

SunSpace Public Submission to the Parliamentary Science and Technology Portfolio Committee

1. Introduction

Sun Space and Information Systems (Pty) Ltd wishes to thank the Parliamentary Portfolio Committee on Science and Technology for the opportunity to submit its comments on the SOUTH AFRICAN NATIONAL SPACE AGENCY (SANSA) BILL (No B20-2008) as published by the Minister of Science and Technology.

2. Purpose of Submission

This submission, made in response to the invitation for public comment by the Parliamentary Portfolio Committee on Science and Technology, sets out to:

- a. Demonstrate that aspects of the Bill, specifically on strategy implementation, are without foundation since space policy has not yet been determined.
- b. Show a direct overlap with the functions reserved for the Technology Innovation Agency (to be established) and represents a costly and unnecessary duplication of functions.
- c. Request that the offending sections of the SANSA Bill be removed as motivated.

3. Brief background to SunSpace

SunSpace and Information Systems (Pty) Ltd is a black empowered spin-off engineering company from the Stellenbosch University operating out of premises in Tegnopark outside Stellenbosch and the former Denel space facilities near Grabouw.

SunSpace is the only company on the African continent that designs and manufactures satellites for earth observation from space.

SunSpace has built three satellites of which two were launched and of which one is still in operation; the third satellite is Sumbandila satellite which was built for the South African government and which is awaiting a suitable launch opportunity.

SunSpace has been informed by Government in writing that the Ministers of Science & Technology, Defence and Public Enterprises regard SunSpace as of strategic importance to South Africa and DST has commissioned the CSIR to make an equity investment in SunSpace on behalf of the three Departments.

The CSIR has completed the required due diligence investigation and their recommendations are being considered by the three Departments.

4. Comment on the draft SANSA Bill.

Our comments concern the proposed Space Strategy as formulated by DST in their public workshops as well as the objects, functions and powers of SANSA in relation to the object, functions and powers of TIA, as published in the respective draft bills before Parliament.

a. Space Strategy

Our understanding is that the South African Space Council under the auspices of the DTI is responsible for formulating a South African Space Policy in terms of the Space Affairs Act of 1992, and that this policy should inform the South African Space Strategy to be formulated in terms of the South African Space Agency draft Bill under review by Parliament as stated explicitly in Par 5 (1) (a) of the draft Bill.

Indications are that the Space Council plans to only release the first edition of the South African Space Policy sometime during 2009, after due consultation with all stake holders.

We recommend that the Space Strategy proposed by DST be held in abeyance until the Space Policy is available to inform the Space Strategy.

b. Object, functions and powers of the Space (SANSA) and Technology Innovation (TIA) Agencies respectively

In order to introduce the subject it is necessary to first consider the relevant sections of the respective draft bills:

- The proposed objects of SANSA is defined as follows in the Draft SANSA Bill (B20-2008):

4. The objects of the Agency are to—

(a) promote the peaceful use of space;

(b) support the creation of an environment conducive to industrial development in space technology;

(c) foster research in astronomy, earth observation, communications, navigation and space physics;

(d) advance scientific, engineering and technological competencies and capabilities through human capital development and outreach programmes;

- The proposed object of TIA is defined as follows in the Draft TIA Bill (B49B-2007):

3. The object of the Agency is to support the State in stimulating and intensifying technological innovation in order to improve economic growth and the quality of life of all South Africans by developing and exploiting technological innovations.

We firstly conclude from studying these definitions that since TIA is mandated to "develop and exploit technological innovations", with no imposed limit to the scope of the field of endeavor, that space related technological innovation is included and that there would be no need for SANSA to do the same. On the contrary, we suggest that if both Agencies were mandated to do the same thing it would lead to loss of focus and unwarranted expenditure through duplication of function and infrastructure required to develop and exploit innovation, as is correctly reflected in the wording of the proposed SANSA objects.

Secondly, we conclude from studying object (b) of the SANSA objectives, that while SANSA is mandated to "support the creation of an environment conducive to industrial development in space technology", Government's intention is to leave industrial development in the hands of private industry.

- The functions and powers of TIA are defined as follows in the Draft TIA Bill:

4. (1) The Agency may—

(a) on such conditions as the Board may determine—

(i) provide financial and any other assistance to any person, for the purpose of enabling that person to develop any technological innovation;

(ii) establish a company contemplated in the Companies Act, 1973 (Act No. 61 of 1973), or in collaboration with any person, establish such a company for the purpose of developing or exploiting any technological innovation;

(iii) acquire any interest in any person undertaking the development or exploitation of any technological innovation supported by the Agency;

(iv) draw together and integrate the management of different technological innovations, incubation and diffusion initiatives in South Africa;

(v) develop the national capacity and infrastructure to protect and exploit intellectual property derived from research financed by the Agency; and

(vi) acquire rights in or to any technological innovation supported by the Agency from any person, or assign any person any right in or to such technological innovation;

We conclude from studying these functions and powers that TIA is adequately mandated and empowered to facilitate their stated object of "*stimulating and intensifying technological innovation in order to improve economic growth and the quality of life of all South Africans by developing and exploiting technological innovations*" in all fields of endeavor, including space related technology and innovation.

- The functions (and powers) of SANSA are described in the draft SANSA Bill as follows:

5.

(1) The Agency must—

(a) implement any space programme in line with the policy determined in terms of the Space Affairs Act;

(b) advise the Minister on the development of national space science and technology strategies and programmes;

(c) implement any national space science and technology strategy; and

(d) acquire, assimilate and disseminate space satellite data for any organ of state.

(2) The Agency may, in order to perform any duty contemplated in subsection (1) and in order to achieve its objects—

(a) enter into an agreement with any person, government or administration on the terms and conditions agreed upon by the Agency and that person, government or administration;

(b) purchase or otherwise acquire, or dispose of, any property and may hire out, let, pledge or otherwise encumber that property;

(c) for the purposes of developing or exploiting any invention or technological space expertise—

(i) establish a company contemplated in the Companies Act, 1973 (Act No. 61 of 1973), or in collaboration with any other person establish such a company; and

(ii) acquire an interest in any company or other juristic person undertaking the development or exploitation of an invention or technological space innovation;

From studying the functions and powers of SANSA as laid out in the Draft Bill, we conclude that the powers contemplated under (2) (c) (i) and (ii) are not only not required to enable SASA to completely discharge its objects, but in fact very undesirable as these powers overlap with those granted to TIA for facilitating economic development through the stimulation of technological innovations, as well as opening the door for SASA to engage in industrial activity which is best left to industry as expressed in Government's economic development policy.

5. Requests

SunSpace formally requests that the Portfolio Committee for Science and Technology considers adopting the following recommendations:

- a) That the proposed Space Strategy be held in abeyance pending the promulgation of the Space Policy.

- b) That the powers granted to SANSA under (2) (c) (i) and (ii) be scrapped from the Bill.