members of Executive Councils, and specifically one of the three working groups namely the Working Group: Conservation and Biodiversity that the three statutory organs of state (South African National Parks, KwaZulu-Natal Nature Conservation Service and Mpumalanga Parks Board) are represented. This Working Group is the only structure for intergovernmental relations where the management structures of protected areas are able to co-ordinate activities and interact with one another. This structure for intergovernmental relations, that exists as part of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation, is not the ideal structure to promote intergovernmental relations pertaining to conservation management due to its own shortcomings. Other matters pertaining to the environment and not only issues concerning the management of protected areas are addressed in this Working Group. Statutory organs of state responsible for the management of protected areas, in particular, need their own structure to promote intergovernmental relations.

6.7 A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO THE MANAGEMENT OF NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS

Because there is only one existing structure for intergovernmental relations pertaining to conservation management, where statutory organs of state, namely

the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are represented, it is recommended that a structure be established to promote intergovernmental relations pertaining to the management of protected areas, in particular. The existing structure does not exclusively address matters of importance for protected areas management, but also issues regarding the environment in general.

A structure for intergovernmental relations, namely the Forum for Protected Areas Management need to be established to address all issues regarding conservation management, in general, and the management of protected areas, in particular. It is further recommended that uniform institutional arrangements for conservation management in South Africa be promoted and that all provinces establish statutory organs of state to be responsible for conservation management in a specific province (such as the KwaZulu-Natal Nature Conservation Service or the Mpumalanga Parks Board). The establishment of statutory organs of state in all the provinces will ensure that the necessary attention is given to conservation management in South Africa by institutions created solely for the purpose of managing protected areas. All Chief Executive Officers of statutory organs of state concerned with conservation management should be represented in the Forum for Protected Areas Management and a chairman should be elected among the members to report to the Technical/Heads of Departments Committee of the Committee of Ministers and Members of the Executive Council: Environment and Nature Conservation. The structure will however not form part of the working groups of the Technical/Heads of Departments Committee, but function as an independent structure. Contentious issues, such as the classification of protected areas and a centralised or devolved management structure for protected areas should be addressed in the meetings of the Forum for Protected Areas Management.

6.8 CONCLUSION

The Department of Provincial and Local Government is preparing for the formulation of policy pertaining to intergovernmental relations in South Africa. Although legislation aimed at intergovernmental relations is required by the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* there is no guarantee that intergovernmental relations and co-operative government will be promoted. Only politicians and officials dedicated to the principles of co-operative government and intergovernmental relations can ensure the effective functioning of intergovernmental structures including structures for intergovernmental relations pertaining to conservation management. The existing informal system and structures for intergovernmental relations, not prescribed by legislation, prove to be ineffective in some instances. The shortcomings of the existing structures for intergovernmental relations need to be acknowledged and addressed by policy makers.

The three spheres (and not tiers) of governments in South Africa imply equality of spheres. Each sphere is described as being distinctive, but also as interrelated and interdependent. Although legislation pertaining to intergovernmental relations is being formulated, the interrelatedness and interdependence of the spheres of government should be based on mutual trust. Informal intergovernmental relations structures will always play a major role in promoting interaction. Intergovernmental relations are dynamic and should adapt to changing political, economical, social and technological environments. Formal legislation pertaining to intergovernmental relations should allow for informal intergovernmental relations to continue, including intergovernmental relations pertaining to conservation management.

CHAPTER 7

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The Convention on Biological Diversity

CONVENTION ON BIOLOGICAL DIVERSITY (1992)

PREAMBLE

The Contracting Parties,

Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components,

Conscious also of the importance of biological diversity for evolution and for maintaining life-sustaining systems of the biosphere,

Affirming that the conservation of biological diversity is a common concern of humankind,

Reaffirming that States have sovereign rights over their own biological resources,

Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner,

Concerned that biological diversity is being significantly reduced by certain human activities,

Aware of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures,

Noting that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source,

Noting also that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat,

*Noting further that the fundamental requirement for the conservation of biological diversity is the *in-situ* conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings,*

*Noting further that *ex-situ* measures, preferably in the country of origin, also have an important role to play,*

Recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components,

Recognizing also the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation,

Stressing the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the sustainable use of its components,

Acknowledging that the provision of new and additional financial resources and appropriate access to relevant technologies can be expected to make a substantial difference in the world's ability to address the loss of biological diversity,

Acknowledging further that special provision is required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies,

Noting in this regard the special conditions of the least developed countries and small island States,

Acknowledging that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments,

Recognizing that economic and social development and poverty eradication are the first and overriding priorities of developing countries,

Aware that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential,

Noting that, ultimately, the conservation and sustainable use of biological diversity will strengthen friendly relations among States and contribute to peace for humankind,

Desiring to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components, and

Determined to conserve and sustainably use biological diversity for the benefit of present and future generations,

Have agreed as follows:

Article 1 OBJECTIVES

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.



Article

2

USE OF TERMS

For the purposes of this Convention:

"*Biological diversity*" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"*Biological resources*" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

"*Biotechnology*" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

"*Country of origin of genetic resources*" means the country which possesses those genetic resources in *in-situ* conditions.

"*Country providing genetic resources*" means the country supplying genetic resources collected from *in-situ* sources, including populations of both wild and domesticated species, or taken from *ex-situ* sources, which may or may not have originated in that country.

"*Domesticated or cultivated species*" means species in which the evolutionary process has been influenced by humans to meet their needs.

"*Ecosystem*" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"*Ex-situ conservation*" means the conservation of components of biological diversity outside their natural habitats.

"*Genetic material*" means any material of plant, animal, microbial or other origin containing functional units of heredity.

"*Genetic resources*" means genetic material of actual or potential value.

"*Habitat*" means the place or type of site where an organism or population naturally occurs.

"*In-situ conditions*" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*In-situ conservation*" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*Protected area*" means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.



"*Regional economic integration organization*" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

"*Sustainable use*" means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

"*Technology*" includes biotechnology.

Article

3

PRINCIPLE

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Article

4

JURISDICTIONAL SCOPE

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

- (a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and
- (b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

Article

5

COOPERATION

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.



Article

6

GENERAL MEASURES FOR CONSERVATION AND
SUSTAINABLE USE

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

- (a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and
- (b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Article

7

IDENTIFICATION AND MONITORING

Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10:

- (a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;
- (b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;
- (c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and
- (d) Maintain and organize, by any mechanism data, derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

Article

8

IN-SITU CONSERVATION

Each Contracting Party shall, as far as possible and as appropriate:

- (a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;



- (b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;
- (c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;
- (d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;
- (e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;
- (f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;
- (g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
- (h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;
- (i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;
- (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;
- (k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;
- (l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and
- (m) Cooperate in providing financial and other support for in-situ conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

Article

9

EX-SITU CONSERVATION

Each Contracting Party shall, as far as possible and as appropriate, and predominantly for the purpose of complementing *in-situ* measures:

- (a) Adopt measures for the *ex-situ* conservation of components of biological diversity, preferably in the country of origin of such components;
- (b) Establish and maintain facilities for *ex-situ* conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources;
- (c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions;
- (d) Regulate and manage collection of biological resources from natural habitats for *ex-situ* conservation purposes so as not to threaten ecosystems and *in-situ* populations of species, except where special temporary *ex-situ* measures are required under subparagraph (c) above; and
- (e) Cooperate in providing financial and other support for *ex-situ* conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of *ex-situ* conservation facilities in developing countries.

Article

10

SUSTAINABLE USE OF COMPONENTS OF BIOLOGICAL DIVERSITY

Each Contracting Party shall, as far as possible and as appropriate:

- (a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- (b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;
- (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- (d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and
- (e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.



Article

11

INCENTIVE MEASURES

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

Article

12

RESEARCH AND TRAINING

The Contracting Parties, taking into account the special needs of developing countries, shall:

- (a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the specific needs of developing countries;
- (b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, *inter alia*, in accordance with decisions of the Conference of the Parties taken in consequence of recommendations of the Subsidiary Body on Scientific, Technical and Technological Advice; and
- (c) In keeping with the provisions of Articles 16, 18 and 20, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

Article

13

PUBLIC EDUCATION AND AWARENESS

The Contracting Parties shall:

- (a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and
- (b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

Article

14

IMPACT ASSESSMENT AND MINIMIZING ADVERSE IMPACTS

1. Each Contracting Party, as far as possible and as appropriate, shall:
 - (a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;
 - (b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;
 - (c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;
 - (d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and
 - (e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.
2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

Article

15

ACCESS TO GENETIC RESOURCES

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.
2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.



3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.
4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.
5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.
6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.
7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

Article

16

ACCESS TO AND TRANSFER OF TECHNOLOGY

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.
2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.
3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.

Article

17

EXCHANGE OF INFORMATION

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information.

Article

18

TECHNICAL AND SCIENTIFIC COOPERATION

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary, through the appropriate international and national institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia*, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.

3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.



5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

Article

19

HANDLING OF BIOTECHNOLOGY AND DISTRIBUTION OF ITS BENEFITS

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.

2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.

3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

Article

20

FINANCIAL RESOURCES

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the



purpose of this Article, the Conference of the Parties, shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

3. The developed country Parties may also provide, and developing country Parties avail themselves of, financial resources related to the implementation of this Convention through bilateral, regional and other multilateral channels.
4. The extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.
5. The Parties shall take full account of the specific needs and special situation of least developed countries in their actions with regard to funding and transfer of technology.
6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of, biological diversity within developing country Parties, in particular small island States.
7. Consideration shall also be given to the special situation of developing countries, including those that are most environmentally vulnerable, such as those with arid and semi-arid zones, coastal and mountainous areas.

Article

21

FINANCIAL MECHANISM

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20, paragraph 2. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.

2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.
3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.
4. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

Article

22

RELATIONSHIP WITH OTHER INTERNATIONAL CONVENTIONS

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.
2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

Article

23

CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.



4. The Conference of the Parties shall keep under review the implementation of this Convention, and, for this purpose, shall:
- (a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;
 - (b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;
 - (c) Consider and adopt, as required, protocols in accordance with Article 28;
 - (d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;
 - (e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;
 - (f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;
 - (g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;
 - (h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and
 - (i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.
5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article

24

SECRETARIAT

1. A secretariat is hereby established. Its functions shall be:
- (a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;

- (b) To perform the functions assigned to it by any protocol;
- (c) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;
- (d) To coordinate with other relevant international bodies and, in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
- (e) To perform such other functions as may be determined by the Conference of the Parties.

2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 25

SUBSIDIARY BODY ON SCIENTIFIC, TECHNICAL AND TECHNOLOGICAL ADVICE

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:

- (a) Provide scientific and technical assessments of the status of biological diversity;
- (b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;
- (c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;
- (d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and
- (e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.



Article

26

REPORTS

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

Article

27

SETTLEMENT OF DISPUTES

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.
2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.
3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:
 - (a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;
 - (b) Submission of the dispute to the International Court of Justice.
4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.
5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article

28

ADOPTION OF PROTOCOLS

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.
2. Protocols shall be adopted at a meeting of the Conference of the Parties.
3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.



Article
29

AMENDMENT OF THE CONVENTION OR PROTOCOLS

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.
4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.
5. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article
30

ADOPTION AND AMENDMENT OF ANNEXES

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:



- (a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;
 - (b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below;
 - (c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.
3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.
 4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.

Article

31

RIGHT TO VOTE

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article

32

RELATIONSHIP BETWEEN THIS CONVENTION AND ITS PROTOCOLS

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.



Article

33

SIGNATURE

This Convention shall be open for signature at Rio de Janeiro by all States and any regional economic integration organization from 5 June 1992 until 14 June 1992, and at the United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

Article

34

RA ratIFICATION, ACCEPTANCE OR APPROVAL

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depository.
2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.
3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depository of any relevant modification in the extent of their competence.

Article

35

ACCESSION

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depository.
2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depository of any relevant modification in the extent of their competence.
3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.



Article

36

ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession.
2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol, has been deposited.
3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.
4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which this Convention enters into force for that Contracting Party, whichever shall be the later.
5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article

37

RESERVATIONS

No reservations may be made to this Convention.

Article

38

WITHDRAWALS

1. At any time after two years from the date on which this Convention has entered into force for a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the Depositary.
2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.
3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.



Article

39

FINANCIAL INTERIM ARRANGEMENTS

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties or until the Conference of the Parties decides which institutional structure will be designated in accordance with Article 21.

Article

40

SECRETARIAT INTERIM ARRANGEMENTS

The secretariat to be provided by the Executive Director of the United Nations Environment Programme shall be the secretariat referred to in Article 24, paragraph 2, on an interim basis for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties.

Article

41

DEPOSITARY

The Secretary-General of the United Nations shall assume the functions of Depositary of this Convention and any protocols.

Article

42

AUTHENTIC TEXTS

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Rio de Janeiro on this fifth day of June, one thousand nine hundred and ninety-two.



ANNEX I

IDENTIFICATION AND MONITORING

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;
2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
3. Described genomes and genes of social, scientific or economic importance.

Annex II

Part 1

ARBITRATION

Article 1

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.
2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.
3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Part 2

CONCILIATION

Article 1

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

Article 3

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

Article 4

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

Article 5

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

Article 6

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.



South African National Parks

Vision | Mission | Transformation Mission
Values | Transformation Statement

Vision

The vision of the South African National Parks is that national parks will be the pride and joy of all South Africans.

Mission

The mission of the South African National Parks is to acquire and manage a system of national parks that represent the indigenous wildlife, vegetation, landscapes and significant cultural assets of South Africa for the pride and benefit of the nation.

Transformation Mission

The transformation mission of the South African National Parks is to transform an established system for managing the natural environment to one which encompasses cultural resources, and which engages all sections of the community.

Values

We will:

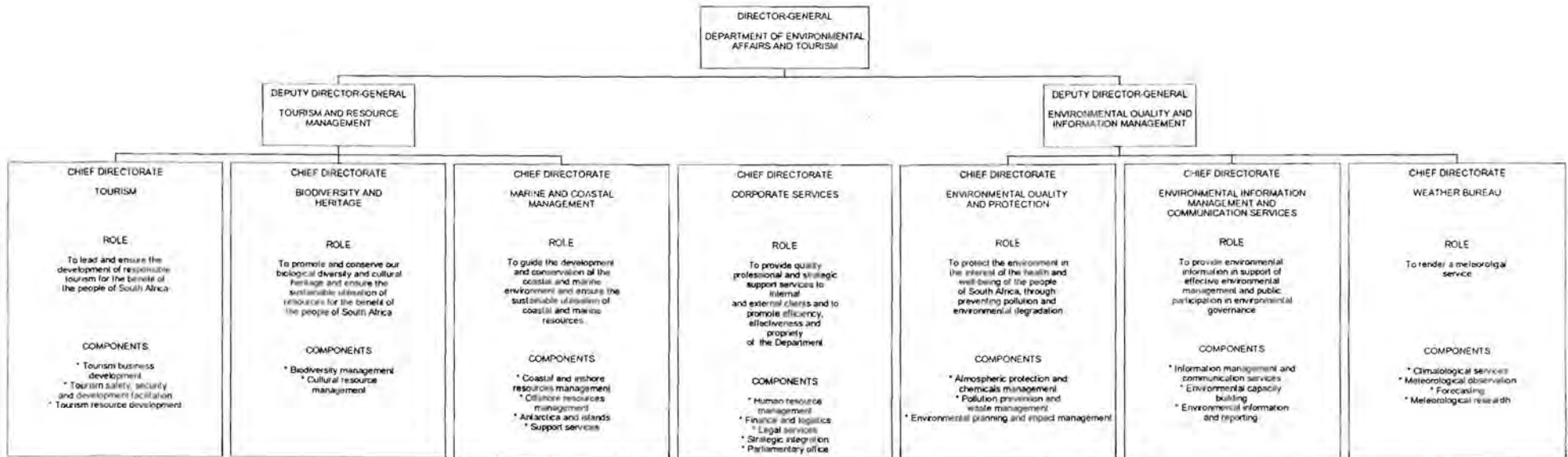
- demonstrate a firm commitment to the transformation process in both organisational development and our relations with external stakeholders.
- have respect for all individuals, recognising different value systems and promoting social equity.
- co-operate and share information within and outside the organisation for mutual benefit.
- be honest and sincere in our dealings within and outside the organisation.
- be motivated, enthusiastic, responsible and professional in our work.
- provide a high quality service to all our clients.
- maintain a culture of transparency through openness, good communication internally and externally, and through involvement of our stakeholders.
- uphold environmental ethics in relation to conservation and presentation of natural and cultural resources.
- value individual initiative in making contributions to the organisation.
- be dynamic in responding to the changing environment and community needs.

Transformation Statement

South African National Parks (SANP) is striving to transfer power and control of resources from the minority that had been appointed and privileged by an undemocratic system, to the majority

Source: *South African National Parks*. Available at <http://www.parks-sa.co.za> (5 October 1999).

THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM



Source: DEAT: New Structure - Issue 4. 10 February 1999.