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PC Sport & Recreation
13 October 2006

**The Chairperson
Portfolio Committee for Sport and Recreation**

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SUBMISSIONS MADE BY THE EXECUTIVE BOARD OF THE SOUTH AFRICAN SPORTS CONFEDERATION AND OLYMPIC COMMITTEE ("SASCOC") TO THE PARLIAMENTARY PORTFOLIO COMMITTEE ON SPORT AND RECREATION REGARDING THE NATIONAL SPORT AND RECREATION AMENDMENT BILL (the "BILL")

1. INTRODUCTION

- 1.1 The MTT Report, commissioned by the former Minister of Sport and Recreation, Minister Ngconde Balfour, recommended the establishment of a single Macro Sport body in South Africa. NOCSA, SAGCA, and most functions of the S A Sports Commission, are now fully integrated into SASCOC. The integration of DISSA and SASSU is agreed and in progress.
- 1.2 SASCOC was registered as a section 21 company with the intent to ensure that it was subject not only to its own Constitution, but also the Companies Act, and therefore adhering to the best possible legal accountability standards.
- 1.3 The Membership of SASCOC is constituted by all National Federations and Associate Members that manage and control all competitive sport in the country. SASCOC now has 68 members.
- 1.4 The Board of SASCOC is elected by the General Assembly, every quadrenium and is fully accountable to the General Assembly.
- 1.5 The Constitution or Memorandum of Association adopted by the General Assembly provides that SASCOC can intervene in the administration of its members in circumstances that may bring sport into disrepute. The provisions of the Bill in this regard enhance what is already contemplated in our own Governance Statutes.
- 1.6 SASCOC has also appointed a Governance Commission headed by Prof Michael Katz to produce a Governance Charter for Sport that will be presented to our Presidents' Council next year for debate and adoption. The Charter will look at the Governance Ethics for Sport and Dispute Resolution mechanisms within sport.



SOUTH AFRICAN SPORTS CONFEDERATION AND OLYMPIC COMMITTEE

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Registration number: 2004/033949/08

- 1.7 In our assessment at least three major issues impact negatively on sport in our country i.e. Transformation, Resources and Governance. Our past two Presidents Councils deliberated on the first two issues which lead to the adoption of our two strategic documents, VISION 2014 DOCUMENT and THE NATIONAL ACADEMY PLAN DOCUMENT. The next President's Council in 2007 will focus on the important issue of Governance in Sport.
- 1.8 The Amendment Bill debate is therefore timely from the perspective of the SASCOC Board; because this rigorous portfolio committee dialogue will help accelerate the attainment of consensus within the sports movement with regard to the nature of the macro sport dispensation that is appropriate for our country, and the Regulatory environment that must govern it.
- 1.9 Overall, subject to the acceptance of our proposals contained below, we welcome the intent and spirit of the Bill.

2. GENERAL PRINCIPLES UNDERLYING THE SASCOC BOARD SPECIFIC SUBMISSION CONTAINED IN CLAUSE 3 BELOW

- 2.1 High performance sport should be expanded to include all competitive sport. Competitive sport should be defined in the Bill to mean "all sport competed at provincial, national and international level by individuals and teams". All references in the Bill to "high performance sport" should accordingly be replaced with "competitive sport".
- 2.2 In line with the recommendations of the MTT report a distinction of the responsibilities between SASCOC and SRSA should be drawn along the lines of competitive sport and recreation.
- 2.3 SASCOC should only assume functions of the South African Sports Commission (SASC) that affect competitive sport. SRSA should assume the recreation function.
- 2.4 Provision of facilities is beyond the mandate of SASCOC.
- 2.5 SASCOC's obligations in terms of the Service level agreement should be legally underpinned by government funding.
- 2.6 In relation to the dispute resolution, SASCOC and the Minister should coordinate their roles in a systematic and coherent manner. The proposed mechanism to achieve this principle is set forth in paragraph 3.16 below.

3. SASCO'S SUBMISSION REGARDING THE SPECIFIC PROVISIONS OF THE BILL

3.1 Amendment of Section 1 of Act 110 of 1998

The proposed amendment is acceptable to SASCO, save to the extent that any portion thereof is in conflict with the general principles set forth in paragraph above.

3.2 Amendment of Section 2(a) of Act 110 of 1998

The reference to 'high performance sport and recreation in the Republic' should be amended to read 'competitive sport in the Republic'.

3.3 Amendment of Section 2(b) of Act 110 of 1998

The reference to 'high performance sport and recreation' should be amended to read 'competitive sport'.

3.4 Amendment of Section 2(c) of Act 110 of 1998

Acceptable

3.5 Amendment of Section 2(d) of Act 110 of 1998

Acceptable

3.6 Repeal of Section 3 of Act 110 of 1998

Acceptable

3.7 Insertion of Section 3A of Act 110 of 1998

3.7.1 This section should, in addition, state that the Minister shall procure from Parliament the necessary funding for SASCO to perform the functions assigned to SASCO by the Act. SASCO should not be assigned functions without being provided with the required funding.

3.7.2 The phrase 'after consultation with SASCO' in Section 3A (2) should be replaced with the phrase 'in agreement with SASCO'.

3.8 Amendment of section 4 of Act 110 of 1998

SASCO should not be imposed with any obligations relating to the creation and/or upgrading of sport and/or recreational facilities. This is a function that should responsibility of SRSA, provincial government and/or local government. SASCO can however, participate in the formulation of policies relating to such facilities.

3.9 Repeal of section 5 of Act 110 of 1998

Acceptable

3.10 Amendment of section 6 of Act 110 of 1998

SASCO proposes that the following words be added to the end of the sentence in subsection (2) –

"...and adhere to SASCO's Articles of Association and any rules and directives issued by SASCO from time to time."

3.11 Substitution of section 7 of Act 110 of 1998

The references to 'recreation' should be deleted.

3.12 Amendment of section 8 of Act 110 of 1998

SASCOC should not be imposed with any obligations relating to the provision of physical facilities for sport or recreation. This is a function that should attach to the SRSA, provincial government and/or local government.

3.13 Amendment to Section 9 of Act 110 of 1998

The proposed amendment is acceptable to SASCOC, save to the extent that reference is made to 'recreation'.

3.14 Amendment to Section 10 of Act 110 of 1998

Acceptable expect for paragraphs (c) and (d)

3.15 Amendment to Section 11 of Act 110 of 1998

The proposed amendment is acceptable to SASCOC, save to the extent that reference is made to 'recreation'.

3.16 Amendment of section 13 of Act 110 of 1998

3.16.1 In relation to dispute resolution

3.16.1.1 Firstly, we propose retention of sections 13(a) and (b) of the Bill as currently drafted; and

3.16.1.2 Secondly, SASCOC should have the power, either *mero motu* or if directed thereto by the Minister, to intervene in any dispute, alleged mismanagement or other related matter in sport which is likely to bring sport into disrepute. In that regard, SASCOC may either refer the matter to mediation or issue a directive to the parties concerned. The current provisions contained in subsections (7), (8) and (10) [referred to in subsection (b) of the Bill] shall then apply to any such directive issued by SASCOC, whilst the provisions of subsection (9) become obsolete. To the extent that the Bill currently attributes any of these functions to the Minister, it is therefore submitted that the Bill should be amended accordingly

3.16.2 A new provision should also be added to section 13 of the Bill which will give the Minister the power to hear appeals by any party aggrieved by any such decision made by SASCOC or to intervene in a particular dispute resolution process if the Minister upon reasonable grounds believes that SASCOC has failed and/or is legally unable to perform its aforesaid functions in relation to that dispute.

3.16.3 The aforesaid proposal seeks to ensure that SASCOC and the Minister coordinate their interventions in dispute resolution in a coherent and systematic manner, whilst at the same time giving effect to the international norm which requires sport to co-operate with, but remain independent from, government intervention.

3.17 Insertion of sections 13 A and 13B of Act 110 of 1998

The Minister should afford SASCOC an opportunity to give input in relation to any guidelines or policies pertaining to competitive sport.

3.18 Amendment of section 14 of Act 110 of 1998

SASCOC should only be consulted in relation to competitive sport issues.

Repeal of section 15 of Act 110 of 1998

Acceptable

3.19 Substitution of long title of Act 110 of 1998

Acceptable

3.20 Short title

Acceptable