

## **CHAPTER THREE: INTERNATIONAL GOVERNMENTAL RELATIONS**

### **3.1 INTRODUCTION**

The foregoing chapter focused on the requirements for effective and efficient management of public sector institutions created to manage natural resources. Although the South African Public Service and the South African National Parks Board have to adhere to the requirements and maintain their independence in managing natural resources, it is not easy for South Africa to isolate itself from other countries in southern Africa and the rest of the World. It is for this reason that international relations become crucial for the effective management the Great Limpopo Transfrontier Park. This chapter focuses on the sovereignty of the state, globalization, South Africa's foreign policy, and international institutions, bilateral and multilateral relations between South Africa, Mozambique and Zimbabwe.

### **3.2 SOVEREIGNTY OF THE STATE**

A state can be defined in Cloete's view (1998:3), as an independent territory with a permanent population and institutions responsible for the maintenance of law and order and the provision of essential services. Botes, Brynard, and Fourie and Roux (1996: 3-9) concur with this definition. The foregoing definition suggests that a state must have a clearly demarcated and undisputed border. The cutting of fences in the establishment of the Great Limpopo Transfrontier Park may cast some doubts on the sovereignty and security of the countries involved.

Although the fences separating South Africa, Mozambique and Zimbabwe are gradually going to be brought down, national boundaries need to be clearly demarcated. Between South Africa and Mozambique, for instance, the two countries agreed that when the fences are removed, the concrete fence posts will remain in place as landmarks for the

boundary of South Africa (Joint Management Board, 2002: 95). Furthermore, Pienaar (2005 Personal interview) believes the railway line and the road mark the boundary between South Africa and Mozambique. Fences were at first removed in areas where vehicle access between South Africa and Mozambique is either not possible due to the rugged nature of the Lebombo Mountain or because roads leading into the area can be effectively controlled.

Katerere and Hill (A critique of transboundary natural resource management in Southern Africa. Available at: <http://2.../book1.pdf+management+of+transfrontier+natural+resources&hl=en&ie=UTF,16/07/2004>) argue that the creation of transfrontier parks impinges on the sovereignty and security of national states as parks such as the Great Limpopo Transfrontier Park are situated at sites of national security management in the maintenance of boundaries, curtailing of insurgency and poaching. The role of the state is challenged and at times reduced to that of a guarantor and enforcer of rights. Transfrontier conservation areas challenge the power and nature of the nation state. This raises the question of the extent to which South Africa is willing to cede power to supra-national structures. Challenges relating to the sovereignty of the state and the cutting of fences are part of a process which brings independent states together in a global village.

### **3.3 GLOBALISATION AND THE AFRICAN RENAISSANCE**

The sovereignty of any state is not tantamount to it being self-sufficient. Modern states depend on each other for the satisfaction of needs of their citizens. The interdependence amongst states has brought about globalization and the African response to it through the African Renaissance philosophy.

Robertsons as quoted in Waters (2001:4) defines globalization as the compression of the world and intensification of consciousness of the world as a whole as well as interdependence. Waters (2001:5) refers to globalization as a social process in which the

constraints of geography on economic, political, social and cultural arrangements recede, in which people become increasingly aware that they are receding and in which people act accordingly.

Mills (2002:60) identifies three periods of globalization. *Firstly*, the period between 1870 and 1914 which was spurred by better transport links and lower freight costs. *Secondly*, the period between 1945 and 1980 which revived international trade links and *thirdly*, the period from 1980 until today. In the 21<sup>st</sup> century there are stark differences between the developed and developing states. This gives rise to different problems relating to different levels of development, and such problems demand different solutions (Mills 2002: 60). As environmental problems can no longer be confined to the borders of any country, it can be argued that the conservation of biodiversity and its related problems cannot escape the challenges and advantages brought by globalization.

Waters (2001: 15-16) highlights the main elements of globalization as follows:

- globalization is contemporary with modernization. It involves economic systematization and international relations between states;
- involves the systematic social interrelationship of all individual social ties. In a globalized world, no relationship will be isolated;
- phenomenological of space and generalization of time

In addition to the foregoing elements of globalisation, politics and capitalism appear to have been major drivers of globalization. According to Herch and Schmidt (2000:3) rules and customs which impeded the movement of labour, goods, services, capital had to be removed. Furthermore, Buscher and Dietz (2005:5) believe that one of the significant characteristics of globalization is the exponential growth of trade, communication, and technology across the globe which has rendered political, economic and cultural boundaries more virtual and permeable than ever before. The views expressed by Herch and Schmidt, as well as Buscher and Dietz can be related to the establishment of the Great Limpopo Transfrontier Park. Although the Great Limpopo Transfrontier Park is

established by an agreement entered into by South Africa, Mozambique and Zimbabwe, capital and ideas came from other governments and non-governmental organizations which are not part of the agreement hence the view that globalization has brought an end to rules and customs impeding capital movement is supported. The establishment of the Great Limpopo Transfrontier Park and other transfrontier parks between South Africa and its neighbours is an indication that Southern African countries are moving towards virtual and easily permeable borders.

Virtual, permeable and globalization borders have negative effects. The effects of globalization are the spread of transnational influences which include crime, illegal immigration, refugee flows, environmental and health risks (Mills 2002:61). Globalisation is the result of the emergence of planetary problems that are beyond the scope of states to resolve them. A decline in the ability of states to solve problems on a national basis (Waters 2001:102) have resulted in greater cohesion amongst states. Fox (2004:71) mentions natural resources depletion as one of environmental challenges. As the world populations continue to increase and third world countries become more affluent, global problems are likely to worsen. The rapid growth of the world population and in particular populations of the three countries which are party to the establishment of the Great Limpopo Transfrontier Park suggests that more land will be required for residential purposes and thereby putting pressure on natural resources.

Globalisation can be construed as an involuntary process that has the potential to undermine the nation-states. Waters (2001: 124) mentions the following aspects which can undermine the nation-state:

- increasing economic and cultural connections reduce the power and effectiveness of governments at the nation-state level-loss of control over the flow of ideas and economic items through borders,
- state power is reduced because of trans-national processes grow in scale and number. Multinational corporations are increasingly becoming more powerful than other states in the developing world,

- many traditional areas of state responsibility (defence, communications and economic management) are coordinated on international and intergovernmental basis,
- states surrender sovereignty within global political units such as the United Nations and treaties such as the one that establishes the Great Limpopo Transfrontier Park, and
- the emergence of a system of global governance.

The foregoing points indicate a number of areas and ways in which globalization can undermine a nation-state. However, a critical question is: “what is the role of the state such as South Africa in globalization?” South Africa has two choices. The first choice results in South Africa being a passive actor in the world and leaving everything to chance and fate. The second choice is to become an active participant. To become an active participant implies that South Africa has to play an influential role and be proactive. The second choice requires South Africa to become the architect of its own destiny as far as globalization and natural resources management is concerned.

The standing of South Africa in the eyes of the global community regarding political leadership and economic stability is important. South Africa is already regarded as one of the leading African countries in a number of spheres including nature conservation. Furthermore, South Africa has played a prominent role in the establishment of transfrontier parks which include the Great Limpopo Transfrontier Park. In view of the argument advanced above, it could be deduced that South Africa is not a passive participant in the global world. However, being an influential role player in Africa and Southern Africa does not mean that South Africa can ignore the contribution made by its neighbours. Regional integration will strengthen South Africa’s influential role even further.

Regional strength is a critical feature for competitive world economy. The development of regional units is synonymous with the age of globalization and technology (Mills

2002:61). Regional integration could help in building efficient infrastructure, strengthening regional security, improving human capital and natural resources management (Mills 2002: 77). The challenge is to use the growing integration of economies and societies around the world in order to enhance sustainable development. To this end, a wide array of actions should be taken, ranging from open, equitable, rule-based, predictable and non-discriminatory finance and trade systems to regional trade and cooperation agreements (Brynard and Stone 2004:32).

The political and economic strengths of South Africa and stability among its neighbours create more opportunities which will make the Country more globally competitive. In 2004, the tourism branch of the Department of Environmental Affairs and Tourism launched the global competitiveness project. The project aims to assess South African tourism's global competitiveness against national competitiveness (Department of Environmental Affairs and Tourism 2006: 10-11).

The Middle East has been identified by the Department of Environmental Affairs and Tourism as an emerging market for South African tourism, particularly in the light of tensions between the Middle East and the United States America following the events of "9/11" and the subsequent invasion of Iraq. The Tourism Branch of the Department of Environmental Affairs and Tourism organized workshops in Al Ain, Dubai and Abu Dhabi in the United Arab Emirates. The purpose of the workshop was to inform Middle Easterners and tour operators about South Africa and to promote the country as a premier international destination (Department of Environmental Affairs and Tourism 2006: 10-11).

Language can be a barrier for middle easterners willing to visit South Africa. Foreign language training is a critical need for tourist guides in South Africa. The Tourism Branch of the Department of Environmental Affairs and Tourism secured funding from the Chinese and French governments to train 161 tourist guides in these languages (Department of Environmental Affairs and Tourism 2006: 10-11). For South Africa to be

globally competitive, foreign language training should be expanded to include languages spoken in the Middle East and other countries which are not English speaking.

The English saying that “One man’s meat is another man’s poison” becomes more appropriate in the description of global competitiveness relating to tourism. South Africa can now capitalize on the decision of most middle easterners not to visit the United States of America and its allies due to political and religious differences which were exacerbated by the 9/11 terrorist attacks and subsequent wars. The question is whether this gain will be sustainable in the long run? The sustainability of this gain depends on South Africa’s stance on the war against terror and the relationship that it has with states perceived as dominating the war on terror. South Africa’s foreign policy is subject to change due to global changes which are engendered by global politics, economy as well as the changing political landscape within the country. It can, therefore, be expected that South Africa’s foreign policy will be adapted over time. There is no guarantee that South Africa’s foreign policy will always be in favour of middle easterners.

The African Renaissance is a concept popularized by the South African President Mbeki in which the African people and nations are called upon to solve the many problems troubling the African continent (African renaissance, available at: [http://en.wikipedia.org/wiki/African\\_Renaissance](http://en.wikipedia.org/wiki/African_Renaissance). 16/07/2006). African Renaissance can further be construed as a philosophical and political movement to eradicate elitism, corruption and poverty and replace them with a more just and equitable order

The political, social and economic dimensions take the Great Limpopo Transfrontier Park a step towards the realization of the African Renaissance. One objective of the African Renaissance is to identify key anchor projects at the national and subregional levels, which will generate significant spin-offs and assist in interregional economic integration. The program makes direct reference to transfrontier conservation areas in order to boost conservation and tourism (Minister Moosa’s speech on the occasion of the handover of elephants to Mozambique on 4 October 2001, available at:

[http://www.environment.gov.za/News...speeches/2001oct4/GKG\\_04102001.html](http://www.environment.gov.za/News...speeches/2001oct4/GKG_04102001.html).  
19/11/2003).

The African Renaissance is criticised as a form of Africanist utopianism given conflicts and instability in Africa. Other critics see the African Renaissance as an attempt by South Africa to foist a new form of colonialism. Others argue that the renaissance existed in the context of the fall of a great empire and the subsequent descent into the dark ages. (African renaissance, available at: [http://en.wikipedia.org/wiki/African\\_Renaissance\\_16/07/2006](http://en.wikipedia.org/wiki/African_Renaissance_16/07/2006)).

The African Renaissance and history demand that the people of Africa do everything in their power to defend the gains that have already been achieved, to encourage all other countries on their continent to move in the same direction, according to which the people shall govern, and to enhance the capacity of the African Union to act as an effective instrument for peace and the promotion of human and people's rights.

The following quote from Mbeki speech captures the essence, and the relations between globalization and African renaissance:

*“The African renaissance is inspired by the recognition of the fact that none of African countries is an island which can isolate itself from the rest, and none of us can truly succeed if the rest fail. The process of globalization emphasizes the fact that no person is an island, sufficient to himself or herself, but all humanity is an interdependent whole in which none can be truly free unless all are free, in which none can be truly prosperous unless none elsewhere in the world go hungry and in which none of us can be guaranteed a good quality of life unless we act together to protect the environment”* (Mbeki 1998: Available at: <http://www.unu.edu/unupress/mbeki.html>. 16/07/2006).



The restoration of the dignity of the peoples of Africa demands that Africa deals decisively with the perception that the African continent is condemned forever to depend on the merciful charity which the richer countries are ready to donate to Africa. The establishment of the Great Limpopo Transfrontier Park can be perceived as an attempt to restore dignity among poor and previously disadvantaged people who live adjacent to the park. The Great Limpopo Transfrontier Park's objective is to empower and alleviate poverty among the poor who live adjacent to the Park.

Economic objectives, which must result in the elimination of poverty, the establishment of modern multi-sector economies, and the growth of Africa's share of the World economic activity are key elements of the African renaissance. The African Renaissance can succeed if its aims and objectives are defined by the Africans themselves, if its programmes are designed by Africans and if Africans take the responsibility for the success or failure of policies (Mbeki 1998: Available at: <http://www.unu.edu/unupress/mbeki.html>. 16/07/2006). The success of the African Renaissance depends on the extent to which sovereign African states can align their foreign policies to the objectives of the African Renaissance. South Africa's foreign policy is elaborated on in the section below.

### **3.4 SOUTH AFRICA'S FOREIGN POLICY**

Many serious environmental problems such as illegal hunting and poaching of endangered species are of a transboundary nature. Therefore, such problems affect international relations hence the establishment of the Great Limpopo Transfrontier Park between South Africa, Mozambique and Zimbabwe. The establishment of the Great Limpopo Transfrontier Park is a result of diplomacy. Bjorkbom (1988: 123) argues that diplomacy is the tool that governments use to see to it that international relations are kept under control and to avoid the use of more expensive and less effective methods of problem solving such as military force.

The circumstances which prevailed in South Africa during the apartheid era have proven that the isolation of a country may have adverse results on its socio-economic development. It is, therefore, necessary for South Africa to have a policy which will guide its relations with other countries. Policy can be defined as a statement of objectives or an envisaged course of action.

South Africa's foreign policy serves as a framework upon which foreign relations are conducted. It determines the manner in which South Africa will interact with other countries. Since South Africa is inextricably part of Africa, it is important that its foreign policy reflects and promotes the interests of the continent (Dube, 2003 overview: South Africa's foreign policy in Africa, Available at: [http://www.ai.org.za/print\\_monograph.asp?ID=1](http://www.ai.org.za/print_monograph.asp?ID=1). 2/6/2005). However, the interests of the continent should always be secondary to the interests of the South African citizens. South Africa's foreign policy, which is the prerogative of the national government, should be formulated in such a way that citizens can be given an opportunity to express their wishes.

The *Constitution of the Republic of South Africa, 1996* is the most important and the primary policy document which guides South Africa's foreign policy. The *Constitution of the Republic of South Africa, 1996* provides that the President is ultimately responsible for the foreign policy and international relations of South Africa. It is the prerogative of the President to appoint heads of missions and conduct interstate relations (South Africa Year Book 2005: 305). Section 84(2)(h and j) of the *Constitution of the Republic of South Africa, 1996* makes provision for the President to receive and recognize foreign diplomatic and consular representatives, as well as the appointment of ambassadors, plenipotentiaries, and diplomatic and consular representatives to strengthen the relationship between South Africa, Mozambique and Zimbabwe. Although the President plays a vital role in foreign policy determination, s/he is ultimately accountable for the success and or failure of foreign policy. The presence of South Africa's diplomatic

missions in Mozambique and Zimbabwe further strengthen the relations and provides a firm basis for the development of the Great Limpopo Transfrontier Park.

Furthermore, the Executive can negotiate and sign international agreements and develop and implement national policy and co-ordinate the functions of state departments and administrations. South Africa, Mozambique and Zimbabwe's presidents signed the international treaty for the establishment of the Great Limpopo Transfrontier Park on 9 December 2002 in Xai-Xai, Mozambique (TFCA Programme Manager, 2005: 5). The agreement which was signed by the three presidents signifies the high level of political commitment and support for the establishment of the Great Limpopo Transfrontier Park. However, political support needs to be coupled with the commitment of resources particularly on the part of Zimbabwe and Mozambique in order to rehabilitate the ecosystem that has been negatively affected by many years of mismanagement as a result of wars and instability.

The Minister of Foreign Affairs, as a member of the executive is entrusted with the responsibility for formulation and execution of South Africa's foreign policy and the daily conduct of international relations. The Minister also assumes the overall responsibility for South Africa's international relations (Foreign relations, available at: <http://www.info.gov.za/aboutsa/foreign.htm>. 10/02/2005). The Minister of Foreign Affairs is assisted by the Department of Foreign Affairs in performing her duties.

The Department of Foreign Affairs is responsible for the performance of the following functions:

- monitoring of developments in the international environment,
- communication of government policy position,
- developing and advising government on policy options,
- protection of South Africa's sovereignty and territorial integrity, and
- assisting South African citizens abroad (Foreign relations, available at: <http://www.info.gov.za/aboutsa/foreign.htm>. 10/02/2005).

Parliament has to ratify agreements of a technical, administrative and executive nature. All international agreements have to be tabled in Parliament even if ratification of a specific agreement is not required by the *Constitution of the Republic of South Africa, 1996*. The involvement of Parliament in foreign policy ensures that there is a representative and an accountable process of policy-making (Johnston 2001:16).

Parliament is an institution consisting of people representing the wishes of majority and minority groups in South Africa. If Parliament is relegated to an *ex-post facto* role player in foreign policy, its effectiveness in performing a control function can be questioned. A preferable state of affairs is a pre-approval as Parliament can in this case object to an agreement before its implementation. Henwood (1997. South Africa's foreign policy: principles and problems, Available at: <http://www.iss.co.za/Pubs/Monographs/No13/Henwood.html> 2/6/2005) argues that the role of Parliament in policy formulation is limited. The *Constitution of the Republic of South Africa, 1996* accords more power to the executive. Parliament may find it difficult to be more than an *ex-post facto* role player in matters of foreign policy. The *Constitution of the Republic of South Africa, 1996* entrenches the somewhat independent role of the President, the Minister of Foreign Affairs and the Department of Foreign Affairs.

The declared foreign policy of South Africa is aimed at, amongst others, a commitment to:

- human rights,
- promotion of freedom and democracy throughout the world,
- the principles of justice and international law in the conduct of relations between nations,
- international peace and internationally agreed mechanisms for the resolution of conflict,
- the interests of Africa in global markets, and expanded regional and international economic co-operation in an interdependent world

(Henwood 1997. South Africa's foreign policy: principles and problems, Available at: <http://www.iss.co.za/Pubs/Monographs/No13/Henwood.html> 2/6/2005).

Furthermore, South Africa's policy is guided by amongst others, transparency; national interests, desire to participate in regional, continental and global multilateral organizations; the security and equality of South Africans, as well as justice and international rule of law, peace, economic stability, and regional cooperation are some of the fundamental principles underlying the foreign policy of South Africa.

Henwood (1997. South Africa's foreign policy: principles and problems, Available at: <http://www.iss.co.za/Pubs/Monographs/No13/Henwood.html> 2/6/2005) argues that the development of foreign policy since April 1994, was the emphasis on democracy, justice and human rights, which brought a new dimension of the declared foreign policy, namely that of morality. This posed important challenges for South Africa as it could lead to conflict between perceived interests and the right decision, and has implications for the allocation of resources for essential foreign policy goals (national interests) as opposed to morally justifiable objectives that might, in the long run, negatively influence the material position of the state.

South Africa endorsed the outcome of Zimbabwe's elections although Zanu-PF supporters allegedly violated human rights. Increasingly, South Africa seems to be confronted with the dilemma of pursuing foreign policy goals which clash with the practices of some African states. A sense of indebtedness has an influence on foreign policy-making in South Africa. The foreign policy of South Africa and the party concerns of the African National Congress are indistinguishable. This state of affairs gives rise to the serious implications and concerns that surround the government and its morality stance (Dube, 2003. Overview: South Africa's foreign policy in Africa, Available at: [http://www.ai.org.za/print\\_monograph.asp?ID=1](http://www.ai.org.za/print_monograph.asp?ID=1). 2/6/2005).

It can be expected that South Africa's foreign policy will continue to be a subject for debate among political parties, interest groups and individual citizens. Although foreign policy is largely shaped by internal politics and the needs of the citizens, international institutions also influence foreign policy.

### **3.5 INTERNATIONAL INSTITUTIONS**

The word international is a combination of two elements which are inter- (among or mutual) and national (pertaining to the nation). International institutions are supra-state institutions. Supra means higher than or above the national state. Supra-state institutions are always established by agreement among states with the objective of obtaining cooperation and achievement of common goals (Mello 2002: 22-23).

International institutions share a number of common features. International institutions originate from agreements such as the declaration of the United Nations on 1 January 1942 by a number of member states. Within an international institution, provision is made for the determination of policy in its composition. Policy determination by international institutions has political implications for national states such as Mozambique, South Africa and Zimbabwe. International institutions must obtain ratification for their decisions and actions by the legislative institutions of the national states. Furthermore, international institutions are dependant on the contributions from member states, non-governmental organizations, and the private sector for financing their activities.

Many international institutions have been established for purposes of satisfying needs which member states can hardly satisfy as separate independent entities. The following sections focus on those international institutions which play a role in establishment and further development of transfrontier parks.

### 3.5.1 United Nations

The United Nations, unlike its predecessor the League of Nations, emerged out of disagreements which were the result of the First and Second World Wars. The League of Nations failed to prevent the Second World War, but the desire remained for the establishment of international institutions able to settle disagreements between states amicably. The beginning of the Second World War did not put a damper on the desire to develop a successor to the League. Different states sought an institution that would prevent wanton human carnage and wastage of resources in wars (Simons 1994: 35).

After the outbreak of the Second World War, the Allied powers (that is, United States of America, Great Britain, Union of Soviet Socialist Republics and France) began their planning for the creation of the new international institution responsible for the maintenance of peace and security globally. These efforts ultimately culminated in the Inter-Allied Declaration on 12 June 1941 and two months later the Atlantic charter (Simons 1994: 35).

In terms of Article 1 of the United Nations Charter, one of the objectives of the United Nations is to be a centre for harmonizing the actions of the nations with a view to attain common ends. In terms of Article 1 of the Charter of the United Nations, the purpose of the United Nations is to maintain international peace and security, develop friendly relations and to achieve international cooperation (Charter of the United Nations, Available at: <http://www.un.org/aboutun/charter/chapter1.htm>. 22/07/2005). Transfrontier parks such as the Great Limpopo have emerged as a result of peace and friendly relations hence the words peace parks are often used to describe similar ventures between different countries.

Apart from the efforts of the United Nations at the maintenance of peace globally, the United Nations Conference on the Human Environment held in Stockholm in 1972 led to the establishment of the United Nations Environment Programme. The United Nations

Environment Programme co-ordinates and serves as a catalytic instrument for drawing attention to the environmental aspects of the operational activities of the United Nations Secretariat and the specialized agencies within the United Nations system as well as activities of member states of the United Nations (Bjorkbom 1988: 125). The World Bank has been created within the United Nations system.

### **3.5.2 The World Bank**

The World Bank was established in response to the World War II at the Breton Woods, New Hampshire. The World Bank has 184 member countries who are also shareholders. These shareholders are represented by a Board of Governors. The Board of Governors, which is made-up of ministers of Finance of member countries, is a policy-making organ of the World Bank. The Board of Governors meets once a year (About Us, available at: <http://web.worldbank.org>. 30/10/2006).

Subordinate to the Board of Governors, there is the President and a Board of Directors. The President chairs meetings of the Board and is responsible for the management of the World Bank. The Board of Directors is made-up of 24 Executive Directors who work permanently at the World Bank to implement decisions taken by the Board of Directors. The Board of Directors meets at least twice a week. The five largest shareholders, namely, France, Germany, Japan, the United Kingdom and the United States appoint an Executive Director, while other member countries are represented by 19 Executive Directors (About Us, available at: <http://web.worldbank.org>. 30/10/2006)

The initial task of the World Bank was to rebuild Europe after the War. Its initial and primary purpose has been to reconstruct countries ruined by war or other natural disasters. The World Bank has undergone transition in the 1980s. Among other areas which received attention since 1980, are poverty, social and environmental issues.



The World Bank, through the Global Environmental Facility Trust Fund financed a transfrontier conservation area pilot and institutional strengthening project between 1998 and 2003 for US\$ 5 million with the government of Mozambique. The aim of the project was to stimulate private sector investment in underdeveloped areas by creating development nodes linked by transport corridors within the context of spatial development initiatives within Southern Africa. The project focused on launching the transfrontier conservation areas concept, creating an enabling policy and institutional environment at national and regional level, and providing a learning opportunity for all stakeholders and actors. Part of the mandate of this project was to the establishment of the Great Limpopo Transfrontier Park through international agreements, policy and institutional development and direct investment to strengthen the management of its protected areas (Spenceley 2005 tourism investment in the Great Limpopo Transfrontier Conservation Area: Scoping report , Available at:<http://www.wits.ac.za> 20/10/2006).

The World Bank stimulated other donors to invest in the TFCAs. These donors included amongst others, KFW, USAID and the Ford Foundation. Funding is crucial for the development of the Great Limpopo Transfrontier Park.

### **3.5.3 The World Conservation Union and the Regional Office for Southern Africa**

The World Conservation Union was founded in 1948. Its membership includes states, government agencies, non-governmental organizations, scientists and experts. The World Conservation Union is the World's largest and most important network. The World Conservation Union brings together 82 states, 111 government agencies, more than 800 non-governmental organizations and 10 000 experts. The Union's mission is to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and ensure that any use of natural resources is equitable and ecologically sustainable. The Union is involved in research efforts and builds sustainable livelihoods

especially for the poor who depend on sustainable management of natural resources. Most importantly, the Union facilitates parks for peace between countries in areas of conflict (The World Conservation Union, available at: <http://www.iucn.org/en/about.21/07/2005>). Publication of research findings relating to transfrontier parks will facilitate the sharing of ideas and development of best practices.

The World Conservation Union Regional Office for Southern Africa was established in Zimbabwe in 1987 with a view to serve the Southern African Region in the development of skills in conservation and natural resources management. The World Conservation Union also influences and supports the development and implementation of environmental and natural resources management policies at national, regional and global levels. Furthermore, the World Conservation Union ensures availability and understanding of environmental and natural resources management information and advocates for its increased use in decision-making (IUCN ROSA, available at: <http://www.iucnrosa.org.zw/about/about.html> 2/2/2005).

To deal with challenges that Southern Africa faces, the World Conservation Union assists communities and governments to create their own processes towards the development of policies and strategies. This is evident in the support to Southern African countries in the development of wildlife, environment management and land policies. In so doing, the World Conservation Union develops linkages between science and policy, economics and the environment, social equity and access to natural resources, and protection and sustainable use. It generates, transforms, and disseminates scientific knowledge and tools to stakeholder and advocates their use (IUCN ROSA, available at: <http://www.iucnrosa.org.zw/about/about.html> 2/2/2005).

In an attempt to achieve the latter objective, the World Conservation Union has commissioned a regional newsletter on transboundary natural resources management in Southern Africa. The title of the newsletter is **Transborder dialogue** and hopes to facilitate information exchange amongst transboundary natural resources management

practitioners in Southern Africa. Transborder Dialogue is funded by Ford's Transboundary Natural Resource Management Project (Transborder dialogue commissioned <http://www.iucnrosa.org.zw/news/transborder.html> 2/2/2005). Information exchange will ensure that the management of the Great Limpopo Transfrontier Park does not repeat mistakes made by managers of parks which were established earlier elsewhere in the world.

### **3.5.4 African Union**

The establishment of the African Union was declared on 2 March 2001 at the second Extraordinary Summit in Sirte. The transitional period culminated with the convening of the inaugural summit of the African Union in Durban, South Africa from 9-10 July 2002. The African Union is made up of 53 members and has nine organs to perform its duties. These organs are:

- the Assembly
- Executive Council
- Pan African Parliament
- Court of Justice
- the Commission
- Permanent Representatives Committee
- specialised technical committees
- Economic, Social and Cultural Council
- the financial institutions

Among its objectives, the African Union aims to encourage international cooperation, promote sustainable development at economic, social and cultural level as well as the integration of African economies. The African Union further hopes to promote cooperation in all fields of human activity to raise the living standards of African peoples (South Africa Year Book 2005: 305).

The Executive Council plays an important role in matters relating to nature conservation. The Executive Council coordinates and takes decisions on policies in areas of common interest to member states. These decisions include, amongst others, forestry, water resources and environmental protection. Specialised technical committees such as the Committee on Industry, Science and Technology, Energy, Natural Resources and Environment; and the committee on Transport, Communication and Tourism assist the Executive Council in matters relating to environmental management and transfrontier park management. Specialised committees are composed of ministers and senior officials responsible for sectors falling within their respective areas of competence such as environment and nature conservation (Constitutive Act of the African Union, available at: [http://www.au2002.gov.za/docs/key\\_oau/au\\_act.htm](http://www.au2002.gov.za/docs/key_oau/au_act.htm). 07/04/2005).

Although Article 14 of the *Constitutive Act* of the African Union provides that specialized technical committees should be made up of ministers and senior public officials, it would be advisable for such committees to be composed of officials who have in-depth knowledge in areas such as nature conservation. Politicians should be involved in political organs of the African Union such as the Assembly. To achieve some of its objectives, the New Partnership for Africa's Development was established within the African Union.

The New Partnership for Africa's Development is a vision and strategic framework for Africa's renewal. The New Partnership for Africa's Development's strategic framework document arises from a mandate given to the five states (Algeria, Egypt, Nigeria, Senegal, and South Africa) by the then Organisation of African of Unity to develop an integrated socio-economic development framework for Africa. The 37<sup>th</sup> Summit of the Organisation of African Unity formally adopted the strategic framework document (NEPAD in brief, available at: <http://www.nepad.org/2005/files/inbrief.php> 6/4/2005).

The New Partnership for Africa's Development operates on the basis of, amongst others, principles such as good governance as a basic requirement for peace, security and sustainable socio-economic development; African ownership and leadership, as well as broad and effective participation by all sectors of society; anchoring the development of Africa on its resources and resourcefulness of its people; partnership between and amongst African people; and acceleration of regional and continental integration. Policy reform and increased investment in priority sectors such as environment forms part of the New Partnership for Africa's Development priorities (NEPAD in brief, available at: <http://www.nepad.org/2005/files/inbrief.php> 6/4/2005).

According to Wissink and Melnyk (2004:3) the objectives of the New Partnership for Africa's Development are to eradicate poverty, to put an end to socioeconomic marginalization of Africa, promotion of sustainable growth and development, peace, security and political and economic good governance.

The adoption of the New Partnership for Africa's Development is an important development. The New Partnership for Africa's Development creates an instrument for advancing people-centred sustainable development in Africa based on democratic values. Sustainable development from the perspective of the New Partnership for Africa's Development is premised on the recognition that Africa has an abundance of natural resources and people who have the capacity to act as agents of change.

The link between the New Partnership for Africa's Development and Southern African Development Community Regional Indicative Strategic Development Plan was adopted by the Ministers of foreign affairs and finance at their meeting in Blantyre, Malawi, in September 2001 which came to the conclusion that, in terms of relationships, the Southern African Development Community is part of and feeds into New Partnership for Africa's Development. The Ministers recognized that the New Partnership for Africa's Development is a framework and process within the African Union, while Southern African Development Community is a recognized component of the African Union. The

Southern African Development Community participates in both the African Union and New Partnership for Africa's Development (South Africa Year Book 2004:309). This relationship shows that international institutions complement each other in the role they play.

### **3.5.5 Southern African Development Community**

Southern African Development Community is an intergovernmental organization aimed at promoting economic development. It is established as a regional economic community of the United Nations system. Southern African Development Community member states are Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania and Zimbabwe. The declaration of the treaty establishing Southern African Development Community was signed at the Summit of Heads of State on July 17 1992 in Windhoek, Namibia. Southern African Development Community replaced the Southern African Development Coordination Conference which had been in existence since 1980. South Africa joined in 1994 (Southern Africa and the Southern African Development Community, available at: <http://www.eia.doe.gov/cabs/sadc.html>. 06/04/2005).

The Southern African Development Community treaty commits members to:

- sovereign equality,
- solidarity, peace and security,
- human rights, democracy and the rule of law,
- equity, balance and mutual benefit, and
- peaceful settlement of disputes.

The aim of the Southern African Development Community (SADC) is to provide for regional peace and security, sectoral co-operation and an integrated regional economy. A number of protocols that have a bearing on nature conservation and the Great Limpopo Transfrontier Park have been ratified. These protocols include, amongst others, Protocol

on Shared Watercourse Systems, Protocol on Wildlife Conservation and Law Enforcement (Vide Annexure C) Protocol on Development of Tourism (Vide Annexure D), (South Africa Year Book 2005: 316).

Southern African Development Community ministers of environment agreed at their meeting in Cape Town South Africa, in October 1999 to adopt a protocol on Environment and Land management sector. The working group approved by the ministers included South Africa, Mozambique, Tanzania, Zambia and Mauritius. The working group was mandated to co-opt international and regional environmental organizations such as the United Nations Environment Programme, World Conservation Union and its Regional Office for Southern Africa to provide technical support (Environment Protocol for SADC on the drawing board, available at: <http://www.net/editorial/sadctoday/v3-6-07-2000/v3-6-07-2000-1.htm>. 06/04/2005).

Southern African Development Community Protocol on Wildlife Conservation and Law Enforcement recognizes the sovereign right of member states to manage their wildlife resources. Article 4 provides that the primary objective of the Protocol is to establish common approaches to the conservation and sustainable use of wildlife resources and to assist with the effective enforcement of laws governing resources. To give effect to this primary objective, Article 4.2(f) makes provision for the establishment of transfrontier conservation areas to promote the conservation of shared wildlife resources (SADC Protocol on Wildlife Conservation and Law enforcement, Available at: [www.tbpa.net/docs/2003/apendices/030625wildlifeprotocol.htm](http://www.tbpa.net/docs/2003/apendices/030625wildlifeprotocol.htm). 20/04/2005).

Furthermore, article 6.2 of the Protocol on Wildlife Conservation and Law Enforcement states that Southern African Development Community members should endeavour to harmonise legal instruments governing the conservation and sustainable use of resources. Harmonisation includes, amongst others, standardizing measures for the protection of wildlife species and their habitat, trading in wildlife, poaching and hunting, powers granted to wildlife law enforcement officers, extradition or appropriately sanctioning

offenders in their home countries (SADC Protocol on Wildlife Conservation and Law enforcement, Available at: [www.tbpa.net/docs/2003/apendices/030625wildlifeprotocol.htm](http://www.tbpa.net/docs/2003/apendices/030625wildlifeprotocol.htm). 20/04/2005).

The Southern African Development Community Treaty and SADC Protocol on Wildlife Conservation and Law Enforcement provide the basis for regional co-operation and the establishment of transfrontier parks such as the Great Limpopo. Furthermore, the relationship established within Southern African Development Community enable countries such as South Africa, Mozambique and Zimbabwe to enter into bilateral agreements as equal partners although they are economically at different stages of development.

### **3.6 BILATERAL AND MULTILATERAL RELATIONS**

This section of the thesis focuses on the relations between South Africa, Mozambique and Zimbabwe. The relations among the three countries were characterized by hostility where South Africa was the aggressor and friendliness. Friendly relations resulted in the establishment of the Great Limpopo Transfrontier Park.

Bilateral relations are seen as a matter between South Africa and other involved countries such as Mozambique or Zimbabwe. The fact that South Africa enters into agreements with these countries does not mean express support for or agreement with the internal policies or practices of their government. The foreign policy decisions of South Africa are based on national interests.

Zimbabwe experienced some attempts at armed incursions during the early 1980s period of total strategy although the extent of the destabilization by South Africa was less severe when compared to the experience by Mozambique. The destabilization of Zimbabwe and Mozambique had undesirable consequences on conservation management. The destabilisation as well as the civil war in Mozambique forced Zimbabwe's wildlife



authorities to close the Gonarezhou National Park. The Gonarezhou National Park, which is situated in the south east of Zimbabwe on the Mozambican border, is the second largest park in Zimbabwe. The Park experienced management problems and breakdown in infrastructure during the war in Mozambique. In 1974, at the start of the war, Mozambique's elephant herds were estimated at between 50 000 and 65 000. In 1992 the population was estimated at 13 350 and was said to be declining (Koch 1998: 58). The diminishing of the elephant herds in Mozambique prompted the South African government to donate elephants to Mozambique.

Protected areas and wildlife of Mozambique, South Africa, and Zimbabwe have been adversely affected by socio-political conflicts. The Great Limpopo Transfrontier Park now faces the difficult task to address these problems as the resources in three countries are unequal as a result of destabilisation.

South Africa and Zimbabwe, besides their geographic proximity, have a long history of regional affiliation and cultural ties. The people of Zimbabwe played an important historic role in support of the liberation struggle in South Africa against the system of apartheid. Bilateral relations between South Africa and Zimbabwe can be traced back to 1929 and they have been renewed and modified a number of times. After the 1994 elections, the Zimbabwean and South African trade ministers agreed to talks which led to the signing of a 'Joint Economic Co-operation Agreement' which unfortunately never came to fruition (Stoneman 1998: 100).

The Joint Commission for Economic, Scientific, Technical and Cultural cooperation between South Africa and Zimbabwe was revived in November 2002 to strengthen bilateral relations between the two countries. South Africa donated R93,5 million through the World Food Programme to improve food security in Zimbabwe. Furthermore, South Africa donated R12 Million to Zimbabwe to purchase a vaccine aimed at curbing the spread of food-and-mouth disease in Zimbabwe (South Africa Year Book 2004: 315).

Monetary assistance to Zimbabwe is important for the development of the Great Limpopo Transfrontier Park. Poverty alleviation through the World Food Programme will ensure that people do not utilise wildlife for purposes of feeding their families. Similarly, the R12 Million donated to Zimbabwe in an attempt to curb the spread of food and-mouth disease will ensure that wildlife beyond the border does not infect wildlife in South Africa as fences separating the two countries are to be gradually removed.

South Africa continues with efforts aimed at strengthening bilateral relations and the democratic reconstruction and development processes of Mozambique. Continuous bilateral interaction with the Mozambican government has culminated in the signing of several bilateral agreements which include, among others, customs administration, agriculture, the protection and utilization of the water resources of the Inkomati and Maputo water courses, and above all, the trilateral treaty of the Great Limpopo Transfrontier Park.

Furthermore, in accordance with the Southern African Development Community's current initiatives and efforts to bring about regional economic integration, South Africa and Mozambique have made substantial progress in the development of the borderlands and transfrontier conservation initiatives. These areas include the Lubombo Spatial Development Initiative, the Great Limpopo Transfrontier Park, Beira and Nacala Corridors. The development of these corridors and borderlands is aimed at exploiting the opportunities and advantages to be derived from countries seeking increased convergence and integration across borders (South Africa Year Book 2005: 305).

South African President and his Mozambican counterpart co-chaired the South Africa-Mozambique Heads of State Economic Bilateral Summit. The forum was established in 1997 to discuss strategic projects between the two countries. Environment and tourism development projects such as the Great Limpopo Transfrontier Park are amongst issues discussed at the summit (Mozambique-South Africa: Strategic partnership to be

consolidated at summit, available at: <http://www.irinnews.org/report.asp?ReportID=36120>. 10/02/2005).

The current relationship between Mozambique and South Africa evolved out of Mozambique's assistance in the anti-apartheid struggle in South Africa and conversely the role the apartheid regime played in supporting the former Mozambican rebel group, Renamo (Mozambique-South Africa: Strategic partnership to be consolidated at summit, available at: <http://www.irinnews.org/report.asp?ReportID=36120>. 10/02/2005).

### **3.7 CONCLUSION**

International governmental relations begin with the acknowledgement of the sovereignty of South Africa as an independent state hence South Africa will, despite the gradual cutting of fences in the development of the Great Limpopo Transfrontier Park, remain a sovereign state. The growing interdependence among sovereign states and the subsequent globalization process are unavoidable. However, South Africa has to capitalize on the benefits which are brought by these changes. The African Renaissance is a philosophy conceived with noble intentions. The realization of its objectives depends largely on the extent to which African States can align their internal and foreign policies towards development in general and nature conservation. Foreign policy is determined by the Executive while Parliament's role is to ensure accountability and that foreign policy benefits all South Africans. International institutions exist because of the inability of independent states to be self-sufficient. The nature and number of bilateral and multilateral agreements will change depending on the needs of South Africa, Mozambique and Zimbabwe in areas such as nature conservation.

It is important for different states to coordinate their internal activities relating to nature conservation in order to make a valuable contribution towards the effective management of the Great Limpopo Transfrontier Park. The following chapter focuses on intergovernmental relations which take place between different South African public

institutions to ensure a coordinated approach to the management Great Limpopo Transfrontier Park.

## CHAPTER FOUR: INTERGOVERNMENTAL RELATIONS

### 4.1 INTRODUCTION

The first ten years of democracy in South Africa have afforded the South African government an opportunity to implement and test the system of government through the implementation of the *Interim Constitution of the Republic of South Africa, 1993* (Act 200 of 1993) and the *Constitution of the Republic of South Africa, 1996*. The ten year period was characterized by the establishment of both statutory and non-statutory intergovernmental structures aimed at facilitating the interaction between the three spheres of government. However, South Africa has not yet reached a stage where it could be said that intergovernmental structures and relations between the three spheres of government have been developed to perfection. This could only be a utopia as in public administration there will always be new challenges which necessitate the quest for new developments and knowledge. The establishment of the Great Limpopo Transfrontier Park and other similar parks necessitate the exploration of the applicability, effectiveness of current structures as well as the need for new structures.

This chapter focuses on the nature of the Republic of South Africa as an independent state. The nature of the state has a bearing on the forms of intergovernmental relations. The *Constitution of the Republic of South Africa, 1996* and other legislation provide an enabling environment for governmental relations hence the constitutional and legal framework form an important component of the discussion that unfolds below. Different forms of intergovernmental relations are discussed with a view to contextualise intergovernmental relations. Furthermore, the discussion focuses on the three spheres of government that are relevant and close to and involved in the Great Limpopo Transfrontier Park. At national sphere, the functions performed by different state departments as well as various national intergovernmental relations structures in relation to the Great Limpopo Transfrontier Park are discussed. The role of provincial and local

spheres of government and related intergovernmental structures are the last aspects that the chapter focuses on before the conclusion.

#### **4.2 NATURE OF THE STATE AND SYSTEM OF GOVERNMENT**

The nature of a state has an effect on the types of governmental relations likely to be observed between and amongst the three spheres of government. Section 1 of the *Constitution of the Republic of South Africa, 1996* provides that the Republic of South Africa is one, sovereign and democratic state. The foregoing provision of the *Constitution of the Republic of South Africa, 1996* implies that South Africa is a unitary state. In a unitary state, the national legislative authority is sovereign and therefore can pass, repeal or amend laws that regulate the internal and external affairs of the state. Furthermore, the national legislature has the power to establish subordinate authorities, create and abolish legislative, executive and judicial institutions for the three spheres of government (Roux, Brynard, Botes and Fourie 1997: 174).

The *Constitution of the Republic of South Africa, 1996* clearly separates the legislative and executive authority. Although the legislature, which consists of the National Assembly and the National Council of Provinces, are separate from the executive (Cabinet), there is still a strong link between the two powers. The head of the executive (President) in South Africa is elected from and by members of the National Assembly. Furthermore, the President appoints most of the ministers from the National Assembly. Ministers are responsible for different portfolios such as Environmental Affairs and Tourism.

The strong parliamentary system of government in South Africa makes provision for the President to be accountable to Parliament for the performance of governmental functions. The exercise of oversight over the executive by Parliament implies that Parliament can

pass a motion of no confidence in the President and the executive. This is a control measure to ensure that the President does not exercise his powers arbitrarily.

The President plays an important role in the coordination of policy matters and oversees all portfolios hence he is held accountable in the case of the inability to solve national problems. It is for this reason that the President can reshuffle the Cabinet to improve performance of specific portfolios. The nature of the state and system of government are based on the *Constitution of the Republic of South Africa, 1996* that lays the foundation for intergovernmental relations in South Africa through chapter 3.

#### **4.3 CONSTITUTIONAL AND LEGAL FRAMEWORK FOR INTERGOVERNMENTAL RELATIONS IN RESPECT OF THE GREAT LIMPOPO TRANSFRONTIER PARK**

The South African constitutional order is founded on two inter-related concepts, mainly based on the sphere of government and cooperative government. In terms of section 40 (1) of the *Constitution of the Republic of South Africa, 1996* co-operative government means that, although each sphere is distinctive and has equal status, the spheres are interdependent within the overall structure of the state. The three spheres must, therefore, work together to ensure effective government in the whole and each of its parts. The three concepts namely, distinctive, interdependent and interrelated are central to cooperative government in South Africa hence they are further explained below.

**Distinctive.** The distinctiveness of each of the three spheres of government is the degree of legislative and executive autonomy in terms of section 43 of the *Constitution of the Republic of South Africa, 1996*. One sphere is distinguishable from the other in its powers to make laws and execute them. Each sphere, therefore, has clear and distinctive legislative and executive competencies. The allocation of competencies is based on the assumption that there are particular public interests that are best served by the respective spheres of government. The existence of unique provincial and local interest calls for

their protection and promotion not through a unitary but through a decentralized state (Department of Provincial and Local Government, 2002).

**Interdependent** The interdependence of the spheres is the degree to which one sphere depends upon another for the proper fulfilment of its constitutional functions. There are two interrelated aspects to this dependency. *Firstly*, the provincial and local spheres have an entitlement to assistance from the national and provincial governments respectively, in order for them to fulfil their constitutional functions. *Secondly*, the flip side of the entitlement is the duty on the national and provincial spheres to supervise the provincial and local spheres respectively to ensure that they fulfil their constitutional functions. This duty entails both the monitoring of the other sphere and intervening when a dependent sphere fails to fulfil its functions. The interdependence between the three spheres is thus reflected in this co-relationship in which a particular sphere (national or provincial) has the responsibility of empowerment and oversight, as well as, under certain circumstances, intervention in the dependent sphere (Department of Provincial and Local Government, 2002).

**Interrelated-** The inter-relatedness of the spheres is the duty on each sphere to co-operate with one another in mutual trust and good faith for the greater good of the country as a whole. Based on the distinctiveness of each sphere, the relationship is one of relative equality. However, because this relationship must be realized within the duty of co-operative government, the result is not competitive federalism. Consequently, a duty is imposed on each sphere to avoid litigation against another sphere (Department of Provincial and Local Government, 2002).

The three spheres of government must be understood to be component parts of a larger single body, the government of the Republic of South Africa. The preference of the word “sphere” as opposed to “tier” was premised on a deliberate attempt to ensure that all “levels” of government are accorded equal status and treatment. The *Constitution of the Republic of South Africa, 1996* deliberately refers to the term sphere as the term tier



would emphasize the existence of a hierarchical relationship between the three levels of government (Titus 2001: 18-19). Makhanya (1999: 349) concurs with the view expressed by Titus above.

Each of the three spheres of government in South Africa has legislative powers which are either exclusive or concurrent (Schedules 4 and 5 of *Constitution of the Republic of South Africa, 1996*). Internationally, it appears to be an accepted norm to divide powers between different spheres/levels of government. The *Basic Law of the Federal Republic of Germany, 2000* is one such example. Article 71 and 72 of the *Basic Law of the Federal Republic of Germany, 2000* provides for exclusive and concurrent legislative power of the Federation and the Lander. Nature conservation is in terms of article 75(Ibid) an area of Federal Framework Legislation.

In terms of schedule 4 part A of the *Constitution of the Republic of South Africa, 1996*, the management of the environment is a functional area of concurrent national and provincial legislative competence. National government is permitted in terms of sections 146 and 150 of the *Constitution of the Republic of South Africa, 1996* to intervene in order to maintain national security, economic unity, national norms and standards or to avoid prejudicial activities by any provincial government. However, national government generally maintains a co-ordinating and monitoring role and provides framework legislation as well as setting norms and standards.

Although schedule 4 of the *Constitution of the Republic of South Africa, 1996* does not explicitly allow municipalities to make laws on matters relating to environmental management, municipalities have an important role to play in environmental management. Section 152(1)(c) (d) of the *Constitution of Republic of South Africa, 1996* identifies the objects of local government as being to promote social and economic development as well as the promotion of a safe and healthy environment. A local municipality such as Mbombela in the Mpumalanga Province is situated close to the Great Limpopo Transfrontier Park and can contribute in terms of human capital. The role

of local government in the management of the Great Limpopo Transfrontier Park is further discussed in section 4.7.

Co-operative environmental governance represents a shift from narrow focus on government to a wide range of governance mechanisms, which are concerned with the growing role of associations and partnerships that reflect the dynamic and interactive nature of co-ordination. The central features of co-operative mechanisms are that they involve participants from more than one sector implying not just co-operation, but rather collaboration across broad areas. Co-operative government depends on consensus formation, thus it is through a shared experience of attempting to come to terms with a complex issue, through interaction among participants from different backgrounds, that the working-group comes to construct a common understanding of the problems to be addressed, and of the nature of potential solutions. Furthermore, co-operative government requires each partner to join in carrying out an agreed solution. It includes a framework for review of the original agreements in light of practical experience, and involves significant cross-sections of the groups and interests implicated in a particular problem (Co-operative environmental governance, Available at: [http://www.environment.gov.za/Docu.../environmental\\_implementation\\_21052003.htm](http://www.environment.gov.za/Docu.../environmental_implementation_21052003.htm) 27/10/2004)

The *National Environmental Management Act, 1998* (Act 107 of 1998) provides a framework for co-operative environmental governance. Chapter 3 of the *National Environmental Management Act, 1998* requires specific national departments and provinces to produce environmental management plans or environmental implementation plans every four years. The purpose of these plans is to assist departments in combined planning for the protection and sustainable management of the environment. This form of co-operative environmental management strives to achieve three objectives. *Firstly*, the *National Environmental Management Act, 1998* aims to improve and strengthen environmental relations among government departments. *Secondly*, the Act attempts to curtail conflict of interests on functions related to the environment amongst government

departments. *Thirdly*, the Act attempts to minimise the duplication of environmental functions of various departments (Co-operative environmental governance, Available at: [http://www.environment.gov.za/Docu.../environmental\\_implementation\\_21052003.htm](http://www.environment.gov.za/Docu.../environmental_implementation_21052003.htm) 27/10/2004).

#### **4.4 DIFFERENT FORMS OF INTERGOVERNMENTAL RELATIONS**

Before one can explain different forms of intergovernmental relations, it is important to define the concept intergovernmental relations. Thornhill, Odendaal, Malan, Mathebula, van Dijk and Mello (2002: 8) define intergovernmental relations as all the interdependent relations amongst the various spheres of government. This definition includes interactions between politicians and officials for purposes of amongst others, environmental policy-making and implementation.

Hattingh (1998: 23-24, 27, and 30) identifies various forms of intergovernmental relations, namely vertical intergovernmental relations, horizontal intergovernmental relations, intragovernmental relations, and extragovernmental relations. Vertical and horizontal intergovernmental relations are the focus of this chapter. Although intragovernmental relations are important for the effective and efficient internal administration of all public institution, it will not be discussed further as this thesis does not focus on any specific sphere of government or state department. Extragovernmental relations will, however, receive attention in the next chapter.

##### **4.4.1 Vertical intergovernmental relations**

Vertical intergovernmental relations refer to the interaction which occurs between one or more public institutions found on the three spheres of government (Hattingh 1998: 23 and Smith 2002: 61). The Department of Environmental Affairs and Tourism for instance, has to interact with its counterparts in Mpumalanga and Limpopo in order to achieve the objectives of the Great Limpopo Transfrontier Park. Although the *Constitution of the*

*Republic of South Africa, 1996* gives the impression that there is equality among the three spheres of government, in practice the national Department of Environmental Affairs and Tourism have more power than both the Limpopo and Mpumalanga provincial departments responsible for environmental affairs in matters pertaining to environmental policy although it is a functional area of national and provincial legislative competence. The state of affairs gives rise to dependence that restricts discretion enjoyed by provincial government.

#### **4.4.2 Horizontal intergovernmental relations**

Horizontal intergovernmental relations refer to relations that take place among institutions that are on the same sphere of government. The Department of Environmental Affairs and Tourism and the Department of Foreign Affairs are on the same sphere of government and have to co-operate to make the Great Limpopo Transfrontier Park a success. Most public institutions depend on the assistance rendered by other institutions in order to fulfil their mandates. This interdependence gives rise to co-operation among such institutions. According to Smith (2002: 62) these relations differ considerably from vertical intergovernmental relations as they are not characterised by the concept of formal power. Furthermore, there is no relative disparity in the respective negotiating and bargaining powers of governmental institutions on the same sphere of government. The nature of interdependence among government institutions differs according to the need that gives rise to such relations. The need for co-operation in the establishment and development of the Great Limpopo Transfrontier Park is unique hence many national departments and structures are involved.

#### **4.5 DEPARTMENTS AND INTERGOVERNMENTAL STRUCTURES FOR THE NATIONAL SPHERE**

Theron (2004, Personal Interview) states that most departments at the national sphere of government are involved to varying degrees in the Great Limpopo Transfrontier Park. In

addition to the role played by national departments, specialized intergovernmental structures are created as discussed in section 4.5.2.

#### **4.5.1 Departments Involved in the management of the Great Limpopo Transfrontier Park**

A number of state departments which include, amongst others, the departments of Environmental Affairs and Tourism, South African Police Services, South African National Defence Force, Department of Home Affairs, South African Revenue Services, Departments of Health and Agriculture, and the Department of Foreign Affairs have an important role to play in the management and development of the Great Limpopo Transfrontier Park (Department of Foreign Affairs, Transfrontier conservation Areas: History and present status, Available at: [www.dfa.gov.za/foreign/Multilateral/inter/tfcas.htm](http://www.dfa.gov.za/foreign/Multilateral/inter/tfcas.htm) 10/02/2005). Theron (2004: Personal interview) concurs with the foregoing list of Departments. The functions of each of the aforementioned departments are discussed hereunder.

##### **4.5.1.1 Department of Environmental Affairs and Tourism**

The Department of Environmental Affairs and Tourism, in collaboration with the South African National Parks, is a key role player in the establishment, development and management of the Great Limpopo Transfrontier Park. The extent of the involvement of the Department of Environmental Affairs and Tourism in the Great Limpopo Transfrontier Park is evident in the organizational structure of this Department. The organisational structure of the Department of Environmental Affairs and Tourism has a branch on Biodiversity and Conservation. This Branch is further divided into two chief directorates one of which is Transfrontier Conservation and protected areas (Department of Environmental Affairs and Tourism, About us: Biodiversity and conservation, Available at:

[www.environment.gov.za/AboutUs/BiodConserv/AboutUs\\_Bioconservasp](http://www.environment.gov.za/AboutUs/BiodConserv/AboutUs_Bioconservasp)  
4/2/2005).

The role of the Branch on Biodiversity and Conservation is to ensure the regulation and management of all biodiversity, heritage and conservation matters. Its functions are to manage the conservation of transfrontier conservation areas and protected areas. Furthermore, the Branch is responsible for the promotion and conservation of biological diversity, cultural and local natural resources and ensure the sustainable utilization of resources for the benefit of the people of South Africa (Department of Environmental Affairs and Tourism About us: Biodiversity and conservation, Available at: [www.environment.gov.za/AboutUs/BiodConserv/AboutUs\\_Bioconservasp](http://www.environment.gov.za/AboutUs/BiodConserv/AboutUs_Bioconservasp) 4/2/2005).

In addition to the role of the Branch explained in the foregoing paragraph, the Chief Directorate on Transfrontier Conservation manages the conservation of the Transfrontier Conservation Areas and protected areas that include the Great Limpopo Transfrontier Park. The function of the Chief Directorate is to ensure effective establishment of the Transfrontier Conservation Areas in each of the areas identified by government and co-ordinate the activities of all relevant government departments with the implementation agency. Other important functions are to ensure effective consolidation, establishment and management of protected areas in each of the main bio-regional areas (Department of Environmental Affairs and Tourism About us: Biodiversity and conservation, Available at: [www.environment.gov.za/AboutUs/BiodConserv/AboutUs\\_Bioconservasp](http://www.environment.gov.za/AboutUs/BiodConserv/AboutUs_Bioconservasp) 4/2/2005)

#### 4.5.1.2 The South African Police Service

Section 205(3) of the *Constitution of the Republic of South Africa, 1996* states that the objectives of the Police Service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic of South Africa and their property and uphold and enforce the law. The National Border Policing component was established in 1995 within the division National Safety Services of the South African Police Services. The component is further divided into four sub-components: land and border posts, sea/coastal, airports, and internal tracing units (Minnaar, Boarder control and regionalism, available at: <http://www.iss.co.za/Pubs/ARS/10No2/Minnaar.html> 17/01/2005).

The South African Police Service is responsible for the control of border entry and crossing points (Minnaar, Boarder control and regionalism, available at: <http://www.iss.co.za/Pubs/ARS/10No2/Minnaar.html> 17/01/2005). The main purpose of Border Police is to prevent, detect and enforce law applicable to crossborder and illegal movement of people and goods. Border Police further perform *ad hoc* functions pertaining to immigration control, customs and excise on an agency basis on behalf of the Department of Home Affairs (Immigration) and South African Revenue Services (Customs and Excise) (Hennop, Jefferson, and McLean 2001: Available at: <http://www.iss.co.za/Pubs/Monographs/No57/Chap2.html> 18/01/2005).

The Department of Environmental Affairs and Tourism has to consult with the South African Police Service whenever a decision is made on the cutting of the fence between Mozambique and South Africa. The main purpose of this consultation is to determine the risk and the extent (Km) to which the fence can be cut (Department of Environmental Affairs and Tourism, 2005: Personal interview)

#### **4.5.1.3 South African National Defence Force**

In terms of section 200 (2) of the *Constitution of the Republic of South Africa, 1996*, the primary object of the South African Defence Force is to defend and protect the Republic of South Africa, its territorial integrity and its people in accordance with the aforementioned *Constitution of the Republic of South Africa, 1996* and the principles of international law regulating the use of force. The South African Defence Force is responsible for protecting the security of the country and the integrity of the borderline by providing and applying forces for land, air and maritime border protection against non-military threats (Government Communication and Information Service, South Africa Year Book 2003/4: 499 and Minnaar, Boarder control and regionalism, available at: <http://www.iss.co.za/Pubs/ARS/10No2/Minnaar.html> 17/01/2005).

Apart from the functions of the SANDF outlined above, the Department of Defence plays an important role in intergovernmental relations. The Department of Defence belongs to three Government clusters, namely the Justice, Crime Prevention and Security (JCPS), the International Relations, Peace and Security (IRPS) cluster, and the Governance and Administration (G&A) (Department of Defence 2004:3).

#### **4.5.1.4 Department of Home Affairs**

The Department of Home Affairs is responsible for *inter alia* the implementation of the *Aliens Control Act, 1991* (Act 96 of 1991). The Department of Home Affairs also designates ports of entry such as the Giriyondo Border post which was recently established between South Africa and Mozambique as Part of the Great Limpopo Transfrontier Park project. Furthermore, the Department of Home Affairs provides for the control of the admission of persons to their residences in, and their departure from South Africa and matters connected therewith (Operational working team on border control).



#### **4.5.1.5 South African Revenue Services**

The South African Revenue Services is responsible for *inter alia* the regulation of customs and of the *Customs and Excise Act, 1964 (Act 91 of 1964)*. The regulations of *Customs and Excise Act, 1964* include the responsibility to collect duties on imported and locally manufactured goods, control the export and import of goods, implementation of the tariff protection policy of South Africa, application of customs and excise directives, and to administer Value Added Tax on the importation/exportation of goods (Operational working team on border control).

#### **4.5.1.6 Departments of Health and of Agriculture**

The imposition of quarantine measures on perishables and livestock is the joint responsibility of the Departments of Health and of Agriculture (Hennop, Jefferson, McLean 2001: Available at: <http://www.iss.co.za/Pubs/Monographs/No57/Chap2.html> 18/01/2005). The departments of Health and of Agriculture should be seen as partners in the prevention and control of veterinary diseases such as Food and Mouth disease which may have fatal consequences for wildlife in the Great Limpopo Transfrontier Park.

#### **4.5.1.7 Department of Foreign Affairs**

The Department of Foreign Affairs protects and promotes South African national interests and values through bilateral and multilateral interactions. The Department conducts and co-ordinates South Africa's international relations and promotes foreign policy objectives relating to, amongst others, cross border conservation areas such as the Great Limpopo Transfrontier Park. The Department of Foreign Affairs also monitors international developments and advises government on foreign policy and related

domestic matters, protects South Africa's integrity, provides consular services to South African citizens abroad and promote multilateralism to secure a rule based international system (Department of Foreign Affairs, About the Department, Available at: <http://www.dfa.gov.za/departement/index.html> 10/02/2005).

#### **4.5.2 INTERGOVERNMENTAL RELATIONS STRUCTURES FOR THE GREAT LIMPOPO TRANSFRONTIER PARK**

Intergovernmental relations structures in South Africa are either statutory or non-statutory. Although the status of different intergovernmental relations structures in South Africa may differ, they are all established within the framework of the *Constitution of the Republic of South Africa, 1996* and, therefore, fulfil the same objectives. Intergovernmental structures which were informally established prior to 2005 were subsequently formalized by the promulgation of the *Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)*. The structures include the President's Coordinating Council, National intergovernmental forums, provincial intergovernmental forums and municipal intergovernmental forums.

##### **4.5.2.1 National Council of Provinces**

As already alluded to, in terms of section 42(1) of the *Constitution of the Republic of South Africa, 1996*, Parliament consists of two houses, namely, the National Assembly and the National Council of Provinces. The National Council of Provinces consists of ten delegates including the Premier from each of the nine provinces. To ensure that there is fair representation in Parliament, section 67 of the *Constitution of the Republic of South Africa, 1996* makes provision for the participation of not more than ten part-time local government representatives designated by organised local government to represent the different categories of local government in South Africa. The participation of the ten part-time local government representatives has limitations as they are not allowed to vote although they participate when local government issues are discussed.

The National Council of Provinces can initiate or prepare legislation on a functional area as mentioned in schedule 4 of the *Constitution of the Republic of South Africa, 1996*. Reddy (2001:33) argues that the National Council of Provinces has some limitations in performing its duties. Firstly, the National Council of Provinces does not challenge the policy assumptions of the national ministries and does not allow the expression of distinctive regional interests. Although the foregoing and many other criticisms can be levelled against the National Council of Provinces, it provides a valuable platform for intergovernmental relations between the three spheres of government in South Africa.

#### **4.5.2.2 President's Coordinating Council**

The President's Coordinating Council was established prior to the promulgation of the *Intergovernmental Relations Framework Act, 2005* and continues to exist in terms of section 6 of the same Act. At its establishment, the President's Coordinating Council consists of the President, as chairperson, deputy chairperson, nine premiers and the Minister for Provincial and Local Government (Thornhill, *et al* 2002: 116 and Mubangizi: 2005: 637).

In addition to the abovementioned members, section 6 of the *Intergovernmental Framework Act, 2005* makes provision for the inclusion of the Minister in the Presidency, Minister of Finance, Minister of Public Service and Administration and a representative of organised local government. Furthermore, section 6(3) empowers the President to invite any person who is not a member of the Council. Mubangizi (2005: 637) adds that the President can sometimes invite national and provincial directors-general to discuss high-level issues relating to integrated development, improving service delivery and strengthening institutions of government for the country as a whole. The invitation of directors-general is important for coordination and implementation of decisions taken by the President's Coordinating Council.

The President's Coordinating Council has a responsibility to promote intergovernmental co-operation and interaction so that integrated governance can be enhanced. The President's Coordinating Council boosts the constitutional principle of co-operative government by providing direct interaction between the executive authorities of the national and provincial governmental spheres. The President's Coordinating Council, therefore, presents an opportunity of being a consultative forum to ensure co-ordinated and integrated implementation of policies and programmes of government. It, therefore, plays a role in curbing the possible fragmentation of governance.

The functions of the President's Coordinating Council are, amongst others, to develop provincial policies, preparation and initiation of legislation for provinces, implementation of legislation within the framework of schedules 4 and 5 of the *Constitution of the Republic of South Africa, 1996*, promotion of local government development and prevention of possible intervention in local government in terms of section 139 of the *Constitution of the Republic of South Africa, 1996*; developing of rural strategies; and the overseeing the planning process to integrate planning in the three spheres of government in South Africa (Cloete and Thornhill 2005: 64).

The involvement of the highest public office in the Republic of South Africa is indicative of the level of commitment of the executive to intergovernmental relations and its importance. The parliamentary system of government described in section 4.2 plays an important role in the establishment of the President's Coordinating Council. This system of government ensures that the President can, amongst others, be held accountable for the implementation of the provisions of Chapter 3 of the *Constitution of the Republic of South Africa, 1996* and a number of other policies that include environmental management.

#### 4.5.2.3 Forum of South African Directors-General

The Forum of South African Directors-General is an intergovernmental structure which consists of heads of departments. Membership of the Forum for South African Directors-General is confined to national directors-general and the directors-general responsible for the province's Premier's offices in South Africa. The Forum for South African Directors-General is chaired by the national Director-General in the Presidency. While the co-ordination and implementation of national policy is its foremost activity, the Forum provides a regular opportunity for Directors-General to share experiences around policy and implementation, exchange ideas and assist each other in the professional development and management of their departments. Formally, its role in intergovernmental relations includes fostering a dynamic interface between the political structures and the administration at the national and provincial spheres, improving horizontal and vertical co-ordination of national policies and sharing information on best practices in public management (Department of Provincial Affairs and Local Government, 2002: The intergovernmental system in South Africa, available at: <http://www.dplg.gov.za/research/cdp2002-37.rtf> 25/01/2005).

According to Thornhill *et al.* (2002:114), other functions performed by the Forum for South African Directors-General include the following:

- giving technical and administrative support to the President Coordinating Council,
- acting as a technical advisor to Cabinet Committees,
- preparing of reports for Cabinet Lekgotla (Strategic planning session), and
- considering crosscutting issues such rural and economic development strategies.

The wide-ranging brief of the Forum of the South African Directors-General – especially its reference to support and to facilitate the promotion of co-operative governance, makes

it an important instrument to co-ordinate policy and to ensure that the vision of the government of the day is achieved (Levy, 2001:108). The involvement of most national departments in the Great Limpopo Transfrontier Park makes the Forum for South African Directors-General, by virtue of its composition, a significant structure to co-ordinate efforts in the Great Limpopo Transfrontier Park.

#### **4.5.2.4 Minister and Members of Executive Council**

All Committees of Ministers and Members of Executive Council (MINMECs) continue to exist and are formalised in terms of section 9 of the *Intergovernmental Relations Framework Act, 2005*. A MINMEC comprises the minister, deputy minister, members of the Executive Council responsible for the relevant functional areas and a municipal councillor designated by the national organisation representing organised local government if a functional area for which the MINMEC is established includes a matter assigned to local government in terms of Part B of schedule 4 or part B of Schedule 5 of the *Constitution of the Republic of South Africa, 1996* or any national legislation. The Minister is the chairperson and has the right to invite a knowledgeable person to the meeting of the MINMEC. To facilitate better co-ordination, representatives of the South African Local Government Association need to be represented on MINMECS.

According to Cloete and Thornhill (2005: 64) Ministers and Members of Executive Council (MINMECs) are established for functional areas of concurrent national and provincial legislative competence as outlined in schedule 4 of the *Constitution of the Republic of South Africa 1996*. The main functions of MINMECs are to provide advice on policy issues; identify problems and potential problems in policy formulation, co-ordination and implementation; comment on proposed national and provincial policies and legislation regarding concurrent competencies; and determine short-term and long-term priorities regarding matters of concurrent competencies (Cloete and Thornhill 2005: 64-65).

The interface between the different sectoral role-players within the MINMECs make them important instruments for intergovernmental co-operation and co-ordination. MINMECs allow provinces such as Limpopo and Mpumalanga to explain the peculiarities of their institutions to each other and provide them with an opportunity to interact with the national Minister of Environmental Affairs and Tourism. MINMECs that are responsible for coordinating environmental affairs and conservation are discussed hereunder.

The Department of Environmental Affairs and Tourism (Environment MINMEC) consists of the Minister of Environmental Affairs and Tourism who also acts as the Chairperson. Furthermore, other members of the Committee are the Deputy Minister and members of the executive councils for tourism and economic affairs from the nine provinces. The functions of the Committee are to provide political leadership, guidance and decision-making on all aspects related to environmental management. Its areas of operation are the national and provincial spheres (Thornhill, Odendaal, Malan, Mathebula, Van Dijk and Mello 2002: 120).

The Environment MIPTECH is composed of the Director-General of the Department of Environmental Affairs and Tourism (Chairperson), officials from national and provincial environment departments. The MIPTECH is further divided into three working groups, namely Biodiversity and Heritage, Environmental Management as well as Environmental Planning and Co-ordination. The function of the MIPTECH and its working groups is to provide technical input to Environmental Affairs and Tourism MINMEC in respect of all aspects related to the environment (Thornhill, Odendaal, Malan, Mathebula, Van Dijk and Mello 2002: 120)

Section 12 of the *Intergovernmental Relations Framework Act, 2005* provides that a MINMEC must report back to the President's Coordinating Council on any matter referred to it by the Council. Similarly, the Minister of Environmental Affairs can, in consultation with the President, refer any matter discussed in the MINMEC to the

President's Coordinating Council. The referral of the President's Coordinating Council and MINMECS such as the Environment MINMEC ensure that specific issues relating environment and others functional areas are dealt with by appropriate structures with the necessary authority and knowledge.

#### **4.5.2.5 Committee for Environmental Coordination**

The Committee for Environmental Coordination is established in terms of section 7 of the *National Environmental Management Act*, 1998. The Committee for Environmental Coordination evaluates environmental implementation plans and environmental management plans. This Committee comprises directors-general of relevant national departments and provincial heads of department responsible for environment and related functional areas. The Committee is a major co-ordinating mechanism for environmental management at national sphere and the assignment, delegation and harmonization of environmental implementation plans/environmental management plans is one of its functions. Through the collective review of environmental implementation plans and environmental management plans, issues of co-operation and integration are addressed (Co-operative environmental governance, Available at: [http://www.environment.gov.za/Docu.../environmental\\_implementation\\_21052003.htm](http://www.environment.gov.za/Docu.../environmental_implementation_21052003.htm) 27/10/2004).

In terms of the *National Environmental Management Act*, 1998, environmental management plans and environmental implementation plans are aimed at achieving a number of objectives. *Firstly*, environmental management plans and environmental implementation plans co-ordinate and harmonise the environmental policies, plans, programmes, and decisions of the various national departments that exercise functions that may affect the environment or are entrusted with powers and duties aimed at the achievement, promotion, and protection of sustainable environment, and of provincial and local spheres of government with a view to minimise duplication of procedures and functions as well as the promotion of consistency in the exercise of functions that may



affect the environment; *Secondly*, they give effect to the principle of co-operative government contained in the *Constitution of the Republic of South Africa, 1996*; *Thirdly*, environmental management and implementation plans secure the protection of the environment within South Africa; *Fourthly*, these plans prevent unreasonable actions by provinces in respect of the environment that are prejudicial to the economic or health interests of other provinces or the Country as a whole; and lastly they enable the Minister for Environmental Affairs and Tourism to monitor the achievement, promotion and protection of a sustainable environment.

#### **4.5.2.6 South African National Biodiversity Institute**

The South African National Biodiversity Institute was established on 1 September 2004 (Department of Environmental Affairs and Tourism Annual Report 2005/2006, 2006: 36). The South African National Biodiversity Institute is established in terms of section 10 of the *National Environmental Management: Biodiversity Act, 2004*. The *National Environmental Management: Biodiversity Act, 2004* expands the mandate of the National Botanical Institute to include responsibilities relating to the full diversity of South Africa's fauna and flora.

The South African National Biodiversity Institute has a Board which consists of members who are between seven and nine, an official of another department and the Chief Executive Officer. Members of the Board are appointed by the Minister of Environmental Affairs and Tourism after advertisement and nominations are made in consultation with the members of executive councils responsible for environmental affairs in the nine provinces. The Board must be representative in terms of race, gender and must cover a broad range of appropriate expertise in the field of biodiversity. One member of the Board is appointed as a Chairperson by the Minister of Environmental Affairs and Tourism. The term of office of members of the Board is three years with an option of reappointment for one additional term of three years.

The Board, in consultation with the Minister of Environmental Affairs and Tourism appoints the Chief Executive Officer for a term of five years. The chief executive officer may be appointed for an additional term. The Chief Executive Officer is responsible for the management of the Institute. Section 29 of the *National Environmental Management: Biodiversity Act, 2004* makes provision for the Institute to employ staff on a fixed establishment to assist the Chief executive officer in the execution of duties provided for in terms of the aforementioned Act.

The South African National Biodiversity Institute is a public entity and, therefore, manages its finances in accordance with the *Public Finance Management Act, 1999*. The funds of the Institute are derived from the performance of its duties, appropriations by parliament, grants from other organs of state, voluntary contributions, donations and bequests, and money borrowed.

Section 11 of the *National Environmental Management: Biodiversity Act, 2004* prescribes the functions of the South African National Biodiversity Institute. The functions of the National Biodiversity Institute include, amongst others, are to:

- monitor and report regularly to the Minister of Environmental Affairs and Tourism on status of the Republic's biodiversity,
- act as an advisory and consultative body on matters relating to biodiversity to organs of state and other biodiversity stakeholders,
- environmental education and research,
- establish, maintain, protect and preserve collections of animals and micro organisms in appropriate enclosures,
- collect, generate, process, coordinate and disseminate information about biodiversity and sustainable use of indigenous biological resources and establish and maintain databases,

- coordinate and implement programmes for rehabilitation of ecosystems, and involvement of civil society,
- prevent, control or eradication of invasive species,
- any other functions which may be assigned to it by the Minister.

The South African National Biodiversity Institute has successfully launched the R75million *Greening the Nation* project, which targets both urban and rural schools and community centres (Department of Environmental Affairs and Tourism Annual Report 2005/2006, 2006: 36).

#### **4.5.2.7 Border Control Coordinating Committee**

The Border Control Coordinating Committee is a sub-committee of the Justice, Crime Prevention, Safety and Security Cluster of the Cabinet (BCOCC, available at:[http://www.home-affairs.gov.za/media\\_releases](http://www.home-affairs.gov.za/media_releases). 15/11/2006). According to Pienaar (2006 Personal Interview) the SANDF and SAPS are part of Border Control Coordinating Committee which is responsible for the cross border movement of people, goods and services. The Border Control and Coordinating Committee play a significant role in the development of new border posts and dropping of fences between South Africa and Mozambique.

#### **4.5.2.8 National Interdepartmental Structure**

The National Interdepartmental Structure is an offspring of a meeting held on 5 May 1997 between the head of border police, the head of immigration of the Department of Home Affairs and the Head of Customs and Excise of the South African Revenue Services. The aim of the National Interdepartmental Structure is to ensure that border control is a co-operative venture between functionally independent units located in different government departments. The National Interdepartmental Structure has resulted in the implementation of a management system that has dramatically improved

communication and co-operation among the various departments involved, created a uniform processing system for ports of entry and exit, and reclassified all ports of entry and much more. It has also linked the South African Police Services Vehicle Circulation System and the Department of Transport's National Traffic Information System to the departmental computer networks (Minnaar, Border control and regionalism, available at: <http://www.iss.co.za/Pubs/ARS/10No2/Minnaar.html> 17/01/2005).

The linking of different departmental computer networks ensures that the Giryondo border (Which was opened between South Africa and Mozambique in the Great Limpopo Transfrontier Park) is not used for illegal activities such as exporting of stolen vehicles and counterfeit goods under the guise of tourism. The aim and functions of National Interdepartmental Structure are to co-ordinate and advise on operational functions in relation to border control. The National Interdepartmental Structure develops recommendations regarding joint operational policy, standards, procedures and future strategic planning. These recommendations include contingency planning. The National Interdepartmental Structure monitors implementation and execution of its recommendations. The National Interdepartmental Structure evaluates the effectiveness of joint operational services of ports of entry. This function includes physical inspections by a task team and reports with findings and recommendations. Furthermore, the National Interdepartmental Structure facilitates inter-departmental communication at all spheres of government.

In addition to the foregoing powers and functions, the National Interdepartmental Structure performs functions which have a bearing on human resources. It facilitates and coordinates joint training requirements for border control. It also provides orientation and ports of entry management training. Optimising all available resources for border control is another essential function performed by the National Interdepartmental Structure. It establishes and maintains joint management structures on regional and ports of entry levels, develops the criteria

for designation and status of all ports of entry (land, sea and air), co-ordinates present and future border control task teams at national sphere; promotes and coordinates joint ventures with other role players and stakeholders such as business and international agencies to add value to projects relating to border control; and maintains and manage a national information centre. (Operational working team on border control, Border control: collective approach implementation plan).

#### **4.5.2.9 National Advisory Forum**

The National Advisory Forum is a statutory intergovernmental structure established in terms of section 3 of the *National Environment Management Act, 1998 (Act 27 of 1998)*. The National Advisory Forum consists of between 12 and 15 members appointed by the Minister of Environmental Affairs and Tourism. In the appointment of members of the Board, the Minister has to consider the need to appoint women, youth, persons disadvantaged by unfair discrimination, vulnerable and other disadvantaged persons. Before the appointment of the aforementioned persons, the Minister of Environmental Affairs and Tourism must invite nominations of organised labour, organised business, non-governmental organisations and community based organisations by a notice in the Government Gazette and newspapers.

The National Advisory Board advises the Minister of Environmental Affairs and Tourism on environmental issues. The Board also participates in meetings relating to international environmental matters. The composition of the Board indicates that its primary purpose is to stimulate participation by various stakeholders in the community regarding the management of the environment.

#### **4.5.2.10 Immigration Advisory Board**

The Immigration Advisory Board is chaired by a designee of the Minister of Home Affairs. The Board further consists of one representative of each of the departments of Trade and Industry, Labour, Environmental Affairs and Tourism, Finance, Safety and Security, South African Revenue Services, Department of Education, Department of Foreign Affairs, and the Department of Defence. In addition to the representatives of the foregoing Departments, membership of the Board include the Director-General of the Department of Home Affairs, up to five persons from civil society, including one representing organized labour and one representing organized business appointed by the Minister of Home Affairs after a notice has been given in the Government Gazette soliciting public nominations of the aforementioned persons. The Minister of Home Affairs appoints up to four individuals on the grounds of the expertise in administration, regulatory matters or immigration law, control, adjudication or enforcement (Department of Home Affairs, Provisions in law relating the powers and functions of the Immigration Advisory Board: Available at: [www.home-affairs.gov.za](http://www.home-affairs.gov.za) 24/01/2005).

The Immigration Advisory Board advises the Minister of Home Affairs on a variety of issues including the contents of regulations made in terms of the *Immigration Act*, 2002 (Act 13 of 2002) formulation of policy pertaining to immigration matters, the implementation of immigration policy by the Department of Home Affairs, the reviewing of a decision of the Department of Home Affairs in terms section 8 and when requested by the Minister of Home Affairs; and on other matters on which the Minister of Home Affairs may request advice on (Department of Home Affairs, Provisions in law relating to the powers and functions of the Immigration Advisory Board: Available at: [www.home-affairs.gov.za](http://www.home-affairs.gov.za) 24/01/2005).

Due to the size of the Immigration Advisory Board, provision is made for the Board to appoint standing committees from its members to assist in the performance of its functions. These standing committees report to the Board on matters that include amongst

others, border control and administration of ports of entry; investigation and enforcement, international relations; security and liaison with law enforcement agencies (Department of Home Affairs, Provisions in law relating the powers and functions of the Immigration Advisory Board: Available at: [www.home-affairs.gov.za](http://www.home-affairs.gov.za) 24/01/2005).

A careful analysis of the functions performed by the Border Control Coordinating Committee, National Interdepartmental Structure and the Immigration Advisory Board indicates some similarities in the functions that they perform. These similarities require careful coordination in order to avoid duplication of functions.

#### **4.6 PROVINCIAL GOVERNMENT**

South Africa is made up of nine provinces. Each of these provinces has the legislative and executive powers within the concurrent functions listed in schedule 4 and executive functions assigned exclusively in schedule 5 of the *Constitution of the Republic of South Africa, 1996*. Environment is classified under schedule 5 of the *Constitution of the Republic of South Africa, 1996*. Provincial powers that include amongst others, making policies pertaining to the environment are subject to the national overrides. Furthermore, provinces are responsible for overseeing and supporting municipalities and can intervene whenever municipalities are unable to meet their obligations (section 139 of the *Constitution of the Republic of South Africa, 1996*). Provincial intergovernmental relations structures in Limpopo and Mpumalanga are discussed below.

##### **4.6.1 Directorate: Intergovernmental Relations and Protocol Services**

The Directorate: Intergovernmental Relations and Protocol Services is a statutory intergovernmental structure. It co-ordinates, promotes and maintains good relations with the national government departments, the provincial government and other countries worldwide. It co-ordinates and renders protocol services during provincial functions and accompany MEC, Ministers, Premier, Presidency and other Very Important Persons

(VIPs) to all functions inside and outside the Republic of South Africa. The Directorate: Intergovernmental Relations and Protocol Services further promotes the ceremonial system of rules and accepted behaviour by government officials and members of the community in line with universally accepted standards (Thornhill, Odendaal, Malan, Mathebula, van Dijk and Mello 2002: 138).

In addition to all the aforementioned general functions, the Directorate: Intergovernmental Relations and Protocol Services performs specific intergovernmental functions. *Firstly*, the Directorate: Intergovernmental Relations and Protocol Services initiates new ties with other provinces for the good of the people of the province. *Secondly*, it forges new ties with developed and developing countries. *Thirdly*, the directorate coordinates intergovernmental relations in the province (Thornhill, Odendaal, Malan, Mathebula, van Dijk and Mello 2002: 138). The Directorate: Intergovernmental Relations and Protocol Services is a suitable institution for the coordination of efforts aimed at the improvement of the Great Limpopo Transfrontier Park and the involvement of the Limpopo and Mpumalanga provinces as the Park falls within their area of jurisdiction.

#### **4.6.2 Mpumalanga Province Cluster Committees**

The Mpumalanga Province Cluster Committees are non-statutory coordinating structures established at Executive Council level. There are three cluster committees in Mpumalanga, namely governance and administration, Economic, Employment and Investment; and social services. The Governance and Administration cluster is chaired by the Premier of the Province. Its membership consists of MECs for Housing, Land Affairs, and Local Government, Safety and Security and the 7 executive mayors of local municipalities in the province. The Economic, Employment and Investment cluster is chaired by the MEC for Finance, Economic Affairs and Tourism (Thornhill, Odendaal, Malan, van Dijk 2002: 72).



The main aim of the clusters is to bring about coherence and consistency and to clarify lines of communication between the local government and provincial sphere of government. Furthermore, the clusters' objectives are to enhance and promote co-operative governance; create a platform for co-ordination of activities of the Mpumalanga provincial government and its municipalities; to review and make recommendations on local government legislation to ensure that such legislation conforms with the democratic system of governance; and to discuss MINMEC issues (Thornhill, Odendaal, Malan, van Dijk 2002: 73). The Economic Cluster Committee mentioned above should be involved by the Great Limpopo Transfrontier Park management in promoting tourism for both the Province and the Park.

#### **4.6.3 Mpumalanga Intergovernmental Relations Forum**

The Mpumalanga Intergovernmental Relations Forum is a non statutory co-ordinating structure which operates at provincial and local sphere of government. The Forum consists of the Premier or MEC for Local Government and Traffic (who also acts as a chairperson in the absence of the Premier), Deputy Chairperson, the Head of Department of Local Government and Traffic, all mayors and municipal managers; Chairperson and Secretary and CEO of LOGAM; Chairperson for the Portfolio Committee on Local government, all MECs and heads of department including the Director-General of the Premier's Office (Thornhill, Odendaal, Malan, van Dijk 2002: 73).

The Mpumalanga Intergovernmental Relations Forum acts as a policy recommending structure. The Mpumalanga Intergovernmental Relations Forum should be given an opportunity to make an input regarding policies and the management of the Great Limpopo Transfrontier Park. It monitors the activities of municipalities in relation to agreed national and provincial policies. It reviews and makes recommendations on the financial status of municipalities. The Forum meets twice per annum on condition that various cluster groups and functional committee meetings take place between such plenary meetings (Thornhill, Odendaal, Malan, van Dijk 2002: 73).

#### 4.7 LOCAL GOVERNMENT

Local government in South Africa is the third sphere of government. Municipalities are a division of local government that lay one sphere down from the provincial government (Municipalities of South Africa, available at: [http://en.wikipedia.org/wiki/municipalities\\_of\\_south\\_africa](http://en.wikipedia.org/wiki/municipalities_of_south_africa). 11/05/2006). There are 284 municipalities in South Africa (local government, available at: [http://www.southafrica.info/ess\\_info/sa\\_glance/government/gov.htm](http://www.southafrica.info/ess_info/sa_glance/government/gov.htm). 11/05/2006).

Municipalities are established in terms of section 155 of the *Constitution of the Republic of South Africa, 1996* as the third sphere of government in South Africa. Section 151(1) of the *Constitution of the Republic of South Africa, 1996* establishes category A, B and C municipalities. Category A municipality has executive and legislative authority in its area. Category B municipality shares municipal executive and legislative authority in its area with category C municipality within whose area it falls. Category C municipality has municipal executive and legislative authority in an area that includes more than one municipality.

According to Cloete and Thornhill (2005:46), there are six category A Municipalities, 231 category B municipalities and 47 category C municipalities. Only category B and C are relevant for this study. District and local councils are interdependent and involve a division of powers. A district council has municipal executive and legislative authority over a large area, its primary responsibility is district-wide planning and capacity building. Within a district council's area are individual local councils which share their municipal authority with the district council under which they fall.

In addition to the three categories provided for by the *Constitution of the Republic of South Africa, 1996*, there is a fourth "category". This category is known as the district management areas. Although the *Constitution of the Republic of South Africa, 1996* does not expressly provide for the establishment of district management areas the Minister of

Provincial and Local Government can establish a management area in specified areas. The Kruger National Park is not attached to any local municipality. The Kruger National Park is, therefore, classified and demarcated as a district management area.

Section 6 of the Municipal Structures Act, 1998 stipulates that areas that cannot be demarcated as metropolitan municipalities can be declared as district or local municipalities. However, in areas where the establishment of a local municipality is not possible such areas are district management areas. The Minister of Provincial and Local Government makes declarations on the recommendation of the Municipal Demarcation Board after consulting the member(s) of executive council for local government in the provinces concerned. In the case of the Kruger National Park, the Limpopo and Mpumalanga members of executive councils for local government are consulted.

The Kruger National Park was declared as a management area in terms of notice 421 published in Government Gazette 21617 of 29 September 2000. A district management area is an area within a district municipality which is not part of a local municipality and is governed and managed directly by the district municipality under whose jurisdiction it falls. A district municipality assumes all the local government functions and becomes responsible for basic service provision. The service provision includes among others, the provision of water, electricity, solid waste disposal, health and firefighting. The district municipality co-ordinates development and service delivery in district management area settlements. The Kruger National Park is a designated piece of land that has a high diversity and environmental value which requires protection and conservation

According to the HSRC (2005: 11), there are 25 district management areas in South Africa. These management areas can be categorised into three types of district municipalities, namely:

- the deserts and semi-arid areas;
- state protected and conservation areas; and
- special economic areas such as world heritage sites.

The second type of district management area is relevant for the study. In state protected and conservation areas, the SANParks takes over overall management. District management areas are located in areas where the establishment of a local municipality would not be viable. These areas such as state owned national parks and protected areas and desert regions where low population over an extended area would make fulfilling the objectives of local government difficult. Since district municipalities do not belong to a local municipality, should the declaration of a district management area be withdrawn, either a local municipality must be established for that area or it must be incorporated into an existing local municipality. The latter option is more probable as the Municipal Demarcation Board is unlikely to establish new municipalities with little or no viable economic base. The purpose of the district municipalities taking over the responsibility is to ensure development and basic service delivery in sparsely populated areas, particularly for disadvantaged communities.

Section 151 further states that the local sphere of government consists of municipalities that are established for the whole of the Republic. This provision of the *Constitution of the Republic of South Africa, 1996* implies that the Kruger National Park which is part of the Great Limpopo Transfrontier Park falls within a specific municipal area. According to Pienaar (2006, Personal Interview), the Kruger National Park is located in two district municipalities. The northern part of the Kruger National Park, from the Olifant River up to Pafuri falls within the Mopani District Municipality. The southern part of the Kruger National Park, which borders on the Olifant River falls within the Ehlanzeni District Municipality. The involvement of the two district municipalities is crucial for the success of the Great Limpopo Transfrontier Park.

The inclusion of the Kruger National Park within the area of jurisdiction of a number of municipalities suggests that such municipalities have to be involved or at least be consulted in the management and development of the Great Limpopo Transfrontier Park. The Department of Environmental Affairs and Tourism (2005: Personal interview)

confirms that municipalities are involved whenever the Department implements projects such as poverty alleviation.

Although the Kruger National Park falls within the area of jurisdiction of the Mopani and Ehlanzeni district municipalities, it is a national entity which is controlled by national government. It follows, therefore, that the aforementioned municipalities do not have limited power over the Kruger National Park. The management of the Kruger National Park performs its duties independently from the two municipalities. However, to avoid inconsistent land use planning, councillors of both municipalities are represented on park forums. The power that the municipality has over the Kruger National Park is confined to rates and taxes that the Kruger National Park has to pay to the respective municipalities.

#### **4.8 CONCLUSION**

The nature and system of government that is guided by the constitutional framework lays the foundation for intergovernmental relations in South Africa. Two forms of intergovernmental relations in South Africa, namely, vertical intergovernmental relations and horizontal intergovernmental relations feature prominently in the establishment and management of the Great Limpopo Transfrontier Park. Although most national state departments are involved in the development and management of the Great Limpopo Transfrontier Park, only those departments that seem to play a prominent role have been discussed. Other departments are being consulted whenever the development and management of the Great Limpopo Transfrontier Park a service that resorts within their functional area of jurisdiction. The development of transfrontier parks in South Africa and SADC is of recent origin hence adaptation in management and approaches can be expected in the further development of the Great Limpopo Transfrontier Park. Further development of transfrontier parks will require unique intergovernmental relations between the three spheres of government, amongst departments on each sphere of government and more specialised coordinating structures.