



transport

Department:  
Transport  
REPUBLIC OF SOUTH AFRICA

# **DRAFT SOUTH AFRICAN MARITIME TRANSPORT POLICY**

**2008**

## MINISTERIAL FOREWORD



This Draft White Paper on South African Maritime Transport Policy has undergone an extensive consultation process, hence its rather belated release for final comments from industry players.

The White Paper is one instalment in policy formulation around the maritime industry and responsibilities. There is recognition that numerous other policies related to maritime should be further developed, and the issues related to these developments should include risks, shipbuilding, hydrographical responsibilities, port control, immigration, fishing, mortgage ranking, coordination, environmental responsibilities, cabotage etc. There may well be a need for a broader national forum or a cluster which will have to look at the maritime issues holistically.

The draft policy document serves an equally important purpose in our transportation logistics – namely that of the integration of maritime transportation into the overall transport strategies of the DOT. Indeed, it has been a glaring omission that the mode that carries the bulk of South Africa's trade (over 95%) and is conducted through seven commercial ports has not been integrated into the greater transportation family.

The draft is also our commitment to the regional role that South Africa should play in transportation, and shipping and the maritime transportation, which, with its attendant infrastructure and protocols, form the central themes of this regional accountability.

We are also enjoined by our international commitments to our landlocked states to articulate a cogent policy position and in the draft, our commitments to these international obligations are unwavering. We are in the world, but we are of the world as well.

The need to increase the global carrying capacity of South Africa in relation to its 12<sup>th</sup> position in the sea trading nations is for all to appreciate. This document begins to chart some ways and means to exceed this position.

In the light of the extensive consultative process that has already taken place, I would like to open this opportunity for those in the industry who might not have had the opportunity to engage in consultations.

Simultaneously with this period of consultations, the DOT will continue to evolve policy positions that will create enabling conditions for the maritime industry.

JEFF RADEBE, MP

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## TABLE OF CONTENTS

<b>MINISTERIAL FOREWORD .....</b>	<b>2</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>3</b>
<b>SECTION 1: INTRODUCTION .....</b>	<b>7</b>
1.1 BACKGROUND .....	7
1.1.1 Involvement in the Maritime World .....	7
1.1.2 Trends in international shipping .....	7
1.2 THE POLICY ENVIRONMENT .....	8
1.2.1 Policy Review .....	8
1.2.1.1 National Transport Policy .....	8
1.2.1.2 General Maritime Policy .....	9
1.2.1.3 National Policy .....	10
1.2.2 Regional Imperatives .....	10
1.3 THE AIM, SCOPE AND STRUCTURE OF THE POLICY .....	11
<b>SECTION 2: POLICY PRINCIPLES, VISION AND GOALS .....</b>	<b>12</b>
2.1 BACKGROUND .....	12
2.2 POLICY PRINCIPLES AND GUIDELINES .....	12
2.2.1 Constitutional provisions .....	12
2.2.2 International law and practice .....	13
2.2.3 Domestic Imperatives .....	13
2.2.4 National Transport Policy .....	13
2.3 POLICY CONTEXT & RATIONALE .....	13
2.3.1 Domestic & Regional .....	13
2.3.2 Industry Context .....	14
2.3.3 Global Context .....	14
2.4 A VISION FOR THE MARITIME TRANSPORT POLICY .....	15
2.4.1 Vision .....	15
2.4.2 Goal .....	15
2.4.3 Objectives .....	15
<b>SECTION 3: MARITIME TRANSPORT POLICY STATEMENTS .....</b>	<b>17</b>
3.1 GOVERNANCE .....	17
3.1.1 International and Local Structures .....	17
3.1.2 The Maritime Policy .....	18
3.1.3 The DOT .....	19
3.1.4 The South African Maritime Safety Authority (SAMSA) .....	20
3.1.5 Maritime legislation .....	20
3.2 SHIP BUILDING AND REPAIRS .....	21
3.2.1 Introduction .....	21
3.2.2 Ship and Boat Building .....	21
3.2.3 Ship Repairs .....	21
3.3 SHIPPING & MARITIME LOGISTICS .....	22
3.3.1 Dislocation of the South African Shipping Industry .....	22
3.3.2 Coastal Shipping (Domestic & Regional) .....	23
3.3.3 Intermodal Integration .....	24
3.3.4 Cabotage .....	25
3.3.5 International Shipping .....	26
3.3.7 CIF vs FOB .....	26
3.3.8 Integrated Maritime Supply Chains .....	27
3.4 SHIP OWNERSHIP, FINANCING & REGISTRATION .....	28
3.4.1 Ship Ownership .....	28
3.4.2 Taxation and Industrial Support .....	28
3.4.3 Mortgage Ranking .....	29
3.4.4 South African Ship Register .....	29
3.4.5 Tonnage Tax .....	30

3.4.6	Creation of Parastatals To Encourage Shipping .....	30
3.4.7	State Support For the Industry in Times of Distress.....	31
3.4.8	Institutional Arrangements and Co-operation .....	31
3.5	PORTS.....	32
3.5.1	The Role Of Ports.....	32
3.5.2	Maritime Integrated Planning .....	33
3.6	MARITIME TOURISM.....	34
3.6.1	Promotion of Maritime Tourism .....	34
3.7	SURVEILLANCE .....	35
3.7.1	Adequate Surveillance.....	35
3.8	PEOPLE IN MARITIME TRANSPORT .....	36
3.8.1	Employment Demand in The Sector .....	36
3.8.2	Employment Opportunities at Sea .....	36
3.8.3	Employment Opportunities Ashore.....	37
3.8.4	Training And Education Of Seafarers .....	37
3.8.4.1	<b>Seafarer Training Accreditation</b> .....	37
3.8.4.2	<b>Seafarer training institutions</b> .....	37
3.8.5	Training And Education For The Associated Industries .....	38
3.8.6	Awareness .....	38
3.8.7	HIV testing and the Role of Labour.....	39
3.9	SAFETY AND SECURITY OF PEOPLE, VESSELS AND CARGO .....	40
3.9.1	Satisfying An International Obligation.....	40
3.9.2	Hydrography Services under the DOD .....	42
3.9.3	Access by Security Forces in Times of War and or Disaster.....	42
3.9.4	Customs Services and the SARS .....	43
3.9.5	Border Control Co-ordinating Council .....	43
3.9.6	Investigations of Maritime Accidents and Incidents.....	44
3.9.7	Search and Rescue (SAR) .....	45
3.9.8	Coast Guarding.....	45
3.9.9	IMO security Audits.....	46
3.10	ENVIRONMENTAL AND ENERGY ISSUES.....	47
3.10.1	Environmental Compliance.....	47
3.11	SMALL VESSELS AN INLAND WATERS .....	49
3.11.1	A New Area of Responsibility.....	49
3.12	INTERNATIONAL AND REGIONAL IMPERATIVES.....	51
3.12.1	Transport Networks .....	51
3.12.2	African Union.....	51
3.12.3	The New Partnership for Africa's Development .....	52
3.12.4	The Southern African Development Community .....	52
3.12.5	Trans-oceanic arrangements .....	53
3.12.6	Memoranda of Understanding on Port State Control (MOU on PSC) .....	53
3.12.7	Spatial Development Initiatives (SDI) and Development Corridors .....	53
3.12.8	Coherent interstate maritime policy .....	53
3.12.9	Regional coastal shipping, a development corridor .....	54
3.12.10	Regional maritime integration.....	54
3.12.11	Strengthening South Africa Negotiating Position .....	55
3.12.12	Accession to the UNCTAD Code of Cargo Sharing Formula .....	55
3.12.13	International Arrangements and Organizations.....	56
3.12.14	Obligations to Land Locked States .....	57
3.13	CLUSTERING AND THE INTERNATINAL MARITIME CENTRE.....	59
3.13.1	Co-operation Across Issues of Mutual Concerns.....	59
3.13.2	Creation of Certainty in the Industry .....	60
3.13.4	Down Stream Benefits For The Industry .....	61
3.13.5	Off Shore Assets, Outermost regions and Islands .....	63
3.13.6	Synergies Between Maritimes Industry stakeholders.....	64
3.14	INTEGRATED BBBEE AND SMME DEVELOPMENT .....	67
3.14.1	Redressing the Past Marginalization .....	67
3.15	INNOVATION, RESEARCH AND DEVELOPMENT .....	68

3.15.1 Using Technology To Enhance the Industry.....	68
3.16 LEGISLATIVE COMPLIANCE .....	68
3.16.1 Review of Existing Legislation.....	68
3.17 MARITIME BUSINESS RE-ENGINEERING .....	70
3.17.1 Creating Conducive Conditions.....	70
3.17.2 Separating Operations From Regulatory Regimes.....	71
3.18 POLICY ADVOCACY .....	74
3.18.1 Communications .....	74
3.19 POLICY REVIEW .....	75
3.19.1 Review Time Frames .....	75
<b>SECTION 4: THE WAY FORWARD.....</b>	<b>76</b>
4.1 CONTINUING WHAT HAS BEEN STARTED.....	76
4.2 IMPLEMENTATION FRAMEWORK .....	76
4.2.1 Introduction .....	76
4.2.2 Maritime Transport Supply Chains.....	77
4.2.3 Building the ship register .....	77
4.2.3 Ports .....	77
4.2.4 Governance of South Africa's maritime zones.....	78
4.2.5 Small Vessels .....	78
4.2.6 People In The Maritime Transport Industry .....	79
4.2.7 International Maritime Transport Relations .....	79
4.2.8 Establish A Home-Grown Shipping Line .....	79
4.2.9 Safe Navigation .....	79
4.2.10 Cabotage and Coastal Development Corridors.....	79
APPENDIX A – LIST OF ABBREVIATIONS .....	81
APPENDIX B – TERMINOLOGY USED .....	83
APPENDIX C: LEGISLATION.....	85
APPENDIX D – LEGISLATION AND ASSOCIATED INSTRUMENTS THAT COULD BE RELEVANT TO MARITIME TRANSPORT POLICY.....	88

## **SECTION 1: INTRODUCTION**

### **1.1 BACKGROUND**

#### **1.1.1 Involvement in the Maritime World**

1.1.1.1 Since the publication of the White Paper on National Transport Policy in 1996 the Department of Transport has focused on strategies to promote maritime transport. Concurrently, operational aspects of maritime transport have been transferred to government agencies. Examples are the establishment of the South African Maritime Safety Authority, Transnet National Ports Authority and Transnet Port Terminal and South African Ports Regulator.

1.1.1.2 South Africa has also greatly increased its participation in international forums such as the International Maritime Organization (IMO), International Labour Organisation (ILO) and regional organizations such as the Indian Ocean Memorandum of Understanding (IOMOU) on Port State Control, Abuja MOU on Port State Control and the Southern African Transport Co-ordinating Committee (SATCC) to promote sea-borne trade through these regional and international forums and agreements.

1.1.1.3 South Africa's geographic location relative to its main trading partners makes it imperative that maritime transport is efficient, innovative and reliable. Transportation makes up a significant element in the pricing of South African traded goods. Efficient transport services, ensuring the safe and timely arrival of freight, are a prerequisite to competitive and successful trading.

#### **1.1.2 Trends in international shipping**

1.1.2.1 Shipping is one of the most competitive global industries with international supply and demand of shipping services determining international freight rates that cannot be manipulated by any single government. The ever-increasing volumes together with ongoing technological advances have the following consequences on the shipping industry:

- Increases in ship size and specialisation, requiring larger, deeper ports and specialised terminals;
- The globalisation of ship operations is resulting in larger international shipping corporations, ship pools and conferences;
- Automation and satellite data transfer is facilitating smaller crews and remote landside monitoring of navigation and onboard operating systems; and
- The international standardisation of legal, insurance and documentation requirements for the door-to-door movement of goods in a paperless environment is becoming urgent.

- 1.1.2.2 South Africa's maritime transport policy can thus not be developed as a purely domestic matter. It has to take cognisance of how the international industry functions, as well as the heightened international safety, security and environmental consciousness amidst concerns that fierce competition in the maritime sector might compromise shipping standards.

## **1.2 THE POLICY ENVIRONMENT**

### **1.2.1 Policy Review**

- 1.2.1.1 This section describes the policy environment underpinning the formulation of this policy on maritime transport. The policy has to be consistent with, and, complement the government's broad strategic, economic and social objectives. For this reason, it is necessary to consider the broad policy framework within which this policy is being formulated. Broad government policy is contained in various policy documents, and implemented through various Acts of Parliament.
- 1.2.1.2 South Africa's recent strong economic growth is as a result of government's sound macro, micro-economic and socio-economic policies. Transportation plays a vital part in this process. The DOT established a framework for the development of the transport sector in South Africa through the White Paper on National Transport Policy issued in 1996.
- 1.2.1.3 Maritime transport is the silent element of South Africa's transportation system but is the jugular vein of our trading system. It is thus critical that it develops and grows in parallel with our steady growth in trade.
- 1.2.1.4 As it is with the other modes of transport, maritime transport cannot be considered in isolation. It functions within the context of a wider national transportation network and must integrate with this network. At the same time it functions predominantly in an international arena which is commercially competitive and subject to unique international political and regulatory regimes, while the physical environment in which it operates is hostile and treacherous in its nature.

#### **1.2.1.1 National Transport Policy**

- 1.2.1.1.1 As was highlighted in the 1996 White Paper on National Transport policy, maritime transport must be fully integrated with the other modes of transport. Shipping must be considered as a link in the transport chain with policies informed by factors such as inter-modalism, development corridors, regional transport strategies and major commercial and industrial initiatives in South Africa and the region.

- 1.2.1.1.2 Broadly, the 1996 White Paper on Transport charts the following vision for the South African transport system in the White Paper on National Transport Policy:

"Provide safe, reliable, effective, efficient, and fully integrated transport operations and infrastructure which will best meet the needs of freight and passenger customers at improving levels of service and cost in a fashion which supports government strategies for economic and social development whilst being environmentally and economically sustainable."



1.2.1.1.3 The following strategic transport goals were identified as prerequisites to the realisation of the above-mentioned vision:

- Support for the Reconstruction and Development Programme for meeting basic needs, growing the economy, developing human resources, and democratising decision making;
- Enabling customers requiring transport for people or goods to access the transport system in ways which best satisfy their chosen criteria;
- Improving the safety, security, reliability, quality, and speed of transporting goods and people;
- Improving South Africa's competitiveness and that of its transport infrastructure and operations through greater effectiveness and efficiency to better meet the needs of different customer groups, both locally and globally;
- Investing in infrastructure or transport systems in ways which satisfy social, economic, or strategic investment criteria; and
- Achieving the above objectives in a manner that is economically and environmentally sustainable, and minimises negative side effects.

#### **1.2.1.2 General Maritime Policy**

1.2.1.2.1 The earth's land area is politically divided into different states. The sea area, with minor exceptions, is traditionally considered an international common space where ships are free to sail without adherence to the prescription of any one state. This situation has changed significantly with the development of an international regime to govern the sea, which reached a milestone with the adoption of the United Nations Convention on the Law of the Sea (UNCLOS) on 10 December 1982. UNCLOS forms the basis on which a littoral state's jurisdiction, rights, privileges and obligations at sea are built.

1.2.1.2.2 As a party to UNCLOS, and having passed a Maritime Zones Act 15 of 1994 South Africa has accepted the responsibility to exercise the rights and obligations of a coastal state in its maritime zones. The responsibility to properly govern the ocean territory according to the regimes applicable to the various zones including obligations such as providing for safe navigation, search and rescue services, conservation of the marine environment, research and policing.

1.2.1.2.3 In essence it can be expected that a coastal state will ensure an environment in which seafarers and other people active at sea can go about their lawful business in an atmosphere of safety, security and fairness. These diverse obligations may be further amplified by the state's position on the whole range of functional international, regional or bilateral treaties and agreements.

1.2.1.2.4 It is thus incumbent on a coastal state to maintain General Maritime Policy that creates an orderly and structured environment in which maritime transport can flourish.

### **1.2.1.3 National Policy**

1.2.1.3.1 The South African Maritime Transport Policy must compliment and be consistent with the government's broad economic and social developmental policies and strategies, and must contribute to the realisation of these national objectives, which include:

- Enhancing export growth by anchoring transport and development corridors at ports.
- Industrial development by creating opportunities for investment in infrastructure as well as shipping support services.
- Broad Base Black Economic Empowerment (BBBEE), especially small and medium enterprises that support shipping.
- Job creation both at sea and ashore through maritime skills development and education.
- Regional development especially by supporting regional trade and integration initiatives as well as the principles of the New Partnerships for Africa's Development (NEPAD) and the African Union (AU).
- South-South trade initiatives and co-operation in the India, South Atlantic and the Southern Oceans.
- Environmental sustainability by adhering to international conventions and agreements.

### **1.2.2 Regional Imperatives**

1.2.2.1 The transport system has a major role to play in the growth and development of the region. Maritime transport, save for ports, does not necessitate the major infrastructure development required by road and rail networks but can make a significant contribution to the growth and development of the Southern African region.

1.2.2.2 Within the regional context the South African transportation system is highly developed. However, it cannot be considered in isolation and cognisance must be taken of its interconnectedness with the transportation systems of other states of the region. In particular, landlocked states in the region have varying degrees of dependence on South Africa's maritime transport system.

### **1.3 THE AIM, SCOPE AND STRUCTURE OF THE POLICY**

#### **1.3.1 Aim**

- 1.3.1.1 The aim of the Maritime Transport Policy is to create a policy environment that facilitates the growth and development of South Africa's maritime transport sector to its full potential in support of economic growth and sustainable social development of our country and the ultimate well being of our people.
- 1.3.1.2 While this Maritime Transport Policy is in support of national goals, South Africa does so as a member of the African and international community of nations with respect for international law, international treaties, conventions and protocols and the need to protect and conserve the sensitive natural environment that we share.

#### **1.3.2 Scope**

- 1.3.2.1 The need to review general maritime policy in South Africa to ensure that policies and strategies emanating from the different maritime stakeholders and government departments, with responsibilities at sea are consistent and complement each other, is clearly recognised. The focus of this policy, however, is limited to policy relating to maritime transport. It is specifically focused on maritime supply chains of which shipping and ports are the link in an integrated and inter-modal transport system joining South Africa and, the region's exporters and importers with their international markets or sources of supply.
- 1.3.2.2 This policy addresses industries associated with ports and shipping but only where they have a direct influence on shipping as the transport segment of the maritime sector.

#### **1.3.3 Structure of this document**

- 1.3.3.1 This policy consists of four parts as follows:
- Part one addresses the policy environment of maritime transport in South Africa.
  - The second part provides the context of the policy in terms of principles, guidelines and goals.
  - Part three of the document addresses maritime transport issues facing South Africa and policy statements on these issues.
  - Part four is concerned with implementation of new policy or shifts in existing and related policies.

## **SECTION 2: POLICY PRINCIPLES, VISION AND GOALS**

### **2.1 BACKGROUND**

- 2.1.1 South Africa is located where the Indian, Atlantic and Southern Oceans meet. Located at the southern tip of Africa, South Africa is not on the busiest trading routes of the world and is distant from its main trading partners. The country has an open economy with the aggregate value of imports and exports constituting well over a third of Gross Domestic Product (GDP). More than 95% of the country's trade (by volume and by value) flows through its seven commercial ports.
- 2.1.2 Given the distances to markets, to be competitive exports and imports must be transported as cheaply as possible. South Africa thus needs an efficient transport chain to overcome these distances and the shipping link is critical to keeping transportation costs to a minimum.
- 2.1.3 South Africa's sea borne commerce generated some 1400 billion tonne-miles of sea transport activity in 2002, more than 6% of the global figure - placing SA in the top 12 sea trading nations. However, only about 0.3% of global carrying capacity is presently controlled by South African companies (through ownership or long term charter). The national demand for sea transport space thus exceeds its control of vessel supply by a ratio of approximately 20 to 1.
- 2.1.4 Ships owned by South Africans and ships sailing under the South African flag have drastically diminished. The bulk of our exports and imports are borne by foreign owned and flagged carriers and hence the transport revenue and job opportunities of transporting these goods do not accrue to South Africa.
- 2.1.5 Shipping is, but one element of the maritime transport industry. Through associated industries and linkages the maritime transport industry supports a host of other enterprises offering diverse employment opportunities and other economic activities. On its own right, the maritime transport sector is an important contributor to the national economy.

### **2.2 POLICY PRINCIPLES AND GUIDELINES**

- 2.2.1 Maritime transport takes place within the broader transport, maritime and national policy framework. The Maritime Transport Policy must thus be in harmony with the broader national policy framework so that it complements other policies that are supportive of the goals and strategies of government.

#### **2.2.1 Constitutional provisions**

- 2.2.1.1 The Constitution of the Republic of South Africa, 1996 provides for the functions and competencies of the national, provincial and local spheres of government. These provisions impact on certain aspects of maritime transport and are considered accordingly as they arise within this policy framework.

## **2.2.2 International law and practice**

- 2.2.2.1 South Africa is a party to a range of international agreements, treaties, conventions and protocols. The rights and obligations inherent in such instruments are observed in the formulation of Maritime Transport Policy.

## **2.2.3 Domestic Imperatives**

- 2.2.3.1 Government has recognised transport as one of its five main priority areas for social and economic development. The Maritime Transport Policy supports government's fundamental policies and guiding frameworks for socio-economic development such as the Reconstruction and Development Programme (RDP), the Growth, Employment and Redistribution Strategy (GEAR), the Accelerated Shared Growth Initiative of South Africa (ASGISA) and programmes to advance participation in the economy by historically disadvantaged individuals.

## **2.2.4 National Transport Policy**

- 2.2.4.1 The 1996 White Paper on National Transport Policy identified six strategic goals for transport in South Africa. Shipping can contribute significantly to these goals, and the Maritime Transport Policy is specifically aimed at providing a safe, secure, reliable, quality and speedy service to improve South Africa's trade competitiveness globally.

# **2.3 POLICY CONTEXT & RATIONALE**

## **2.3.1 Domestic & Regional**

- 2.3.1.1 South Africa has been experiencing steady economic growth for the past many years since 1994. The macro-economic policies in place contributed greatly to the stabilisation of the economy and modest growth so far witnessed. Despite this growth however, it has become clear that in order to underwrite the levels of growth and development on the scale necessary to sufficiently respond to the developmental challenges confronting the economy and the region, a fundamental restructuring of the micro-economic environment underpinning international trade is not only necessary but urgent.
- 2.3.1.2 Trade has been and will continue to be the key engine of most of this growth, despite spurts of growth from consumer demand. Both the necessity and urgency of the restructuring of the micro-economic environment are further amplified by the industrialisation trajectory envisioned in the National Industrial Policy Framework (NIPF) that is supported by an aggressive trade agenda at home and on the multilateral front.
- 2.3.1.3 Trade will thus remain the key plank of the nation's integration efforts into the global economy and upon which growth and social development are dependent.
- 2.3.1.4 A robust, growing, competitive and modernising South African economy is essential for a healthy Southern African Development Community (SADC) regional economy as it is for much of the continent. The pull effects of a vibrant and growing South Africa are thus wide and important for intra-regional trade which translates into regional and continental industrialisation.

2.3.1.5 However, the full pull effects are only possible through a deliberately linked regional micro-economic agenda. This policy seeks to unlock the micro-economic bottleneck of the country and the region.

## **2.3.2 Industry Context**

2.3.2.1 Maritime transport, through which virtually all of South Africa's international trade pass over 95% and 90% of world trade is seaborne, is not only vital for the economic prosperity of the nation, but has become of strategic importance. The global maritime transport industry has witnessed a profound sea change in the recent past. Forces of change continue to re-orient the industry on a major scale. From security, environment to market demands and to advances in information communication technology, the maritime transport industry is evolving from being a system into a system of systems.

2.3.2.2 This evolution is quickly but profoundly transforming the manner in which we conceive of the business of moving both freight and people; and consequently, the nature and type of maritime transport policies that must support the ever-growing international trade. A changed maritime landscape demands a changed approach to the conceptualisation of the management, organisation, functioning and the institutional makeup of the key maritime industry players. The economic fortunes of South Africa are therefore beholden to the proper policies that recognise the shifts and re-alignments of this international industry.

## **2.3.3 Global Context**

2.3.3.1 Maritime transport as an industry and as a subset of the maritime sector, has global dimensions, and does not render itself to full national policy framework without being circumscribed by multinational instruments and considerations. Some of the international regimes that play into the maritime transport space include the UNCLOS, the International Convention for the Safety of Life at Sea (SOLAS) and many more with the IMO as key institution behind many of these conventions.

2.3.3.2 Between these and other institutions, there have emerged a number of conventions and protocols dealing with compliance of pollution and life at sea, environment, security, safety, surveillance, and many more.

2.3.3.3 Modern production and consumption patterns in a globalising world economy demand of any transport system to be highly networked, visible, reliable and efficient. To the extent that a country has disintegrated systems, participation in the global economy will be highly constrained, and by extension be a binding constraint on the growth of its domestic economy.

2.3.3.4 The failure to realise the full economic potential has dire political and social implications. Therefore, South Africa's Maritime Transport Policy is incomplete without this dimension.

2.3.3.5 The confluence of the above major block factors: domestic imperatives, industry developments and global forces have collectively made the development of the maritime transport policy a challenging task. However, these factors are very instructive as to the direction of the policy and policy responses needed to adequately address the maritime transport challenges faced by our nation.

## **2.4 A VISION FOR THE MARITIME TRANSPORT POLICY**

### **2.4.1 Vision**

2.4.1.1 The vision of the policy is a maritime transport system that is integrated into the global network of maritime supply chains capable of efficiently and sustainably turning South Africa's economic machine while growing South Africa's global maritime presence, thus supporting the country's regional leadership of its International Maritime Centre (IMC).

2.4.1.2 Such a system should thus help the nation and the region achieve the levels of growth and development envisaged in the national economic strategy and integrate the domestic economy with the rest of the world with competitive ease.

2.4.1.3 There are multiple needs that both government and industry would like to see of the South African maritime transport system. The future may hold a number of new surprises but the following are crucial needs for any system that may be developed;

- It must ensure an introduction or growth of a firm shipyard industrial base so as to build, repair and convert ships and other floating systems that serve the maritime transport system and other maritime systems including the navy and other defence or security related activities;
- It must transport cargo and passengers with the efficiency, visibility, reliability and seamlessness that make it the preferred choice for both domestic and international market participants.
- It must be flexible to allow for the introduction of new technologies, new business models and the changing markets conditions and customer needs while complying with environmental requirements.
- It must advance and protect national interests at all times including safety and security.
- It must ensure the preservation and improvement of citizen employment participation.

### **2.4.2 Goal**

2.4.2.1 The goal of the policy is to guide the development and maintenance of sophisticated but integrated maritime supply chain systems with a complex logistical choreography of man and machine, able to support the goals of the broader Government developmental programmes and initiatives.

### **2.4.3 Objectives**

2.4.3.1 The objectives of the policy are:

- To ensure the competitiveness of South Africa's international trade through innovative, efficient, reliable, visible and integrated maritime supply chain systems;
- To grow South African maritime presence and influence domestically and abroad;
- To ensure compliance with multilateral instruments of which South Africa is a party to, and that the instruments reflect South Africa's national interests;
- To grow and broaden the participation of South Africans in the industry and ship ownership while promoting the increase of ships on the South African flag;
- To guide the maritime sector's initiatives on institutional arrangements, governance and regulatory interventions while ensuring effective and efficient co-ordination; and
- To provide a clear framework around which investors and funders can participate in maritime projects so as to improve growth and competitiveness of the maritime transport industry.



## **SECTION 3: MARITIME TRANSPORT POLICY STATEMENTS**

### **3.1 GOVERNANCE**

#### **3.1.1 International and Local Structures**

- 3.1.1.1 The maritime sector, of which maritime transport is a key element, is vital for South Africa's economic prosperity. There is a number of general policies and multilateral instruments governing the conduct and operations at sea. The UNCLOS forms the basis on which a littoral state's jurisdiction, rights, privileges and obligations at sea are built.
- 3.1.1.2 South Africa, as a party to UNCLOS and having passed the Maritime Zones Act has accepted to exercise the rights and obligations of a coastal state in its maritime zones. There are a number of other instruments that regulate issues like safety of life and property at sea, maritime environment including pollution, security, surveillance and many more.
- 3.1.1.3 There are thus many general maritime policies that inform maritime transport. Such an interaction between maritime transport and the general policies is important in ensuring that the conduct of international transport is in an atmosphere of certainty and can be done efficiently. However, specific policy concerning general maritime issues is not developed within this policy due to the "transport" focus of this Maritime Transport Policy.
- 3.1.1.4 Notwithstanding the ring-fenced transport mandate of this policy, wherever possible, direction is suggested regarding general maritime issues for the purposes of ensuring socio-economic efficiency and growth.
- 3.1.1.5 The fundamental theme of this policy is the proper governance of maritime transport. The future growth of the maritime transport industry will depend on whether South Africa is able to deliver world-class policy and service to this international industry. Although these two dimensions of governance are not mutually exclusive, they do function separately due to factors such as the provisions of the Schedules of the Constitution, the responsibilities of different departments and delegations to public entities that act on behalf of government.
- 3.1.1.6 As is the case with all forms of transport, certain support measures ensure its efficiency, such as safety, security, sustainability and administration. These and other similar measures create the environment in which industry can flourish. Policy formulation and service delivery on these different aspects are spread between different departments and agencies, with the DOT, SAMSA and the Department of Public Enterprises (DPE) being the nodal points in South Africa.
- 3.1.1.7 In addition, the maritime transport industry, and shipping in particular, is subject to international political, economic and social pressures, typically conventions and protocols emerging from organizations like the IMO, the International Labour Organization (ILO) and the United Nations Environmental Programme (UNEP).
- 3.1.1.8 This characteristic requires the governance of the industry to be as sensitive to international considerations as it is to domestic considerations. Further, the

notion of 'innocent passage' obliges coastal states to not only allow foreign ships on innocent passage to pass through their territorial waters, but also to provide them with certain basic services.

- 3.1.1.9 The South African government is specifically committed to discharging its regional obligations and to promoting the development of maritime transport as part of the developmental programme of the AU, SADC and the ideals of NEPAD.
- 3.1.1.10 Legislation and regulations give effect to and reflect policy. A clear, simple and concise body of legislation and regulations is an indication of clear policy. It facilitates efficient service delivery and makes it easy for industry to do business. A fragmented and contradictory body of legislation on the other hand indicates incoherent policy, invariably leads to costly processes, inefficiencies and duplication of resources by government.
- 3.1.1.11 A wide range of current South African legislation and regulations impact directly or, in a number of cases, indirectly on maritime transport. Much of the legislation concerned creates institutional structures and allocates functions to these structures or to different levels of government.
- 3.1.1.12 The allocation of such functions to a variety of authorities and agencies as well as to the three tiers of government directly impacts on the coherent governance of maritime transport and associated activities. In certain cases there are shared responsibilities such as maritime environmental protection between Department of Environmental Affairs and Tourism (DEAT) and the DOT.
- 3.1.1.13 As a consequence, the legislative framework is complex and tends to be fragmented. Shipping legislation as well as the Merchant Shipping Act 57 of 1951 need to be reviewed so as to take into account the latest developments both at national policy and international relations levels. Issues such as BBEE, NEPAD and ASGISA need to be accommodated.
- 3.1.1.14 This complex situation is further compounded by the existence of provincial and municipal powers responsible for certain aspects, such as environmental issues and inland waterways.

### **3.1.2 The Maritime Policy**

- 3.1.2.1 Government recognises the potential social and economic opportunities that the maritime sector bestows on South Africa. A comprehensive maritime policy for South Africa does not, and has never existed, which makes it difficult to place the Maritime Transport Policy within the broader maritime context. This impoverishes this Maritime Transport Policy.
- 3.1.2.2 Service delivery arrangements in South Africa's maritime zones lack coherence with no properly functioning forums or structures to ensure co-ordinated development of South Africa's maritime sector. This results in conflicting legislation, duplication and inefficient service delivery at sea.
- 3.1.2.3 This situation has a direct and indirect impact on maritime transport as well as the development and implementation of policies with regard to shipping and the associated support industries.

- 3.1.2.4 Internationally, it is common practice for state departments that are responsible for transport matters to take the lead in the development of national maritime sectors.
- 3.1.2.5 In South Africa, the DOT has that responsibility and also represents the country at regional and international forums.

#### **Policy Statement 1**

The DOT in consultation with relevant stakeholders of the industry will commit to initiate a programme to holistically and coherently grow and develop South Africa's maritime sector. The programme will include but not be limited to:

- Investigate, develop and integrate a national maritime policy involving all departments, government institutions, industry and community stakeholders as a means to consolidate policies and legislation relating to maritime matters.
- Investigate arrangements to gain optimum benefit from costly material resources used in service delivery and enforcement at sea.
- Review arrangements to educate and train people for careers in the maritime sector that is consistent with international best practice.
- Initiate arrangements for close liaison and communication between government and stakeholders on maritime matters.

### **3.1.3 The DOT**

- 3.1.3.1 The DOT recognises the critical role of shipping to carry the bulk of South African imports and exports; that shipping and the associated enterprises constitute a major industrial opportunity for South Africa and that these are essentially export industries generating foreign exchange with the potential for extensive job creation locally and beyond the domestic economy. The DOT further recognises that the international nature of these industries require international standards of governance to create an environment conducive to shipping and in so doing attract investment.

#### **Policy Statement 2**

The DOT will review its capacity to formulate maritime transport policies and strategies, engage other departments on maritime issues, offer guidance to ensure the efficiency of ports as nodal points in the transport logistics chain, contribute to regional maritime initiatives and to oversee the executive agencies involved with maritime transport.

### **Policy Statement 3**

In order to ensure an environment is conducive to maritime transport, the DOT will continue to recruit suitably qualified officials to rapidly establish world class maritime transport, as well as a maritime policy division within the department. Where necessary, skilling and up-skilling of existing personnel to meet government's macro policies towards shared growth and development in the industry will be instituted.

#### **3.1.4 The South African Maritime Safety Authority (SAMSA)**

- 3.1.4.1 The SAMSA Act 5 of 1998 (SAMSA Act) established SAMSA in 1998 and defined its role and functions. Developments in international shipping and South Africa's increased involvement therein have advanced in the past decade and half. SAMSA is industry's first point of contact with government and provides vital services.
- 3.1.4.2 It is thus essential that it is organised, staffed and equipped to provide the vital service for which it was established for, including the additional functions that have emerged, such as the need for a competent ship registration administration. Failure to meet the shipping industry's requirements would be a major impediment to the growth of the industry in South Africa.
- 3.1.4.3 SAMSA's responsibility regarding the qualification of seafarers (as the authority that certifies South African seafarers and accredits training institutions) requires it to retain the IMO accreditation (South African seafarers' employment opportunities are dependent on recognition of South African certificates of competence). SAMSA must also ensure the availability and advancement of South Africa's various maritime skills.
- 3.1.4.4 The profile and importance of maritime security has increased dramatically during the past decade and is expressed in IMO conventions and protocols. As a member state, South Africa is obliged to adhere to these conventions and protocols. A multi-agency approach has been taken in South Africa to meet this developing requirement. Within this approach, responsibilities have been allocated to SAMSA, which are not specifically addressed in the SAMSA Act.

### **Policy Statement 4**

The DOT will initiate a review of tasks, functions and responsibilities allocated to SAMSA since its establishment and verify the legislative, regulatory, administrative, organizational and budgetary arrangements for the authority to carry out these tasks and functions and its ability to continue to adjust to developments in international shipping.

#### **3.1.5 Maritime legislation**

- 3.1.5.1 South African domestic maritime and shipping legislation are greatly influenced by international conventions and practices. The rapid changes that have taken place in shipping and the influence of the international conventions and

agreements have led to South Africa developing world class maritime legislation in certain areas and lagging in others.

### **Policy Statement 5**

DOT commits to work with the Portfolio Committee on Transport (PCOT) to put in place mechanisms that will ensure the fast promulgations of legislation that will enhance the maritime industry.

## **3.2 SHIP BUILDING AND REPAIRS**

### **3.2.1 Introduction**

- 3.2.1.1 Maritime transport is not just about shipment of cargo from one country to the next or short sea shipping nor is it about merely increasing the number of ships on the South African flag. The value chain of maritime transport starts with the building of ships. Therefore, maritime transport starts with shipyards that build and repair, convert and service the vessels that operate in the maritime transport system.

### **3.2.2 Ship and Boat Building**

- 3.2.2.1 Shipbuilding, once dominated by Europe, has migrated to Asia's developing countries. Europe has moved up the value chain and seeks to remain there through a series of policy instruments given to their industries. Most if not all of these new ship-building nations had no better infrastructure, skills and other key resources than South Africa by the time they ventured into this industry.
- 3.2.2.2 Deliberate policy interventions are behind the current development success of the ship building industry in Asia and remains a key feature in Europe too. The multiplier effects of ship building industry are large even in those countries that do not have the natural resources like iron ore, chrome and related products. Economic benefits are thus enormous.
- 3.2.2.3 South Africa's shipyards in Durban and Cape Town have progressively declined and now focus on the niche small vessels that include fishing vessels, yachts and similar vessels.

While South Africa's yards are small by comparison to those in Europe and Asia, they have nonetheless wilted under the industry's competitive pressure. There are thus no seriously big shipyards in the entire continent, yet there has been massive growth in order books for various types of ships.

- 3.2.2.4 Boat building in South Africa has remained the only serious attempt by the country to remain relevant in this maritime sector. Its future aggressive expansion and sustainability is tied to positive policy intervention and relevant support from government.

### **3.2.3 Ship Repairs**

- 3.2.3.1 The Ship repair industry in South Africa is largely concentrated in Cape Town and Durban. While South Africa enjoys a fairly good repairs reputation, it

requires a more robust and strengthened infrastructure for maritime transport, and so are the shipyards.

- 3.2.3.2 Developing, maintaining, upgrading and strengthening ship repair capabilities in South Africa is of strategic and economic significance. It also helps ensure a high degree of transport safety as it does ensure environmental protection. Investment in shipyards also contributes to lowering costs of operations and thus the attractiveness of the location.
- 3.2.3.3 As a serious maritime nation contemplating to grow and increase its presence and influence on the global maritime scene, the development of this industry cannot be left to market forces, otherwise it will dissipate. Global maritime powers have consistently supported the maritime sector as it holds unprecedented strategic promise for current and future generations.
- 3.2.3.4 The new frontiers for global engagement and competition are now in the maritime sector along with space. South Africa requires the development and growth of the shipbuilding and repairs industry, including shipping. It should be part of the industrialisation programme of the maritime sector as a whole. Industrial support to develop this sector is necessary now and in the future. Along with this support should be a co-ordinated government approach to sector engagement and development agenda setting.
- 3.2.3.5 Attempts by individual government departments to support this industry will not manage to salvage the industry. Similarly, a united industry voice right across the country should be the only way in ensuring a cohesive approach to dealing with industry challenges.

#### **Policy Statement 6**

The DOT of Transport is committed to the development and growth of shipbuilding and repairs industry through consultation with the key stakeholders as part of the industrialisation programme of the maritime sector as a whole.

### **3.3 SHIPPING & MARITIME LOGISTICS**

#### **3.3.1 Dislocation of the South African Shipping Industry**

- 3.3.1.1 The geographical remoteness of South Africa from virtually all its key markets (Asia, Europe and the Americas) combined with the dependence on international trade for its economic and social development prospects, make shipping a very critical element in the economic and strategic calculus of this nation. This is an important policy consideration, especially as it pertains to sea transportation itself, ownership and development of this aspect of the industry.
- 3.3.1.2 However, shipping is one of the most globalised industries in the world, with little or not influence from nation states as to their functioning, operations and management. It operates in a highly competitive environment, known also to be fairly cyclical. Despite the liberalism associated with shipping, many countries, both developing and developed, practice one form of

protectionism/subsidisation or another, with a view to ensuring some form of influence on the industry.

- 3.3.1.3 The influence comes in a number of ways, including having national fleets, national flagged vessels and others. Due to the absence of a regime or regimes encouraging or protecting South African ship owners, they do not enjoy any form of competitive advantage compared to foreign vessels operating in and out of South African waters.
- 3.3.1.4 Consequently, virtually all of South Africa's international trade is carried by foreign vessels. This effectively means that there is a loss of foreign earnings through freight cost payments, unemployment of locals at sea and ashore as well as non-usage of the national infrastructure.
- 3.3.1.5 Failure to protect and promote this industry has resulted in South African owned vessels being registered on foreign flags. Recognising the significance of having a domestic fleet and South African flagged ships, it is imperative that a regime designed to encourage growth of these must be put in place.
- 3.3.1.6 There are typically two aspects to shipping:
  - Operations, and
  - Ownership.
- 3.3.1.7 Operations relate to the liner or non-liner services between cargo owners and receivers of cargo. These may be between ports within a country or a region (short sea or coastal) or international. Typically, cargo owners are expected to choose as to the carrier. However, this may not necessarily be the case in practice.

### **3.3.2 Coastal Shipping (Domestic & Regional)**

- 3.3.2.1 Inter-port cargoes within a country or even the region (where applicable) can be transported through coastal shipping. This alternative way of transporting cargo is usually fuel efficient than road and helps decongest roads that already suffer from heavy damage.

It is also very economic and convenient to transport heavy cargoes between major centres, helping to reduce the amount of carbon footprint.

- 3.3.2.2 While issues of competition with rail and road are a matter of circumstances, it is generally known that coastal shipping is relatively cheaper. In order to encourage coastal shipping, including owning vessels for such short operations, countries that had normally allowed cargoes to be picked up by foreign vessels, have instituted protectionist measures, seeking to reserve such cargoes for national fleets.
- 3.3.2.3 With a free trade area in the SADC and a number of bilateral trade arrangements with most of NEPAD countries, intra-Africa trade can only be on a growth trajectory. The potential for coastal shipping within much of the African seaboard is thus a reality, prompting the institution of protectionism with a view to growing the maritime presence of most African states.
- 3.3.2.4 Economic Partnership Agreements (EPA) between and among regional economies should be able to find expression through a range of supporting

mechanisms that enable the easy conduct of economic activities among regional citizens. In this regard, coastal shipping is a good example of ensuring the unhindered flow of cargo between economies that may not be near enough to move cargo through road.

- 3.3.2.5 The SADC's Protocol on Transport, Communication and Meteorology that sees the role of coastal shipping and therefore initiatives to progressively remove restrictions on cabotage should be speeded up and co-ordinated properly.

### **3.3.3 Intermodal Integration**

- 3.3.3.1 The promotion of shipping in South Africa would bring value add to other modes of transport such as road and rail, as these modes are complimentary to each another. If ships are adequately supplied, the delays and congestions at ports will be addressed and the export-led economic growth of SA will be realized. The costs of transportation costs cannot be seen only as contributed by only one mode, but by a whole logistics chain, and there is therefore a need for the analysis of costs across the value chain to include but not limited to the following:

- Port efficiencies in relation to cargo handling, ship turn around times and documentation handling
- Port service and port related services costs;
- Safety and security issues related to transportation;
- Ship repair and other services to assist ship owners locally; and
- The amount of competition in the industry.

#### **Policy Statement 7**

The development of the maritime industry shall not be oblivious to the whole logistics system, and the industry shall consider itself to be part of the whole logistics chain rather than a stand-alone industry.

#### **Policy Statement 8**

The DOT commits to a seamless transportation platform and the encouragement of door-to-door activities using all modes of transport.



### **Policy Statement 9**

The maritime transport industry under the leadership of DOT shall consider itself as part of the logistic chain, and any bottlenecks in the freight logistics system shall be tackled through joint operations.

### **Policy Statement 10**

The DOT shall periodically analyse cost drivers in the whole maritime transportation sector and the cost drivers in the maritime sector shall be a separate chapter of the analysis for the benefit of the industry players.

#### **3.3.4 Cabotage**

- 3.3.4.1 The 1996 White Paper on National Transport Policy, indicates South Africa's right to have a cabotage policy.
- 3.3.4.2 South Africa permits both local and foreign owned vessels on international trades to carry its coastal cargo. One of the preponderances for this is the cheap costs of the many variables in shipping that do not apply to local vessels. For example, oil that foreign ships obtain is not loaded with road and related levies typical of South Africa's fuel. Some vessels do not pay duties on parts (spares) while others are registered in extremely low or not tax regimes, or some other form of subsidies.
- 3.3.4.3 All these weigh heavily against coastal shipping, and by extension on the ownership and registration of vessels by and in South Africa, thus depressing the very vital lung of the economy.
- 3.3.4.4 Developments on cabotage in South Africa hold little promise if not sequenced with those of other SADC states or even those that fall under the African Maritime Transport Charter. Given the difficult geographic terrain in most SADC and other African economies to allow for easy surface transport, the removal of restrictions across the region on cabotage should be made priority if economic growth and development are to be achieved on a sustainable basis.

### **Policy Statement 11**

The South African Government shall have a cabotage policy, in line with the guidelines established under the auspices of the United Nations Commission on Trade and Development (UNCTAD).

### **3.3.5 International Shipping**

3.3.5.1 Liner shipping, the operations of scheduled services for cargo by conference liners and non-conference ones operate in international shipping. South Africa's position has been one of leaving the operations of this nature to market forces. Cargo is largely attracted to vessels for a combination of factors that may include, sailing times and dates, transit time, efficiency, reliability, frequency of service and many more.

3.3.5.2 With developments in the industry, shipping lines have onshore links with supply chains and this may have a bearing on a number of factors including costs.

### **3.3.6 Cost of Shipping**

3.3.6.1 Despite that market forces largely determine the cost of shipping, shipping is but one link in the transport chain— the maritime transport chain. Considered together, the manner in which the maritime supply chains are configured, managed and operated largely determine the competitiveness of the entire transport leg of international trade. The higher the seamlessness and efficiency of the maritime supply chains, the lower the cost.

3.3.6.2 South Africa's ability to influence the "shipping" costs lies with the ability to manipulate those areas of the chain that it has control or has some measure of control. These may include ports, rail and road systems that collectively may form part of the maritime supply chain. The nature, cost and management of the infrastructure, operations and technology may have a measurable bearing on the total cost of shipping.

3.3.6.3 This Maritime Transport Policy document advocates for a single management or a unified approach, where feasible, of the integrated maritime supply chain or a highly sophisticated logistical choreography of infrastructure providers, operators and service providers. The competitiveness of the supply chains is dependent on the smooth and co-ordinated approach.

3.3.6.4 An efficient maritime supply chain, of which shipping is part, does not only reduce costs to cargo owners, it has stimulative impacts into the entire productive capacity of the tradeable and non-tradeable goods of the economy.

### **3.3.7 CIF vs FOB**

3.3.7.1 The enabling environment for this market entry by new players would have to deliberate on the reversal of the free on board (FOB) shipment terms as opposed to cost insurance and freight (FIB) so that South African exporters can have a choice of ships, including the use of SA-owned ships.

### **Policy Statement 12**

The DOT, shall with industry inputs, undertake a study of the advantages and disadvantages of each of these CIF and FOB instruments and to motivate for the one that shall be decided as the best to promote the South African maritime industry.

Government will promote an inter-departmental initiative to educate exporters of South African goods on the advantages of shipping their cargos on South African vessels.

### **3.3.8 Integrated Maritime Supply Chains**

- 3.3.8.1 There are many variables that affect the cost of maritime transport and related logistics. These include geography, port infrastructure, directional imbalance of trade between trading nations and port and rail services. While there are some variables which cannot be easily influenced, such as geography, many others can be positively affected by improving both the institutional infrastructure and the governing policy framework. The policies adopted or not adopted can significantly influence such costs or variables. The one key variable is the supply chain.
- 3.3.8.2 The sea change in the maritime transportation system has been occasioned by the confluence of a number of factors. Containerisation has been one such development. Ship sizes and the influence shipping lines have over container and other supply chains have also greatly contributed to the shifts in maritime transport. In South Africa, as everywhere else, one of the key consideration for the alignments and re-alignments in the supply chain networks has been the cost of shipping. These, together with many other factors continue to exert influence on the direction of co-operative arrangements between supply chain participants.
- 3.3.8.3 One other factor that will determine the direction of supply chain arrangements in South Africa is the coming on stream of the Port of Ngqhura near Port Elizabeth and other developments around Richard's Bay and the structural constraints at Durban port. Whatever the case maybe, the integrated management of supply chains in South Africa is overdue. This can be achieved by the exercise of influence by stronger chain participants to the advantage of all parties or through collaborative arrangements between key parties in the chain.
- 3.3.8.4 Unless this is achieved, the competitiveness of South Africa's international trade, and therefore the economy will be compromised. Transnet, the TNPA or Transnet Freight Rail collectively or singularly should ensure that this integration is brought about. These would require the co-operation of shipping lines and other players in the South African supply chains.

### **Policy Statement 13**

The whole supply chain shall be opened to more industry players, and that subject to the intermediation of the South African Port Regulator and other economic regulators to open up the whole the supply chain to companies that can afford to enter the transportation industry, from origins to destination, provided those industries will subscribe to the other issues of market entry such as the Integrated Transport BBBEE that have been stated in this document.

## **3.4 SHIP OWNERSHIP, FINANCING & REGISTRATION**

### **3.4.1 Ship Ownership**

3.4.1.1 The growth and expansion of vessels owned by and registered in South Africa is largely dependent on the regimes governing the ownership, financing and registration of ships. Deliberate promotion of vessel ownership and registration of ships has been largely absent. The dramatic loss of locally owned fleet to foreign flags clearly indicates policy challenges for South Africa.

3.4.1.2 Therefore the main policy objective in this regard is to ensure a level playing field for South African ship owners and operators *vis-à-vis* foreign competition and to attract both domestic and foreign investment in the local maritime industry.

3.4.1.3 There are a few issues that relate to the ownership, financing and registration of ships in South Africa that require attention if the playing field is to be levelled:

- Fiscal allowances and other developmental incentives and support given to industry by authorities;
- Security and facility afforded by the South African ship registration and mortgage provisions of the Merchant Shipping Act 57 of 1951; and
- Cabotage and related policy regimes.

### **3.4.2 Taxation and Industrial Support**

3.4.2.1 Maritime transport is considered as a strategic industry. It is thus imperative that all measures should be put in place to ensure that it receives the appropriate support from government. The creation of South Africa as an international maritime centre, of which maritime transport is a crucial element, requires a nationwide co-ordinated approach using all available instruments to build and sustain the industry.

3.4.2.2 Therefore in order to build, own or encourage vessels onto the South African flag, a comprehensive tax regime, inclusive of tonnage tax and associated legislation should be enacted.

3.4.2.3 As alluded to above, the introduction of tonnage and related taxes should be considered and sequenced with other support measures, all designed to level the playing field that is heavily tilted against South African industry.

### **3.4.3 Mortgage Ranking**

- 3.4.3.1 While the regime of financing dollar denominated assets has been simplified, some aspects associated with financing should be looked at.
- 3.4.3.2 Where offshore lending is used for whatever reason, (perhaps due to little or no local ship finance availability etc) the risks associated with the shortcomings of the South African ship mortgage may inhibit investment in this area.
- 3.4.3.3 The ranking of the ship's mortgage in terms of the Admiralty Jurisdiction Regulation Act 105 of 1983 ; the inconsistencies between the priorities given to a mortgage and the Insolvency Act of 1936 as amended; and the choice of law applicable to ships mortgages.

#### **Policy Statement 14**

The DOT, in consultation with key government department will ensure synergy regarding legislation that will encourage the growing of home grown shipping lines

### **3.4.4 South African Ship Register**

- 3.4.4.1 In order for South Africa to become one of the world's 35 maritime nations by 2014, there should be an aggressive promotion of an SA Ship Register. In spite of the borderless globalizing economy, the potential for the growth of the industry in South Africa is still huge, for both the existing players and the new ones.
- 3.4.4.2 This is largely due to the opening up of the freight sector in both South Africa, the region and the continent, and the trade dividends that are accruing to the industry through the stabilization of some of trade routes (and their countries) in the continent. There is a need to increase the capacity of the industry as a result of the large amounts of cargo transported through this mode, but also the need for the industry to create sustainable jobs through the value chain of the logistics system, and to fully utilise the sea assets which has been underutilized.

#### **Policy Statement 15**

The Maritime Regulation Division of the DOT, in cooperation with the South African Maritime Safety Authority, shall finalize an operational and/or a strategic plan for the implementation of the Ship Registration Act.

**Policy Statement 16**

The South African Government shall through the Department of Transport and SAMSA, develop and grow its own Ship Register

**Policy Statement 17**

The Department of Transport shall conduct periodic research around the viability of ship registration regime, and based on the available evidence, the Department and the maritime industry shall review its approach to the South African Ship Register.

**3.4.5 Tonnage Tax**

- 3.4.5.1 The shipping industry can grow exponentially if the tonnage tax is implemented as this profit-based measure operates on the lower tax base than commercial profit and can thus be seen within the Government's wider policy thrust of reducing the costs of doing business in South Africa.
- 3.4.5.2 As the tonnage tax is a prerequisite for the certainty of taxation (rather than speculation) and pre-calculation of investment returns, there is an urgent need for government to finalize this matter.

**Policy Statement 18**

The DOT, shall, through co-operation of all relevant stakeholders implement the Tonnage Tax regime after the finalization of the tax regime by National Treasury.

**3.4.6 Creation of Parastatals To Encourage Shipping**

- 3.4.6 All new parastatals in the maritime industry shall understand their tasks to be those aimed at achieving the goals and objectives of the developmental state as stated in a section of this document.

**Policy Statement 19**

DOT shall liaise with the relevant stakeholders on the needs analysis for the establishment of the South Africa ship-owning parastatal, resourced and governed under the same conditions as other parastatals, but configured to cater for floating asset management procedures.

#### **Policy Statement 20**

The DOT shall revive the South African state-owned shipbuilding parastatal and for the revival of the ex-Safmarine industry supportive mechanisms through the deliberate intervention of the State. This effort will deliberately encourage public private partnerships (PPPs) between the current international shipping industry players and that space should be opened for them to be part of the South African shipping industry. As much as possible, the Integrated Transport BBBEE Charter shall be used as vehicle to encourage partnerships between HDIs in SA and the established industry players.

### **3.4.7 State Support For the Industry in Times of Distress**

- 3.4.7.1 Having made the call for the creation of an environment for the market than in the market, the South African Government should be ready to support the shipping industry during the times of distress.

#### **Policy Statement 21**

In the unlikely event that the maritime and the shipping industry faces through difficult times, either financial or otherwise, it shall be the prerogative of the Department of Transport, through the national fiscus to support the industry through direct subsidies and guaranteeing borrowings if, such support will unlock value in this underrated industry.

### **3.4.8 Institutional Arrangements and Co-operation**

- 3.4.8.1 Numerous government departments and other institutions have a direct impact on the South African shipping industry. Their combined efforts are required if South Africa is to become a significant shipping nation and to ensure that the benefits of a large South African shipping register are achieved.

#### **Policy Statement 22**

The DOT will encourage a consultative coordinated approach with other key government departments to grow the Maritime sector.

## **3.5 PORTS**

### **3.5.1 The Role Of Ports**

- 3.5.1.1 Ports, as integrated elements in the value driven supply chain system, are crucial nodal points in the transport system. They play a very strategic role in the economic and social development of a country and therefore require proper management and clear understanding of their evolving role in a globalising world economy. Beyond their nodal points, ports play an even greater role in the wider transport and logistics systems in which they are a critical integrative elements, playing a key economic catalytic role.
- 3.5.1.2 They thus occupy a central position in ensuring the free flow of international trade and by extension, the growth of the economy.
- 3.5.1.3 The maritime transportation funnel for both land and sea is narrowest at ports, causing systemic congestion that may affect the entire freight transportation system. Ports are therefore critical nodes in the maritime transport system, with capacity not only to clean up costs in the supply chains, but to permanently ensure the integration of such chains.
- 3.5.1.4 In order to ensure that the funnel effects do not render the country's economic growth efforts futile, the port authority's role is to ensure the provision and continued enhancement of infrastructure capacity, efficient port operations, but more importantly to increase their positive involvement and influence in freight chains through collaborative mechanisms. Seamless and efficient flow of cargo through the port funnel is a key policy position of the ports policy.
- 3.5.1.5 The ports policy position directs ports to be dynamic in their conception of their role. Static positions about landlord are not in accord with current industry changes in logistics systems. In order to fully play their developmental role, the concept of beyond landlordism, also contemplated in the ports policy, should be fully recognised and applied.
- 3.5.1.6 The South African maritime transport system therefore is very much dependent on ports for the efficient movement of cargo in the supply chain. Furthermore, the cost of the shore side of the supply chain can be reduced through a number of innovative approaches to the management and organisation of the supply chain. The port can thus be a key player in ensuring the reduction of such costs.
- 3.5.1.7 The Ports Regulator (PR) of South Africa, on the other hand, has an important role in ensuring that the port system itself does not become a burden to the economy through inappropriate measures that may not be in the interest of public good and therefore a developmental liability. Optimum investment in ports to ensure the desired levels of capacity is necessary.
- 3.5.1.8 In keeping with the need to ensure fair competition in ports from both the seaside and the shoreside, operations of those services that are allowed by law to be in private sector hands should be left to the market.



### **Policy Statement 23**

Ports should play a pivotal role of ensuring that conditions of supply chain integration and therefore efficiency are achieved and that they are a key influential link. Competition in operations should be allowed.

The docking facilities that currently exist shall be encouraged to continue existing, and they shall be revamped to respond to the current needs of these industries, and to be leveraged for the development of the ship-building and ship repair and refurbishment industry. The TNPA shall be assigned with the responsibility to deal with these issues and to place a strategy in place to address all issues that arise from this segment from the industry.

### **3.5.2 Maritime Integrated Planning**

- 3.5.2.1 There is currently ongoing work within government for the integrated planning of infrastructure, but the port system and the maritime industry has been seen to be a stand alone spatial entity informed by the natural endowment and the geographical conditions of the port.
- 3.5.2.2 Ports development have a MasterPlan, but this master plan should be linked with all the other infrastructural designs such as telecommunications, aids to navigation, surveillance roads, bridges, tunnels and rail. The absence of the maritime industry and the port systems development in the integrated planning process of government needs to be addressed.
- 3.5.2.3 Given its support from the national fiscus, the port development plans are based on the need to expand the ports. As land is a finite resource, and the expansion of the built environment on land has negative effects on the environment, there is a need to explore all resources currently available.

### **Policy Statement 24**

The maritime spatial planning process, the DOT and the port system development shall be integrated into the overall plans of the government wide Infrastructure Integrated Infrastructure Planning (IIP), and inter-alia the National Transport Master Plan (NATMAP).

### **Policy Statement 25**

The development plans for ports shall extend beyond the traditional commercial ones, and the need for the whole port infrastructure, private and public but not in the port system, shall be considered in all spatial planning and development plans.

### **Policy Statement 26**

Included in the infrastructure investment and planning shall be the slipways for the fishing industry so that this category is accommodated in hauling their boats for repairs. This responsibility may not necessarily reside with the DOT, but shall be allocated to the Departments that are already dealing with it.

### **Policy Statement 27**

For the correlation of the implementation of policy in relation to the maritime transport policy, the DOT shall work in conjunction with the Department of Environmental Affairs and Tourism in relation to fishing quotas, so that infrastructure is not set up and maintained when there are other limiting factors to the growth of the industry.

## **3.6 MARITIME TOURISM**

### **3.6.1 Promotion of Maritime Tourism**

- 3.6.1 Maritime tourism is usually associated with cruise ships. This is the commonest form of maritime tourism but not the only one. The cruise ship market however, is a growing industry with tourists visiting port cities and surrounding areas from cruise liners. Cruise ships calling at South African ports generate economic benefits across a broad front and must be encouraged.
- 3.6.2 Disincentives to cruise ship operators such as lack of access to berths and port facilities, embarkation and disembarkation facilities, formalities and security issues require a holistic approach by affected central, regional and local government departments in collaboration with the hospitality industry at all levels.
- 3.6.3 New areas of maritime tourism include excursions to South African islands, including visits to Antarctic. Launch pads (at ports) to Antarctic for research and related activities should be encouraged and promoted by ports. Undersea tourism is also gaining interest these days. This is one of the many adventure travels that should be promoted. Port facilities are imperatives for the introduction and growth of some of the tourism sub sectors that require port infrastructure.

### **Policy Statement 28**

The DOT shall encourage the growth of the cruise shipping market and of new entrants in both upstream and downstream of the industry.

## **3.7 SURVEILLANCE**

### **3.7.1 Adequate Surveillance**

- 3.7.1.1 While broad maritime surveillance is a province of the maritime policy along with other related policies, long range identification of vessels and surveillance related to maritime transport is crucial for any maritime nation. The Southern tip of the continent has a sizeable number of vessels that use it as a major sea lane. It is thus important that the country is able to “see” such movement of vessels towards and along its waters. This is appropriate both in times of peace and war.
- 3.7.1.2 There is also an international convention (SOLAS as amended) in this regard. A proper co-ordinated approach among the various agencies responsible for maritime surveillance must be ensured and information that will allow government to exert its authority over its maritime and other national interests should be communicated to relevant agencies swiftly.
- 3.7.1.3 The LRIT is necessary for national and international interest and must thus be put in place and co-ordinated appropriately to allow its use by relevant authorities.

#### **Policy Statement 29**

The DOT undertakes to source funding for the surveillance equipment along the South African coast and shall endeavour to have the surveillance covering all, or as much as possible, of its 3000 km coast line.

#### **Policy Statement 30**

There shall be an inventory of what infrastructure and what equipment exists in South Africa in relation to the fulfilment of this policy, and this equipment would require to be audited at regular intervals to find out if they are responsive to the policy articulated in this policy document.

#### **Policy Statement 31**

The maritime authorities shall, with the support of the DOT, make a business case for the resourcing of the surveillance system, and this business case shall take into account the need for such surveillance to benefit to the industry and also show where the current marine data based systems cannot be elevated to serve this purpose of surveillance.

## **3.8 PEOPLE IN MARITIME TRANSPORT**

### **3.8.1 Employment Demand in The Sector**

- 3.8.1.1 The maritime transport sector has the potential to become a major industry in South Africa that generates large-scale employment and foreign exchange. It is a goal of government to develop this sector and grow the South African maritime presence, the Ship Register. Both these goals will require competent people both in shipping at sea and in the associated industries ashore.
- 3.8.1.2 The steady growth of the seven commercial ports is a clear indicator of increasing demand for people in maritime transport. Thus, irrespective of envisaged growth, this immediate domestic requirement necessitates strategies to meet the needs of enterprises linked to shipping.

### **3.8.2 Employment Opportunities at Sea**

- 3.8.2.1 Job opportunities on ocean going ships are independent of the domestic economy and additional to the domestic labour market. Being an international industry competence levels, standards of training and terms/conditions of employment in shipping are determined internationally, necessitating sensitivity to international as well as domestic considerations when formulating policy.
- 3.8.2.2 Crewing accounts for a major component of the cost structure of ships and thus owners/operators avoid environments that restrict their ability to manage this cost. At the same time, seafarers live and work in circumstances that differ substantially from people working ashore. They are highly mobile with easy movement between different ship owners in different parts of the world and on different types of ships.
- 3.8.2.3 The international legal framework governing crews on ships is determined by the IMO with respect to their competence and by the ILO with respect to their terms and conditions of service. In South Africa, ship owners, operators and enterprises ashore are subject to national labour legislation such as the Basic Conditions of Employment Act 75 of 1997 (Basic Conditions of Employment Act), the Employment Equity Act 55 of 1998 (Employment Equity Act) and the Skills Development Act 97 of 1998 (Skills Development Act).

#### **Policy Statement 32**

To ensure adherence to international practice, government will ratify the consolidated ILO Maritime Labour Conventions 2006 as adopted by the 94<sup>th</sup> (Maritime) International Labour Conference. This will also necessitate the amendment of some domestic legislation and regulations dealing with health, occupational safety and conditions of employment of seafarers.

The government remains committed to decent work on South African registered ships and will continue to engage with ship owners and operators to find ways to balance the practice in South Africa with international shipping standards.

### **3.8.3 Employment Opportunities Ashore**

- 3.8.3.1 Although there is potentially a large job market on board ships, employment opportunities in related non-seafaring industries ashore offer by far the bulk of employment opportunities. Typical employment opportunities ashore related to shipping exist in port operations, management and administration, ship's agents and brokers, cargo agents, brokers, forwarding and clearing agents, marine insurance, lawyers, ship repair and maintenance, marine surveyors, stevedoring, ships chandlers and maritime economists. Government is reviewing the factors that create an environment conducive to shipping which includes human resource aspects.

#### **Policy Statement 33**

The DOT in conjunction with other departments such as the Department of Trade and Industry will develop enterprises ashore that meet this challenge while promoting national programmes by SA labour legislation and relevant guidelines.

### **3.8.4 Training And Education Of Seafarers**

#### **3.8.4.1 Seafarer Training Accreditation**

- 3.8.4.1.1 The South African Qualifications Authority (SAQA) through the Transport Education and Training Authority sets standards for seafarer training in South Africa. The IMO sets minimum standards of training and certification of seafarers through the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended (STCW95).
- 3.8.4.1.2 South African training institutions providing training are accredited by SAMSA, which is in turn accredited by the IMO. The continued accreditation of SAMSA is vital. The standards set by the SAQA system are aligned with STCW95 and thus ensure that South Africa's education, training and eventual certification standards continue to be internationally recognised.

#### **3.8.4.2 Seafarer training institutions**

- 3.8.4.2.1 The basic infrastructure exists in South Africa to educate and train deck, engineering and catering officers and is comparable to international norms. The maritime departments in tertiary institutions are however small and the 'unit cost' of training seafarers is high. This raises a risk of being sidelined for funding reasons in institutions where large student numbers with low 'unit costs' are important. This situation could place strain on resources such as teaching staff and expensive training facilities and could even risk IMO accreditation.
- 3.8.4.2.2 The availability of teaching staff, in particular, is of concern as training institutions compete with the potential US Dollar earning capacity of the experienced lecturers. There is thus a need to optimise the available facilities in order to minimise the cost of education and training.
- 3.8.4.2.3 As seafaring requires 'apprenticeship' experience onboard ships before certification, the availability of berths at sea is critical for young people to

qualify. There is currently shortage of training berths for cadets in spite of South African ship owners and also certain foreign owners making berths available for cadets as far as possible. This situation requires urgent attention.

- 3.8.4.2.4 The training of ratings is not as developed as it is in the case of officers. Shipping is no longer a labour intensive industry but there are nevertheless opportunities for ratings in coastal and ocean going ships and shared industries such as fishing. The training of ratings needs to be formalised.
- 3.8.4.2.5 The high cost of seafarer training has necessitated the establishment of bursary systems to assist young people to complete the necessary courses essential to commence apprenticeships at sea.

#### **Policy Statement 34**

The DOT will engage TETA to ensure facilitation of funding for training of seafarers.

### **3.8.5 Training And Education For The Associated Industries**

- 3.8.5.1 Many shore-side industries require seagoing qualifications and experience and are thus dependent on a throughput of people that have been to sea to be re-skilled for positions ashore. The vast majority of jobs ashore are however not dependent on highly qualified and experienced seafarers and in many cases are independent of seafaring qualifications.
- 3.8.5.2 Proper structured training is nevertheless essential if these shore-side industries related to shipping are to be efficient. Training and education for industries associated with maritime transport is not well structured in South Africa and in certain cases does not exist or is not formalised or accredited.
- 3.8.5.3 Unlike seafarer training it is also not essential that institutions offering these courses be located at the coast but could be established in the interior provinces where the costs to learners could be reduced.

#### **Policy Statement 35**

The DOT, in conjunction with the Department of Labour, will encourage the public and private sectors of the maritime industry to develop and improve education and training systems in the enterprises that support shipping and where there is demand to locate such institutions or departments inland.

### **3.8.6 Awareness**

- 3.8.6.1 To many South Africans, seafaring as a career is unknown and not considered an option when entering the labour market. This is largely due to lack of knowledge of shipping and the opportunities available in seafaring and 'second careers' in the shipping related sector ashore. There is also little awareness of the multitude of job opportunities that exist in industries

associated with maritime transport, which jobs are well paid, sustainable and international.

- 3.8.6.2 Although crewing agencies and maritime colleges actively recruit and mentor young South Africans to attend maritime training colleges and take up a career at sea and the DOT maintains an awareness programme, there is a need for a more determined effort to familiarise job seekers with employment opportunities in the maritime transport sector.
- 3.8.6.3 This is essential if South Africa is to provide the steady flow of competent people needed to attain the goals of developing the industry and growing the Ship Register.

#### **Policy Statement 36**

To this end, the DOT is committed to developing its awareness programme and engages the Department of Labour and Department of Education in this regard.

### **3.8.7 HIV testing and the Role of Labour**

- 3.8.7.1 There should be further engagement with organized labour about labour issues that are peculiar to the industry, such as those related to seafarer HIV-testing so that an amicable solution is reached and a balance between this and the creation of employment in the sector should be balanced. With a growing number of people undertaking voluntary testing, it may now be a moot point to use the right not to be tested as an impediment to the creation of employment in this sector.
- 3.8.7.2 All three policy trajectories, i.e. the cabotage policy, the ship register and the tonnage tax work in complementary fashion to one another. In the South African context, the implementation of this should take into account the need for the engagement of labour, and the guarantee that on the basis of the labour protection regime, the rights of the workers will be protected on board ships in line with IMO and ILO protocols and conventions.

#### **Policy Statement 37**

All proposed changes to the maritime legislation in general and those pertaining to workforce and labour issues shall be first discussed with a view of arriving at common positions with labour and protect labourers from the unintended consequences of the suggested policy changes.

There shall however, be acceptance that in new policy formulations, not all labour concerns will be addressed, and that in the event that labour is compromised, adequate compensatory measures shall be worked out between Government, industry and organized labour.

### **Policy Statement 38**

As the issue of HIV testing has not been finalized within the ILO mandate, and that the South African position in relation to its voluntary testing and non-disclosure requires finalization within international protocols is unequivocal, the rights and privileges of workers in this regard shall not be compromised while continuing negotiations with the international bodies and industry players is continued.

### **Policy Statement 39**

The DOT shall work with the Department of Labour to finalize the issue of voluntary testing for HIV both for the requirement of the industry and the easing of entry of South African qualifying for external posting)

## **3.9 SAFETY AND SECURITY OF PEOPLE, VESSELS AND CARGO**

### **3.9.1 Satisfying An International Obligation**

- 3.9.1.1 Safety and Security are international protocols under the purview of the International Maritime Organization. There are however, other obligations that are of a bilateral nature that if not adhered to could have a negative impact on the South African shipping industry. While every effort should be made to work within the parameters of the industry's global protocol under the auspices of the IMO, and other multilateral organizations, there may be a need for the industry and the state at a bilateral level, to consider other arrangements that are aimed at promoting the South African shipping industry.
- 3.9.1.2 For the purposes of this Maritime Transport Policy the two fundamental concepts of safety and security at sea need to be clarified. The first relates to the nature of the sea and the second to the concepts of safety and security.
- 3.9.1.3 Although the terms 'safety' and 'security' are often used interchangeably, the issues at stake are fundamentally different. In the context of this Maritime Transport Policy, 'safety' relates to the safe navigation of a ship including the equipment and skills required, while 'security' relates to the unlawful acts against the peaceful and lawful conduct of business at sea and seaports. The IMO makes this distinction in the SOLAS, dealing with safety issues in Chapter XI-1 and security issues in Chapter XI-2.
- 3.9.1.4 These features of the sea and the distinction between the concepts 'safety' and 'security' thus necessitate specific legal and regulatory regimes and consequently different state authorities may be responsible for policy, regulation and administration.
- 3.9.1.5 The concept of safety at sea has two distinct but related dimensions. The first consists of measures to prevent or manage the dangerous situations that routinely threaten the safety of seafarers (pro-active measures). The second



includes arrangements aimed at saving life and property, where possible, in the event of a casualty or incident (reactive measures).

- 3.9.1.6 Safe navigation or 'safe seas' relates to the information at the seafarer's disposal concerning his or her environment, his or her position in that environment, the sources of such information, and the communication of the information to the seafarer. This includes onboard navigational aids and the provision of services by the coastal state that include aids to navigation, navigation warnings, hydrography, weather service and a regulatory framework designed to enhance safe navigation. The latter may include traffic separation schemes and the availability of pilots. These measures are all aimed at reducing the risk and consequence of collision, foundering and grounding.
- 3.9.1.7 South Africa is obliged to comply with IMO conventions and protocols relating to pro-active measures for safety of life and property at sea. These conventions are given effect through legislation and regulations. Arrangements for these pro-active measures are complex due to various organizations with often overlapping responsibilities being involved without coherent co-ordination or integration mechanisms.
- 3.9.1.8 A primary objective of SAMSA is to ensure safety of life and property at sea and is central to maritime safety with functions such as vessel registration, licensing, statutory surveys, the competency of seafarers and Port State Control inspections.

#### **Policy Statement 40**

The South African DOT shall enter into bilateral and multilateral arrangements, under the guidance of the Department of Foreign Affairs, with other maritime nations if such cooperation and entering into agreements will be to the benefit of the South African maritime transport industry.

#### **Policy Statement 41**

South Africa's obligations under Chapter IX of the SOLAS Convention, its adherence to the International Ship and Port Facility Security (ISPS) Code, the Long Range Identification and Tracking Systems (LRIT) and other security related codes shall be immediately implemented. In instances where these are only captured in regulations, and since regulations should be preceded by policy, therefore relevant Merchant Shipping Regulations shall be backed up by the policies statements contained in this document

#### **Policy Statement 42**

The responsible Authorities and SAMSA shall ensure that the design construction and maintenance of all ships safety equipment is of a high standard such that seafarers shall, proactively be in a position to safeguard their vessel, maintain their healthy status and operate in safe seas (the triangle of safety)

#### **Policy Statement 43**

The DOT and the maritime industry shall provide safety and security and all these instances shall favourably consider all requests that shall be made on them to contribute to the security of the maritime industry in general.

#### **Policy Statement 44**

The South African Government in partnership with other maritime nations shall continue to play its role in fighting against pirate activities in the threatened maritime zones of South Africa, and shall as much as possible, encourage localized or regional responses to the scourge and all seek international assistance and interventions in the provision of technical assistance to regionally based solutions.

### **3.9.2 Hydrography Services under the DOD**

- 3.9.2.1 The hydrography services to the South African maritime industry is provided by the South African Navy.

#### **Policy Statement 45**

The Department of Defence and its responsibilities in relation to hydrography services it supplies to the industry shall be a subject of negotiations with the relevant authorities in the security field, and that all efforts shall be made for temporary co-operative agreement while the Department plans the migration of these services to the NNA mentioned in this document.

### **3.9.3 Access by Security Forces in Times of War and or Disaster**

- 3.9.3.1 The Defence apparatus of the country vests in the South African National Defence Force (SANDF). There shall be instances where the need for the SANDF in its various formation needs to intervene in the protection of the sovereignty of the State and any other installation and equipment that facilitates the Maritime industry. Such intervention has to be sanctioned through an appropriate policy pronouncement and for the maritime industry to acknowledge the role that the security apparatus have to play in this regard.

#### **Policy Statement 46**

All statutory security forces, particularly the South Africa Navy, shall have the right to commandeer these maritime and port infrastructure, resources and facilities in the defense of the sovereignty of the state and in the event of a disaster that requires the intervention of the security forces, such an action should be permitted under Presidential proclamation. Of particular relevance in this matter shall be the role that is played by the South African national defence Force in the following issues:

- Protection of the Exclusive zone (EEZ) of the South African mainland and those of the off shore territories such as Marion and Prince Edward islands and their continental shelves;
- Maintaining situation awareness through surveillance of the region and assistance to regional states with their surveillance regimes.
- Harbour searches for mines and the de-mining of these harbours in the unlikely event of them being targeted by external forces
- Protection of shipping industry in the event of a terrorist attack or disturbance of the shipping industry or the maritime environment through sources that can only be thwarted through military and naval means;
- Search and rescue missions in areas where South African has been given jurisdiction

### **3.9.4 Customs Services and the SARS**

3.9.4.1 Customs services and revenue collection at ports is the competency of the South African Revenue Services.

#### **Policy Statement 47**

The role of the South African Revenue Services (SARS) in the collection of excise and duties shall continue and the co-operative agreements between itself and the Department of Transport shall be renewed at regular intervals.

### **3.9.5 Border Control Co-ordinating Council**

3.9.5.1 There are certain functions that are performed through the Border Control Co-ordinating Council which may be impacted by this policy.

#### **Policy Statement 48**

The role of the Border Control and Co-ordinating Council (BCOCC) at the Ports of entry, shall be reviewed in line with the shifting of the responsibility to the South African Revenue Services, and the supportive role that it plays shall be continued.

### **3.9.6 Investigations of Maritime Accidents and Incidents**

- 3.9.6.1 In the event of accidents and incidents it is common practice to investigate the occurrence from two perspectives: Firstly, to establish the cause in order to institute measures to prevent re-occurrence. The DOT recognises that maritime accidents or incidents could have their origin in shortcomings in legislation or failure to comply with legislation by public and/or private persons.
- 3.9.6.2 In the South African context, SAMSA conducts preliminary investigations into marine casualties and incidents and makes recommendations to the Minister of Transport who at his/her discretion may order the sitting of the Court of Marine Enquiry. In order to maintain the integrity of such investigations it is best practice for these to be conducted by independent authorities with no connection to the incident.

#### **Policy Statement 49**

The DOT shall continue to recognize that in order to maintain the credibility of investigation regimes, an independent authority needs to do the investigation into the cause of accidents.

It is thus committed to explore best practices in other maritime states with the view to establishing independence and credibility in maritime incident and accident investigation arrangements in South Africa.

#### **Policy Statement 50**

The Department of Transport and Environmental Affairs shall make a joint presentation to Cabinet about the need for a service provider regarding immediate response to incidents and accidents on our sea shores.

#### **Policy Statement 51**

The Department of Transport shall enhance the capacity and the capabilities of the Transport Accident and Incident Investigation Branch and it shall set up a fully-fledged Court of Marine Enquiry to deal with the issues of maritime investigations of incidents and accidents.

### **3.9.7 Search and Rescue (SAR)**

- 3.9.7.1 South Africa has other maritime obligations pertaining to the International Convention on Maritime Search Rescue which has been ratified. In terms of this the Global SAR Plan and the GMDSS have been evolved to provide a framework for search and rescue irrespective of where the disasters occur. Subregional MSRCs will soon be located in Angola, the Comoros, Madagascar Mozambique and Angola.
- 3.9.7.2 In addition, the South African Search and Rescue is under-funded, with a donation being made by the DOT to this voluntary and donations based organization. Although the stimulus for the work of this organization is driven largely by its volunteer and donations regime, the vital work that it does and the uncertainty of voluntary funding will need to be carefully considered in policy, and a careful consideration should also be done to assess whether it cannot be part of the fully funded agencies of the Department of Transport.

#### **Policy Statement 52**

The Search and Rescue environment shall be reconsidered, and that the entities that provide this function, either on a voluntary or a permanent basis, shall be considered for amalgamation and standardization, with proper financing mechanisms and the allocation of the necessary resources, so that they advance the cause of a developmental state, while performing their allocated search and rescue tasks.

#### **Policy Statement 53**

The Department of Transport's donations to the SASAR and to the National Sea Rescue Institute (NSRI) shall be appropriately supported so that they perform their tasks without hindrance of financial and resource constraints.

### **3.9.8 Coast Guarding**

- 3.9.8.1 The security and policing issues, including the civilian policing issues at sea and the coast have been debated and one side of the debate has been calling for the establishment of the coast guarding capacity in South Africa. The capacity to perform this task has not been thoroughly analysed.

**Policy Statement 54**

The DOT through the, Maritime Regulation Chief Directorate, shall conduct a needs analysis exercise for the Coast Guarding competency, and to juxtapose this need against the availability of resources to finance and also man the function. In the interim, all policing activities in the sector shall continue to be provided by the current sister departments, and once a need has been established, appropriate migration discussions shall be entered into between the DOT and the sister departments.

**3.9.9 IMO security Audits**

- 3.9.9.1 Maritime security audits have become an important segment of the maritime transport sector. The maritime transport sector in South Africa has for the first time undergone the voluntary IMO audit scheme, and attained 17<sup>th</sup> in the whole world.

**Policy Statement 55**

South Africa commits to future participation in IMO audits and shall be available to assist in whatever manner it can to develop the whole region in the development and their accession to the safety audit protocols and conventions.

**Policy Statement 56**

The Safety Audits of the South African maritime industry shall be done in accordance with South Africa's relations in the multilateral organizations and all other safety and security audits that shall be done on a bilateral basis shall have been authorized by the International Maritime Organization (IMO) and the South African Government.

**Policy Statement 57**

In order to facilitate the assistance of the South African Government to the region in terms of safety audits, there shall be Memoranda of Understanding (MOU) between the South African Government and the countries that shall seek such assistance.

### **3.10 ENVIRONMENTAL AND ENERGY ISSUES**

#### **3.10.1 Environmental Compliance**

3.10.1 Although the maritime industry has always been prone to environmental issues such as oil pollution, ballast water issues and reversing the aquatic invasive spaces (AIS) and energy inefficiencies, the reintroduction of the environmental issues and energy efficient measures as a result of global warming, climate change challenges, and air pollution by ships indicate to the DOT that it should continue to be seized with these issues.

3.10.2 The issue of the environment is not as much of a pressing issue for the developing nations, but since the maritime industry knows no boundaries, and the environmental compliance issues are now paramount in the international arena, it would be in the interest of the South African maritime industry to be kept abreast of the international environmental compliance issues and to prepare for them so that when they are eventually extended to the South African industries, they would be ready.

#### **Policy Statement 58**

The Department of Environmental Affairs and Tourism in relation to the environmental tug and salvage capacities that it gives the maritime industry, including issues such as the Ship Ballast Water Conventions, MARPOL, the OPRC, future and current issues such as GHGs in the industry and others that shall come up from time to time shall continue to provide this service until the DOT has developed sufficient capacity to do so.

#### **Policy Statement 59**

The DOT shall work with the relevant government Departments to allow rescue and assistance from other nations to be given quick access to the place of disaster.

#### **Policy Statement 60**

The DOT shall perform all the issues related to the environment as shall be decided under the auspices of the International Maritime Organization and fully participate towards the arrival of a resolution acceptable to all players in the industry.

**Policy Statement 61**

The DOT shall discharge its responsibility towards the prevention of the pollution, and shall respond to all the emergency response that are required to be done as a result of the periodic audits that have been done by and on the South African maritime environment.

**Policy Statement 62**

The DOT shall review its financial qualification for insurance around oil spillages and their effects and apply for the higher quantum of compensation for the benefit of the South African industry. This will mean that the Department of Transport shall migrate from the 1969 International Convention on Liability For Oil Pollution which has got limits of 133 Special Drawing Rights (SDR) per ton with an overall limitation of 14 million SDRs to the International Convention on the Establishment of the International Fund for Compensation for Oil Pollution Damage of 1971, and thus qualify for the limit of 135 million SDRs per incident.

The assistance of the Department of Foreign Affairs, and any other technical assistance that may be required in this regard shall be sought, including the expertise of the maritime insurance industry and the Department of Environmental Affairs and Tourism.

**Policy Statement 63**

The DOT shall conduct periodic research and analyse the effects of climate change on sea levels, and the effects this will have on the maritime industries and the port systems, and work with the international communities and partners to alleviate the problems that will be brought about by these new environmental challenges to the maritime industry and the port system.

**Policy Statement 64**

The issue of fuel, fuel levies and all issues related thereto, as they concern the shipping industry, shall first and foremost be the province of the Department of Minerals and Energy, and the DOT and the maritime industry shall work in conjunction with the DME to unlock value for the whole maritime sector.



### **Policy Statement 65**

All entities reporting to the DOT in the maritime industry shall embark on Environmental Implementation Plans (EIPs), and that these shall form the submission of the DOT to the DEAT in compliance with the stipulations of the National Environmental Management Act (NEMA).

### **Policy Statement 66**

The maritime industry shall subscribe to the environmental mitigation strategies that shall be decided by the South African Government where these are plausible, and shall subscribe to adaptation strategies where there are no alternatives so as to keep in line with the overall environmental policy thrust of the South Africa.

## **3.11 SMALL VESSELS AN INLAND WATERS**

### **3.11.1 A New Area of Responsibility**

- 3.11.1.1 Waters used by small vessels are divided into two areas: the sea (which may include tidal waters) and inland waters. These two areas used to fall under different regulatory regimes. The former was and still is regulated by SAMSA and the latter under various authorities, such as national departments, provincial governments and municipalities. Voluntary regulation also takes place outside the statutory framework through boat clubs and other civil organizations. SAMSA has correctly taken over the regulation of both tidal and inland waters.
- 3.11.1.2 Small vessels can be divided into two broad categories: small vessels used for recreation (the vast majority) and those used for commercial purposes. In South Africa an insignificant number of small vessels are used to transport goods and the focus is thus on small vessels used either for transporting people recreationally, or for fishing. Vessels used for the transportation of people includes ferries and vessels in the tourism/hospitality industries. Small vessels are also used in a specialist role where they are normally specifically designed to conduct research or as tenders to larger vessels.
- 3.11.1.3 The schedules of the Constitution refer to pontoons, ferries, jetties and harbours, excluding the regulation of international and national shipping and related matters, as being municipal functions. The jurisdiction of municipalities to seaward is also not defined. Areas adjacent to the commercial ports (so called port limits) are accepted as being under the jurisdiction of the TNPA's harbour master. When considering policy issues relating to small vessels, these legal regimes must be taken into account.
- 3.11.1.4 This Maritime Transport Policy is focused on small vessels used for both recreation and commercial purposes operating on waters open to the public (the responsibility for the safety of vessels used on private dams rests with

the owner of the dam), but for practical reasons excludes vessels designed specifically for sport/recreation with a carrying capacity of one or two persons such as sailboats, canoes or kayaks.

- 3.11.1.5 Design and construction variety make small vessels difficult to technically specify and hence to regulate, licence and administer. Likewise, the ease of access to small vessels increases risks from incompetent operators or irresponsible behaviour.

Complex competency requirements for coxswains/skippers can however impinge on the potential for people to enjoy South Africa's scenic coastline and internal waters.

- 3.11.1.6 Many accidents involving small vessels can be attributed to incompetent coxswains/skippers due to a lack of training and certification where regulation and enforcement is weak. This invariably leads to lawlessness and infringements on the rights or safety of law-abiding citizens.

- 3.11.1.7 Small vessels pose a security, migration and customs challenge, especially on stretches of the coast where it is easy to launch off the beach. Arrangements are thus needed that do not inhibit recreation and commerce but do assist the process of law enforcement.

### **3.11.2 Regulatory Arrangement**

- 3.11.2.1 It is government's intention to establish a consistent and safe environment for small vessels that allows for recreation and commerce while facilitating law enforcement and safeguards the 'innocent bystander'.

- 3.11.2.2 The current system of registration of small vessels is not consistent between the municipal areas, different inland waterways, tidal waters and the sea. This results in various system of identification with no easy means of verification. There is also no provision for third party insurance for small vessels in South Africa. Although third party insurance will not safeguard 'innocent bystanders' it does provide relief in the event of an accident. Compulsory third party insurance will also assist government in the task of maintaining a register of small vessels.

#### **Policy Statement 67**

The DOT, through SAMSA will establish a system that will allow for the registration of small vessels on a common easily accessible database that provides for 'seaworthiness' and safety equipment to be carried and specifies competence levels of coxswains/skippers for the purposes of safety. The departments will also investigate the need for, and if and where appropriate, implementing a system of third party insurance for small vessels.

### **3.11.3 Safety Standards**

- 3.11.3.1 The mobility of small vessels between inland waters in different municipal areas, tidal waters and the sea necessitates a common and appropriate set of safety standards, a consistent system of aids to navigation and sailing rules, as well as appropriate standards of competence of skippers/coxswains.
- 3.11.3.2 Standards for small vessels operating on the sea and inland waters are contained in the Merchant Shipping (National Small Vessel Safety) Regulations, 2007 as amended issued under the Merchant Shipping Act.

#### **Policy Statement 68**

The DOT will review the standards as contained in the Merchant Shipping (National Small Vessel Safety) Regulations, 2007 as amended with the view to establishing an appropriate and workable single safety framework for small vessels operated on inland waterways, tidal waters and at sea.

#### **Policy Statement 69**

Systematic and purposeful discussions and eventual migration between the two Departments should be laid and engaged in, but during the process, the role of the local authorities and the Department of Water Affairs and Forestry in relations to Inland waters and smaller vessels shall be recognized.

## **3.12 INTERNATIONAL AND REGIONAL IMPERATIVES**

### **3.12.1 Transport Networks**

- 3.12.1.1 There are benefits in regional maritime transport for the SADC economies by facilitating trade through the greater integration of sea transport with the other modes of transport. By integrating sea transport with other modes of transport within the SADC region, economic benefits through trade will accrue to SADC states, whether the state is littoral or landlocked.
- 3.12.1.1 The promotion and development of inter-modalism within SADC should thus be of priority as no meaningful sustainable economic growth and development can be achieved without a network of transport links across the region.

### **3.12.2 African Union**

- 3.12.2.1 The African Maritime Transport Charter is an instrument of the Organization of African Unity (OAU) taken up by the AU in which member states resolve to

co-operate in all fields of maritime activity and to co-ordinate and harmonize their maritime policies. The Charter calls for:

- common African positions on issues of international maritime policy;
- the harmonious and sustained development of an African fleet;
- the establishment of regional and/or sub-regional shipping lines; and
- cabotage at sub-regional, regional and continental levels.

3.12.2.2 South Africa has not acceded to the African Maritime Transport Charter as it is under review.

### **3.12.3 The New Partnership for Africa's Development**

3.12.3.1 Essential building blocks of NEPAD are the Regional Economic Communities (RECs), which include SADC. NEPAD development goals include enhancing regional maritime transport. Currently, there are no declared NEPAD maritime related projects directly connected to SA.

### **3.12.4 The Southern African Development Community**

3.12.4.1 Six of the twelve continental SADC states are coastal lying, with a combined coastline from about 5° S on the West Coast of Africa round the Cape to about 5°S on the East Coast. Within SADC, a Programme of Action is supported by several protocols. The protocols on Transport, Communication and Meteorology and on Politics, Defence and Security Co-operation address maritime transport related issues. Under the Protocol on Transport, Communication and Meteorology a maritime sub-sectoral committee has been established with three specialised working groups:

- The Ports and Shipping Services Sub-Committee,
- The Maritime Safety and Marine Environment Sub-Committee (MASAMES); and
- The Inland Waterway Sub-Committee.

3.12.4.2 The SADC Protocol on Transport, Communication and Meteorology stresses the role of coastal shipping, including initiatives to progressively remove restrictions, if any, on cabotage. This SADC view on cabotage is contrary to that of the African Maritime Transport Charter, which is currently under review. Member States also undertake to participate as a region in the formulation of new standards and practices in respect of:

- Maritime safety aspects such as aids to navigation, search and rescue and hydrography;
- Human resources aspects, including training and service conditions of seafarers;

- Protection of the marine environment; and
- Maritime communications.

- 3.12.4.3 The Protocol however, makes no provision for regional co-operation in the sphere of maritime security matters relating to the Southern Africa and Islands Hydrographic Commission (SA&IHC) to the SOLAS Convention, and given the increasing importance of these maritime security matters, this represents a “gap” in regional maritime co-operation.
- 3.12.4.4 With regards to hydrography, the SA&IHC has been established as part of the International Hydrographic Organization (IHO) to encourage states to strengthen their hydrographic capabilities in order to promote safe navigation and to facilitate regional co-operation in hydrographic training.
- 3.12.4.5 The SAR, law enforcement at sea and hydrography are among the maritime transport related matters addressed by the Standing Maritime Committee (SMC) of the SADC Organ on Politics, Defence and Security.

### **3.12.5 Trans-oceanic arrangements**

- 3.12.5.1 Trans-oceanic arrangements related to maritime transport includes the Indian Ocean Rim Association for Regional Co-operation, the Zone of Peace and Co-operation in the South Atlantic, Free Trade Areas and Preferential Trade Agreements such as the India- Brazil-South Africa (IBSA) and the Dialogue Forum. Although these are not maritime transport based arrangements they are essentially focused on trade and development. Being trans-oceanic, shipping is the catalyst in all cases. The IBSA agreement, for example, has great potential in the broader sphere of maritime transport.

### **3.12.6 Memoranda of Understanding on Port State Control (MOU on PSC)**

- 3.12.6.1 South Africa is a member of the IOMOU on PSC and also has a PSC agreement in the SADC context. South Africa has not yet joined the Abuja MOU on PSC.

### **3.12.7 Spatial Development Initiatives (SDI) and Development Corridors**

- 3.12.7.1 Maritime transport cannot be isolated from the other links in the transport chain and needs to be closely integrated in the “regional development corridors” (RDCs). The most important RDC from a South African perspective is the Coast-to-Coast SDI between Walvis Bay and Maputo. The SDIs and RDCs currently identified focus on road and rail transport to and from ocean ports but do not specifically include coastal shipping.

### **3.12.8 Coherent interstate maritime policy**

- 3.12.8.1 The development of interstate relations is a complex process and develops over time. The overlap of treaties and agreements is thus a feature of interstate relations. Similarly, the apparent contradictions between treaties and agreements are also a product of the process of developing interstate relations. This situation is clearly so with respect to South Africa’s interstate relations on maritime matters and specifically those relating to shipping.

3.12.8.2 The DOT has identified a need to review South Africa's position with respect to interstate arrangements regarding shipping related matters and will liaise with the Department of Foreign Affairs (DFA) and other departments affected by these agreements to ensure coherent and consequent policy in this regard.

3.12.8.3 The DOT will ensure that the growth and development of South African shipping is not adversely compromised in any way where provisions to the contrary are adopted in regional agreements.

### **3.12.9 Regional coastal shipping, a development corridor**

3.12.9.1 Industrial development in the SADC coastal states is largely focused on the coast. Regional trade and feeder services for international trade hold opportunities for coastal shipping, especially if coastal terminals outside the customs loop and appropriate ships to serve small ports are combined.

3.12.9.2 The government will engage the maritime transport industry to determine the feasibility and benefits of development corridors based on shipping as the primary mode of transport.

### **3.12.10 Regional maritime integration**

3.12.10.1 Advances in marine technology are making the wealth of the sea increasingly available to mankind. The sea thus has the potential to make an enormous contribution to the economic growth, job creation and poverty alleviation in the Southern African region.

3.12.10.2 While the technology required to explore and exploit the wealth of the sea is currently beyond the reach of most countries in the region. Good governance of the adjacent seas would at least ensure that the countries of the region benefit from maritime industries, both ashore and offshore.

3.12.10.3 It is in the region's interest that the Southern Atlantic, Southern and Southern Indian Oceans be properly governed as the lack of good governance at sea increases a risk that the wealth of the sea will not benefit the region. The nature of the sea implies a regional approach to governance, as is indeed the international trend.

#### **Policy Statement 70**

As a multilateral player, South Africa, shall continue to support all international protocols related to the maritime industry, and shall continue its membership to the International Maritime Organization (IMO) and its subsidiary bodies and other organizations which promote the welfare and sustainability of the maritime industry.

### **Policy Statement 71**

The responsibilities and representations to these international bodies shall be synergized and there shall be timeous communication between the involved parties, and appropriate and relevant representation shall be made to reap maximum benefits for the maritime industry. In all state-to-state matters, agencies shall cede their rights to the state, represented by the DOT, and in all technical issues, the DOT shall allow the competent agencies to engage their counterparts at appropriate levels.

More synergies between the DOT and the Department of Foreign Affairs shall be developed, such that transport issues are dealt with by the DOT, and those of an international relations nature shall be under the auspices of the Department of Foreign Affairs.

### **3.12.11 Strengthening South Africa Negotiating Position**

- 3.12.11.1 The balance of forces between South African shipping companies and foreign owned ones is loaded in favour of the latter. This Maritime Transport policy seeks to strengthen South Africa's negotiating position regarding the services offered and the tariffs and costs.
- 3.12.11.2 Transport has to provide "trade and services" as required by the Doha Round discussion. However, in the absence of established tariff structures, and the uncoordinated approach that the transport sector has to this issue, a consolidated position at the Doha round of the WTO negotiations, and any other multilateral negotiations that would require transport position to be consolidated) will not be as successful.

### **Policy Statement 72**

The DOT shall in conjunction with relevant Government Departments, evolve a negotiating position within the international global climate and international financial and trade institutions to promote both its own position as well as of the developing world through the promotion of its tariff base as an attraction to direct foreign investment.

### **3.12.12 Accession to the UNCTAD Code of Cargo Sharing Formula**

- 3.12.12.1 In order for an effective cabotage policy to be implemented, there is a need for the South African government to accede to the United National Commission on Trade and Development (UNCTAD) for a cargo sharing formula. The non-accession means that there are no internationally recognized instruments that reserves cargo for national carriers. The DOT will have to work with the Department of Foreign Affairs to achieve this. The National White Paper on National Transport Policy opens the possibility for the monitoring of its cargo share in relation to the UNCTAD Code

### **Policy Statement 73**

The DOT shall, with the concurrence of other economic Government Departments lead the ratification of the United Nations Conference on Trade and Development's (UNCTAD) cargo-sharing formula, and the commitment that either by supporting the Department of Trade and Industry, or as a Department responsible for maritime activities, the DOT shall support and participate in all activities and pay all necessary dues to the United Nations Conference on Trade and Development.

### **3.12.13 International Arrangements and Organizations**

- 3.12.13.1 As a developing nation the South Africa maritime industry relies on developed countries on through technical cooperation agreements to promote her maritime interests. These could take a form of bilateral engagement or they could be done with the broader context of the IMO. Such cooperative agreements have been signed and ratified in the past, and as South Africa continues to play a growing role in the international maritime area.

### **Policy Statement 74**

The DOT shall continue to dutifully participate in bilateral and plurilateral partnership, and allocate its maritime resources to achieve all maritime related parts of this partnership, but this should also be under the direction and co-operation with the Department of Foreign Affairs.

### **Policy Statement 75**

The international dimension of the maritime sector shall continue to highlight the role that South Africa plays in the International Maritime Organization, and that its continuation and the solidification of its membership, and its co-operation between and with other developing nations to consolidate their positions for the benefit of the whole international maritime industry, shall continue to be an important economic and foreign policy and implementation trajectory.



#### **Policy Statement 76**

The DOT and the DFA shall work on the modalities of strengthening their respective offices, and the relationships and the powers, functions responsibilities and duties of each office in relation to maritime issues shall be properly redefined so that one jurisdiction does not impinge on the other, and that both work for the overall benefit of the people of South Africa.

#### **Policy Statement 77**

Technical co-operation at a state-to-state level to unleash the potential of the South African maritime industry shall be conducted by the DOT on behalf of Government. However, agencies that report to the DOT shall continue to exercise their right to negotiations on technical issues but the DOT shall be appraised of these technological co-operative negotiations and agreements before they are entered into.

At any given time, and when there is a need for this to be done, the Department and the agencies shall call and rely on each other's support to achieve their respective objectives.

#### **Policy Statement 78**

The transshipment into the regional ports, and the role that the South African maritime industry plays in this crucial subsector of the industry shall continue and that South Africa's strategic location and its commitment to a better region and a better world shall underpin all maritime and economic policies of South Africa.

#### **Policy Statement 79**

The South African maritime industry shall be encouraged to continue its dominant role in the continent, and the maritime industry shall be candid enough about its need to use its dominance for the benefit of other maritime nations in both the region and the continent and to use this domination in support of all the other maritime nations of the world. This dominance shall not be for itself, but for the benefit of the whole global maritime security and excellence.

### **3.12.14 Obligations to Land Locked States**

- 3.12.14.1 The country's obligations in terms of landlocked states (i.e. Almati Declaration) should be taken into consideration if the suggested policy interventions are implemented

3.12.14.2 Six of the twelve continental SADC states are coastal lying, with a combined coastline from about 5° S on the West Coast of Africa round the Cape to about 5°S on the East Coast. Within SADC, a Programme of Action is supported by several protocols. The protocols on Transport, Communication and Meteorology and on Politics, Defence and Security Co-operation address maritime transport related issues. Under the Protocol on Transport, Communication and Meteorology a maritime sub-sectoral committee has been established with three specialised working groups:

- The Ports and Shipping Services Sub-Committee,
- The Maritime Safety and Marine Environment Sub-Committee (MASAMES); and
- The Inland waterway Sub-Committee.

3.12.14.3 The Protocol on Transport, Communication and Meteorology stresses the role of coastal shipping, including initiatives to progressively remove restrictions, if any, on cabotage. This SADC view on cabotage is contrary to that of the African Maritime Transport Charter, which is currently under review. Member States also undertake to participate as a region in the formulation of new standards and practices in respect of:

- Maritime safety aspects such as aids to navigation, search and rescue and hydrography;
- Human resources aspects, including training and service conditions of seafarers;
- Protection of the marine environment; and
- Maritime communications.

3.12.14.4 The Protocol however, makes no provision for regional co-operation in the sphere of maritime security matters relating to the Southern Africa and Islands Hydrographic Commission (SA&IHC) to the SOLAS Convention, and given the increasing importance of these maritime security matters, this represents a “gap” in regional maritime co-operation.

#### **Policy Statement 80**

In its dominance, the maritime industry shall continue to observe its obligations in terms of the SADC Protocol of Transport Communications and Meteorology and the African Union instruments such as the Almati Declaration and South Africa's continued commitment to servicing the landlocked countries in line with international obligations.

### **Policy Statement 81**

The DOT shall liaise with its regional partners to review the SADC protocol with the intention of enhancing co-operation on the sphere of maritime security and enhance the overall adherence of the Southern African and Island Hydrographic Commission (IHC) to the SOLAS Convention

## **3.13 CLUSTERING AND THE INTERNATIONAL MARITIME CENTRE**

### **3.13.1 Co-operation Across Issues of Mutual Concerns**

- 3.13.1.1 Maritime Transport is an important element of the maritime sector. On its own it constitutes an influential sub sector with a number of further sub sectors that have substantial and complex supply chains.
- 3.13.1.2 The international standing of this maritime sub sector can be enhanced, its productivity improved, and its attractiveness increased through a number of processes including the process of understanding the relationships and networks that underpin the various strands of this sub sector. Collective efforts towards a common goal as a sub sector is very important for industry growth than would be possible for a singular effort.
- 3.13.1.3 This approach of co-operating across many issues of mutual concern has become known as the cluster approach. It is thus crucial that the maritime transport players group themselves into a sub-cluster of a broad maritime cluster. Activities that can be jointly done include research and innovation, sharing knowledge, pooling training, marketing and many more.
- 3.13.1.4 Clusters are known to be more effective in situations where the relevant sectors or sub sectors have complex supply chains that stretch from manufacturing to services, which have a mixture of large and small firms.

Linkages between the maritime transport sub clusters to other sub clusters within the maritime cluster should be exploited. The potential is usually endless.

- 3.13.1.5 In order for South Africa to successfully develop as an international maritime centre, all industries in the maritime sector must work together towards a coherent objective of becoming a global maritime nation. This may include working with regional industry sectors. Clustering is thus very crucial for the success and sustainability of South Africa as an international maritime centre of excellence.
- 3.13.1.6 South Africa is a maritime nation whose shipping industry should be promoted in line with the overall industrial promotion found in Government policy. Being a maritime nation that is endowed with the maritime resources without the TNPA and taking advantage of the other attributes that make a nation a maritime nation needs revision.
- 3.13.1.7 Over 95 % of South African trade is sea-borne, and the encouragement of the South African shipping industry is a logical step for economic growth and value add.

- 3.13.1.8 Among the strategic objectives envisaged in the National White Paper on National Maritime Transport Policy is the need to promote the development of an efficient and productive industry capable of competing on international markets.
- 3.13.1.9 South Africa is geographically removed from her major trading partners and the possibility of her losing out in a globalizing world economy in favour of shorter destination markets should not be ruled out. Sooner or later South Africa will have to have her own strong exporting industry base, a major part of which is the maritime industry.
- 3.13.1.10 Cargo volumes by tons in South Africa are growing but this growth is meaningless if its transportation does not benefit South African owned shipping companies.
- 3.13.1.11 The transportation of SA goods on foreign owned ships does not guarantee that they will arrive on time as they are not always likely to be given priority. In the absence of South African flagged ships, South African cargo is beholden to foreign trips.

#### **Policy Statement 82**

South Africa shall embark on concerted efforts to the protection of the South African maritime resources, take advantage of its strategic location in the global trade paradigm, maximize its share of the market, dutifully perform its rights and responsibilities in its increasing Exclusive Economic Zone, (EEZ) and maintain its maritime dominance in the continent.

#### **Policy Statement 83**

South Africa shall pull all stops to revive its ailing maritime industry, using the resources of both the State and the private sector and to continue using its maritime resources as the backbone of its internal markets.

#### **Policy Statement 84**

South Africa, through its maritime industry, shall vigorously pursue integration into the international sea-borne trade, and to use her distance from her dominant markets as a stimulus for such a vigorous integration.

### **3.13.2 Creation of Certainty in the Industry**

- 3.13.2.1 Shipping cartels, such as those of a conference nature, are powerful entities that should be persuaded into co-operative arrangements rather than being

bullied or threatened with arbitrary policy implementation. There is a need for the Department to play open cards so as to create sustainable partnerships that will lead to a Win-Win Situation for existing players as well as the aspirant ones.

#### **Policy Statement 85**

In order to encourage certainty in the industry, and for the industry players to have the benefit of planning their investments ahead, there shall be continuous engagement with them, either as organized shippers or individual operators, so as to find out their attitudes towards the new policy changes.

#### **Policy Statement 86**

The Department of Transport shall make available to the industry all future plans and policies and procedures in relation to the development of the maritime industry so that the industry can map out its investment strategies in an environment of certainty, and in return the industry shall provide the necessary support and information so that the DOT can develop these policies, plans and procedures with a clear understanding of the intricacies and nuances of the industries.

### **3.13.4 Down Stream Benefits For The Industry**

- 3.13.4.1 The three policies (cabotage, tonnage tax and ship register) and their properly timed implementation will have downstream benefits for the ship building, ship repair and ship refurbishment and marine equipment industry and ancillary services such as stevedoring, insurance, banking consultancies that deal with classification of cargo, warehousing agencies, brokering, labour consultants etc.

#### **Policy Statement 87**

The DOT shall finalize the Strategy For the Growth Of the Maritime Transport Industry and the process of the Ten-Year-Sea Way Strategy 2009 to 2020 shall be placed firmly on the maritime industry development agenda.

**Policy Statement 88**

Lessons shall be deduced from the Automotive Production and development Programme (APDP) previously known as Motor Industry Development Programme (MIDP) to vessels and ship building and ship repair programme, and for the need of South Africa, to use its strategic capacity, mineral resources to develop an economic framework for the maritime growth of the West African coast line, which is experiencing boom in terms of off shore resource exploration.

**Policy Statement 89**

Government shall support the intention of the parastatal. Transnet's decision to exit its ship building industry shall set processes in place for the exit to be seamless in relation to the areas of business that Transnet was involved in. In this regard, the DOT shall study the recommendations of the feasibility study and work with Transnet in this exit strategy.

**Policy Statement 90**

The docking facilities that currently exist shall be encouraged to continue existing, and they shall be revamped to respond to the current needs of these industries, and to be leveraged for the development of the ship-building and ship repair and refurbishment industry. The TNPA shall be assigned with the responsibility to deal with these issues and to place a strategy in place to address all issues that arise from this segment from the industry.

**Policy Statement 91**

The tax regime, immigration issues and the incentive to the industry shall be packaged together so as to attract as many players in this field as possible, and that the Department of Trade and Industry (DTI) shall be the lead Department to deal with these issues.

**Policy Statement 92**

The role that is being played by the SA Navy (SAN) in supporting the shipbuilding and ship repair industries, and the fishing industry shall be partners in this policy approach by Government to support this segment of the industry.

### **Policy Statement 93**

The resources of South Africa shall be used for the benefit of the growth of the shipbuilding and ship repair industry as part of the beneficiation from the resources such as steel.

### **Policy Statement 94**

All new acquisitions of types of vessels that shall be required for South Africa either for defensive recreational and sport purposes, shall be first checked against the capacity of South African companies to procure, and only after a case by case analysis has been made and if the capacity does not exist in South Africa, can such acquisition be outsourced.

### **3.13.5 Off Shore Assets, Outermost regions and Islands**

- 3.13.5.1 The growing responsibilities of the South African Government to its “other province” - the sea - has to be seen in the need for it to protect and safeguard its far-flung regions and islands, including the reefs and the continental shelf.
- 3.13.5.2 The vast resources and riches that lie underneath the sea may also be related to the sunk ships, ship wrecks and the cargo that ships would have been carrying. Normally, the finds of this nature are assigned to heritage communities.
- 3.13.5.3 With growing investments in offshore oilfields, and the oceans now providing a source for some of this much needed fuel sources, the leveraging of these resources to off set the shortages that are being experienced by countries near those off shore assets should be part of the policy.
- 3.13.5.4 There is also an under utilized technology platform that is being developed by the Department of Science and Technology (DST), the policy platforms of which are being led by the Department of Trade and Industry namely the Space Development Programme. In light of the vast distances between South Africa and the islands that are attached to her and particularly the Antarctic operations, the policy should be adopted for use in the monitoring of these far-flung areas and island.
- 3.13.5.5 Both private and public sectors of the maritime industry commit to pursue its rights to its outlying and far away islands and territorial possessions and will use all methods, including its maritime transport to explore and protect these possessions, while also providing safe passage to the other nations’ ships through these waters near these territorial possessions.

**Policy Statement 95**

The maritime industry shall be at the disposal of other players in the economic, scientific and otherwise chain, exercise its rights and explore its continental shelf and reef resources, and to leverage these ocean-based extended territories and riches for the benefit of all the people of South Africa.

**Policy Statement 96**

In order to exercise its rights to these possessions, the maritime industry shall assist the state to transport these offshore resources in a manner that benefits the economy of South Africa, and that the maritime industry shall safeguard and protect these against possible attacks, pilferage and other unforeseen mishaps that may render them unusable for the benefit of the country.

**Policy Statement 97**

All shipwrecks found within the maritime environment, and all salvaged vessels which cannot be further repaired shall be transferred to the relevant museum and heritage authorities so that they shall vest in all South Africans.

**Policy Statement 98**

The observation capacities of the space industry and programmes under the auspices of the Department of Science and Technology and the Department of Trade and Industry shall be used to reduce costs for monitoring purposes in the maritime environment, and that the DOT shall prevail on the two Departments to make available to the maritime industry all developments in the space programmes that will enhance the growth and consolidation of the maritime industry in South Africa.

**3.13.6 Synergies Between Maritimes Industry stakeholders**

- 3.13.6.1 If the shipping industry has to grow, there is a need for Government to synergize the functions and responsibilities of the Port Regulator (PR), TNPA, South African Maritime Authority and the South African Ports Organization. Their mandate should be redefined towards the promotion of the shipping industry and trade with full State backing and targeted funding.



- 3.13.6.2 There is also an outstanding issue of the mandate of the port regulator being extended to the local and provincial spheres of government so that the port managers will spend more time embedding the port in the local community.
- 3.13.6.3 The role of local governments and the ports should be seen within the growing trend to institute reforms that give greater autonomy and more independence and privatization, corporatization and the commercialization of to the port themselves. However, at the present moment the port system in South Africa is not well developed to devolve the functions and the role for the infrastructural contributions of the national fiscus is currently government policy.
- 3.13.6.4 There is however a need for a policy to consider this devolution once the port system is well established, or for some sections of the port to be privatised.
- 3.13.6.5 In addition, coastal areas along which shipping and maritime activities are conducted are also attracting more people as work places and as places to live. There are health benefits that are usually considered, and the property values of these areas could lead to competition for property rates returns for local communities, and if the areas are not attracting the necessary revenues for the local municipalities, the less they are likely to support the development of the ports.

#### **Policy Statement 99**

The similarities between the functions and the responsibilities of these maritime industry and the ports shall be consolidated through cooperation rather emphasis on the diverse interest that they serve. In other words, all interests in the maritime and port sector shall be calibrated towards the interests of the maritime shipping industry, and the DOT shall in policy, make a commitment that all areas which can be synergized, are synergized as a matter of urgency so as to avoid conflicting mandates and unnecessary duplications.

#### **Policy Statement 100**

The effective economic regulatory regime in the ports environment shall be located within the Ports Regulator. Operational entities, even those within the same stable shall be encouraged to compete with other industry players.

**Policy Statement 101**

The devolution of the port regulator functions to a provincial or a local council entity will be adopted after the implementation on the process recommended in this document. , The nascence of the (national) ports regulator, and the need for it to work within a system of ports rather than individualized ports is such that at this stage the role of the provincial or local port regulator would need further investigation, except to state that all spheres of government will be consulted in the developments of the port infrastructure in their localities.

**Policy Statement 102**

The role of Port State Control in relation to substandard ships shall continue to be emphasized, and the necessary support be given to it to monitor ships of a substandard nature so that South Africa ports will provide a reliable and safe service to the industry.

**Policy Statement 103**

The Departments which provide services to the DOT and the maritime industry, or those that have shareholder responsibilities shall be encouraged to sign Memoranda of Understanding to the effect that they shall work together in the common but differentiated responsibilities (CBDR) to achieve the mandate of promoting the maritime industry in South Africa.

**Policy Statement 104**

The commercial and the defence capacities of the country shall be collectively sourced to achieve the objectives of this policy, in such a manner that there is mutual benefit for both sectors, to the rest of the South African economy and the South African people.

**Policy Statement 105**

The Department of Defence and its responsibilities in relation to hydrography services it supplies to the industry shall be a subject of negotiations with the relevant authorities in the security field, and that all efforts shall be made for temporary co-operative agreement while the Department plans the migration of these services to the NNA mentioned in this document.

### **3.14 INTEGRATED BBBEE AND SMME DEVELOPMENT**

#### **3.14.1 Redressing the Past Marginalization**

- 3.14.1.1 The future and full potential of any sector in South Africa is dependent on the full participation of all of its people. Recognising the past segregative policies that excluded black groups from fully participating in this sector, the BBBEE codes as developed and published by the Department of Trade and Industry shall apply to this sector. Any enhancements as may be made through the maritime charter above the DTI codes should be welcome and applied by all.
- 3.14.1.2 Without a strong ship register the integration of the PDIs into the maritime industry in terms of the Maritime BEE Charter is unlikely to be realized. Having been the first to approve the BEE Charter, the maritime industry should of necessity take the lead in its implementation of the Charter even before Cabinet has approved the aligned-BBBEE Charter.

##### **Policy Statement 106**

The maritime industry shall commit to the Maritime Charter of the Integrated BEE Charter to which through the BEE Directorate of the DOT, it was part of developing.

##### **Policy Statement 107**

The DOT's Black Economic Empowerment Directorate shall work with knowledgeable entities in the industry, both public and private, to arrive at the common understanding of the International trade environment and all other issuers pertaining to the UNCTAD regimes that shall assist the entry of the Historically Disadvantaged Individuals (HDI) into the maritime industry.

##### **Policy Statement 109**

All instruments to facilitate entry of the Historically Disadvantaged Individuals (HDIs) such as joint ventures, synergies, back offices, beneficiation mechanism etc. shall be exhausted to achieve the objectives of the BBBEE charter, and the monitoring of these ventures shall be subjected to the structuring of the BEE Council which shall be established precisely for this purposes.

### **3.15 INNOVATION, RESEARCH AND DEVELOPMENT**

#### **3.15.1 Using Technology To Enhance the Industry**

- 3.15.1.1 Maritime transport, as with other forms of transport, is increasingly becoming a knowledge and high technology industry, making innovation, research and development important to its continued development.
- 3.15.1.2 The widespread usage of information technology for both coastal and deep-sea shipping and for recreational or commercial purposes should be supported and strengthened. Innovative solutions for challenges confronting the domestic and international maritime transport industry should focus the attention of industry and government in ensuring renewal and industrial progress. From shipyards to port operations and to environmental protection, industry sustainability requires investment in new knowledge and the commissioning of new ideas onto the marketplace.
- 3.15.1.3 Furthermore, a country's competitiveness is largely dependent on its ability to come up with new ways of moving its cargo and people to markets in the most efficient way possible. With the country's main markets very distant, the capacity to find new ways of reducing cost to markets, a robust research and innovation agenda must be put in place, supported and improved.

#### **Policy Statement 110**

The DOT shall continuously undertake research and trend analyses so as to be abreast of the sustainability of the maritime industry and that such research shall be released to for the benefit of the industry and other interested parties.

#### **Policy Statement 111**

In addition, to the market data, the socio-economic impacts of the maritime industry and the port systems in South Africa shall be studied. The DOT shall always be seized with the issue of obtaining accurate, relevant and reliable data so as to evolve future social and economic policies for the maritime industry

### **3.16 LEGISLATIVE COMPLIANCE**

#### **3.16.1 Review of Existing Legislation**

- 3.16.1 The Merchant Shipping Act of 1951 should be reviewed to take into cognizance the policy interventions that are suggested in this submission. In addition, there needs to be some finality reached with regards to the transport maritime policy as a building block for an overall Maritime Policy for South Africa.
- 3.16.2 There are about 70 bulk cargo ships with an approximate dead weight (dwt) of 2.45 million tons, and if these ships are registered on the South African flag they can benefit from an environment of the ship register and also serve as an attraction to foreign-owned based ships to register on the SA register.
- 3.16.3 The economic benefits for the tonnage tax and the ship register cannot be determined at this stage but since no tax is paid, and no benefit accrues from

the ship register, benefits even from a lower base would be a perfect building bloc for a sustainable shipping industry.

- 3.16.4 Cabotage as a policy intervention is usually contested between foreign and local ship owners and operators, but it is a conducive policy intervention for the promotion of a locally based shipping industry. That is to say in order for the ship register to grow with a drive from nationally owned ships listing on the national register, the state must create opportunities in the shipping industry. The growth of local shipping economy is an attractive mechanism for foreign ships entry.

#### **Policy Statement 112**

The Merchant Shipping Act of 1951 shall be reviewed, and if need be, be replaced so that it is not continuously be strengthened through regulations which do not bear resemblance to policy and the need to evolve new policies in line with the changed circumstances of a democratic South Africa and the new challenges in the maritime sector.

#### **Policy Statement 113**

The DOT, through its Legislation Division, shall liaise with the relevant Portfolio Committees of the South African Parliament to give national legislation expressions of all international protocols to which the South Africa is a signatory. The Department shall also ensure that all its national policies reflect those that emanate from international protocols and conventions.

#### **Policy Statement 114**

With the assistance of the Portfolio Committee on Transport (PCOT), and other Committees that may be relevant for this need, DOT shall streamline all maritime pieces of legislation. In order to achieve this, in the development of new policies within the sector, efforts shall be made not to clutter them so that in the final analysis, maritime policies and pieces of legislation are succinct, clear and understandable.

Where possible, new policies and legislations shall be subsumed under those that already exist so as to avoid the time-consuming legislative process.

### **3.17 MARITIME BUSINESS RE-ENGINEERING**

#### **3.17.1 Creating Conducive Conditions**

- 3.17.1.1 The theory of a developmental state should span all sectors of the economy, including the maritime industry. Development in this sense has also not only deal with the intervention of the state through financial disbursement, but also the creation of conducive conditions for business to prosper and be sustainable.

##### **Policy Statement 115**

The Maritime industry, both public-owned and privately, shall support the developmental state approach, and all the other attributes that pertain to it such as governmental developmental programmes,

The National Industrial Policy Framework and IITS Framework, the Procurement Preferential Policies shall, to the best of their abilities, engage resources to assist in the achievements of all macro-economic and micro-economic policies.

##### **Policy Statement 116**

In order to develop a sustainable South African maritime industry, the co-operation and assistance of other well established maritime nations shall be sought and international best practices shall be emulated. However, this assistance and international best practice emulation shall be fine-tuned to suit the uniqueness, challenges and peculiarities of the South African maritime industry.

##### **Policy Statement 117**

The setting up of the National Navigation Agency (NNA) as proposed in the White Paper on National Maritime Transport, shall be immediately embarked upon and the relevant Branch in the Department, namely Public Entity Oversight and Border Control(PEO and BC), shall be seized with the modalities of the establishment of such an Agency.

However, it may not be possible to run with all these responsibilities at the same time, and its location must be within SAMSA, until such time that all the modalities of the establishment have been finalized, and that in the meantime, the mandate of SAMSA should be calibrated to accommodate the mandate.

**Policy Statement 118**

The DOT shall, once such an agency has been established adequately resource it. The NNA shall be given the mandate to safeguard, source and assist in the provision of a suite of navigational aids, such as the supportive infrastructure such as the lighthouses, and surveillance equipment for the shipping industry.

**Policy Statement 119**

In order to set up the NNA, there shall be a revival of the Regional Commissions on the Hydrographic bodies to deal with issues that relate to the region, but also relate to the IALA conventions, and to find modalities how all countries in the region can co-operate within the context of providing this much needed resources in the process.

**Policy Statement 120**

Technology already existing in the industry shall be obtained to facilitate trade, and the South African scientific and commercial entities, private and public shall be encouraged to mount new technologies on existing platforms so as to reduce the costs of the acquisitions of technology.

Innovations in this subsector shall be driven from the Technology Innovations Agency (TIA) hubs, and all efforts shall be made to match the technologies in the maritime industries with those that already exist within the whole Intelligent Transport Systems (ITS) Sector.

**3.17.2 Separating Operations From Regulatory Regimes**

- 3.17.2.1 A cabotage policy should be anchored on a fair competition-based approach. If competition is to be promoted, the -location of the TNPA within an operating entity, Transnet, is counter-competition. In addition, the protection of TPT by both Transnet, and the TNPA (whether individually or severally) has to be ended and TPT be made to compete with other players on an equal basis.
- 3.17.2.2 According to the National Commercial Ports Policy observation, this arrangement has led to the skewing of the prices, misallocation of port revenues, creating suspicion in the maritime and transport industry about the impartiality of the port entity within a transport company.
- 3.17.2.3 Cabotage and the stimulation of a fair share of national shipping industry should be private sector driven and should emphasize on market forces

rather than statist intervention. The intervention of the state should be for the market rather than in the market.

- 3.17.2.4** The regulatory environment in other maritime jurisdiction is advocating for self-regulation. Located within the arms length regulatory paradigm self regulation is welcome, but at this juncture where the maritime industry is not very advanced, there is a need for the role of a properly functioning and properly mandated Ports regulator to perform this function.

#### **Policy Statement 121**

The Department shall establish regulators as shall be required by the industry, but shall, where possible, collapse these regulators if their mandates are related, and if their presence constitutes a clash of responsibilities and confuse rather than ease the cause of regulatory interventions in the industry. The end state of all regulatory responsibilities in the maritime industries shall be the one that will support a single transport regulator.

#### **Policy Statement 122**

Ordinarily, an authority presupposes an independent entity whose mandate is to promote the industry as a whole rather than being under an operational entity. The DOT shall investigate the incongruence of the location of the TNPA (TNPA) under the holding parastatal, Transnet, so that the Authority can perform its mandate without any fear or favour, and that the perception that it caters for the interests of Transnet should be dispelled through a policy directive.

#### **Policy Statement 123**

Until such time that there has been total separation between the operating entity and the regulatory entity, the operating entities shall sign service levels of agreements between the state entities and the customers that they serve.

In the event that the state entities do not abide by the service levels agreements, the regulators shall be empowered to bring relief to the aggrieved parties.



**Policy Statement 124**

With the co-operation of the maritime industry and other players, the DOT shall develop a risk assessment tool which shall be informed by appropriate research based marine data systems that are currently being utilized by the industry. This risks assessment tool will not only allow for policy revision, but will also assist in dealing with the issues of uncertainties in the industry and for the new entrants to get involved in industry knowing very well what may lie in store for their investments. The risks that the industry should assess should be among but not limited to the following:

- Regulation and Compliance
- Global financial shocks
- Aging populations
- Emerging Markets
- Consolidation and Transition
- Energy Shocks
- Strategic Transactions
- Cost inflation
- Radical greening
- Consumer demand shift

**Policy Statement 125**

The maritime industry, together with the Departments of Transport and Trade and Industry shall develop Performance Indicators for the maritime industry and these performance indicators shall be timed and be assessed at the interval of the time lining.

### **3.18 POLICY ADVOCACY**

#### **3.18.1 Communications**

- 3.18.1.1 There is a great need for this policy to be communicated both for the industry and those other industries that rely on maritime excellence for their operations. Such communications should be extended to the logistics chain, because of the intermodal nature and the interconnectedness of the freight movements in South Africa and the need to continuously improve on this aspect.
- 3.18.1.2 In order to attract interest and broaden the skills base in the sector, the universities and other institutions should be targeted so that interested students and academics can begin to understand that the maritime industry also has some exciting opportunities.
- 3.18.1.3 There should be clear communications also among the Departments which perform some or other maritime tasks, so that their roles could be clearly defines, which in turn would lead to the eliminations of costly duplications.
- 3.18.1.4 Our maritime intentions are clearly elucidated through policy, and once investors are clear of the way we want to go in relation to the growing of our maritime industry, their willingness to invest would be heightened. This will be a function of an effective communication and marketing strategy.
- 3.18.1.5 In terms of its international obligations, the policy should be marketed and communicated so that the global partners and the global multilateral organizations we interact with shall be aware of our trajectory, and our compliance mechanisms with the protocols as agreed upon will be confirmed through the policy.

#### **Policy Statement 126**

Each stakeholder shall devise its own communications strategy in relation to the implementation of the policy, with each targeting the market that could best serve its interests in the main, but which in general should lead to the improvement of the whole maritime industry and supply chain mechanism.

#### **Policy Statement 127**

If the need arises there shall always be co-operation between the International Investment Council (IIC), the Government Communications and Information Service (GCIS), and the DOT in relation to how the maritime messages of the Republic of South Africa shall be packaged to attract direct foreign investments.

### **3.19 POLICY REVIEW**

#### **3.19.1 Review Time Frames**

- 3.19.1.1 South Africa has since 2004 not convincingly reviewed the policies that were promulgated after 2004. The political transition was by itself a review of the policies that had existed pre 1994. It was understood that the policies which were passed by a democratic Government would perform better than those that were there before it.
- 3.19.1.2 Since the dawn of the democratic dispensation there is now a realization that not all the policies that were passed in 1994 have achieved the goals they had been set to achieve, and there is a conscious effort to review some of these,.
- 3.19.1.3 With a five-year period life span of a Government, the policy reviews generally should coincide with the term, but can also be subjected to the other goals that are set by the multi lateral organizations, such as the Millennium Development Goals (MDG) which may overlap these tenure of Government

#### **Policy Statement 128**

The Department of Transport and other Government departments, together with the industry, shall after a period of five years review this Maritime Transport policy. There shall however be an intermediate period where the need for policy review shall arise, such as those determined by the indicators to be formulated as per indicators mentioned in the Policy Statement above or those review needs that shall arise as a result of the changing global commitment and international obligations.

## **SECTION 4: THE WAY FORWARD**

### **4.1 Continuing What Has Been Started**

- 4.1.1 This Maritime Transport Policy provides a framework for the future growth and development of the maritime transport sector. This Maritime Transport Policy is directed at realising the vision of developing a maritime transport sector in South Africa that will capitalise on the potential of shipping and the associated support industries as significant contributors to economic growth and employment opportunities in the country.
- 4.1.2 The underlying policy principles are consistent with those reflected in the 1996 White Paper on National Transport Policy. This Maritime Transport Policy expands on the broad framework established in 1996 and takes into account developments in South Africa in the past fifteen years.
- 4.1.3 From a maritime transport perspective the most significant developments have been the establishment of SAMSA, the review of the Ship Registration Act, 58 of 1998, the policy and legislation on the commercial ports and the adoption by the IMO and ILO of several international treaties in respect of the security regime for ports and ships, ship's ballast water and working conditions of the seafarers.
- 4.1.4 Within the structural framework that has developed over the past ten years, this Maritime Transport Policy sets out to facilitate the next step in realising the potential of South Africa as a true maritime nation with the consequent benefits that will accrue to all the people of the country. This is a mammoth task as no such comprehensive policy has been developed in South Africa although numerous studies, investigations, inquiries and research have shown this to be an achievable and worthwhile vision.
- 4.1.5 The DOT recognises that policy documents and statements alone will not achieve the desired objectives. It is the combined efforts of the public and the private sectors working together on a common strategy that will achieve the objectives. To this end the DOT has set for itself these implementation priorities to facilitate the achievement of the policy objectives.

### **4.2 Implementation Framework**

#### **4.2.1 Introduction**

- 4.2.1.1 Ten focus areas are identified for attention in the immediate future. These focus areas will form the basis around which the development of the maritime transport sector can grow and the maritime sector in general can develop. The focus areas are:

- Maritime transport chains
- Ship register
- Ports
- Governance of the South Africa's Maritime zones

- Small vessels
- People in maritime transport
- International maritime transport relations
- Establishment of home-grown shipping line
- Safe navigation
- Cabotage and regional coastal corridors

#### **4.2.2 Maritime Transport Supply Chains**

4.2.2.1 It is clear that in order to accelerate the expansion of South Africa's international trade and therefore grow the economy, the global competitiveness of the South Africa's maritime supply chains need to be enhanced. Transnet, which largely controls many of these chains, along with other state owned enterprises, should bring about a new business model that ensures an integrated approach to the movement of cargo. Therefore, ports, rail and road, working in collaboration with other players must ensure that they operate in a seamless fashion.

#### **4.2.3 Building the ship register**

4.2.3.1 Ship owners and operators register their ships in an environment conducive to that specific enterprise. The attraction of ships to the register and the associated enterprises will have the potential to create a major industry in South Africa with many job opportunities and foreign earnings. In order to create such an environment in South Africa a 'package' needs to be created that will make the South African register an international register of choice. To this end the government is determined to:

- Hasten the review of the tax regime on shipping and especially the tonnage tax initiative.
- Investigate incentives for the shipping support industries.
- Identify and remove other potential impediments to ship owners and operators.
- Ensure South Africa's shipping administration provides the highest standards required of a flag state at minimum cost to the industry.

#### **4.2.3 Ports**

4.2.3.1 Although shipping is recognised as a potential growth industry earning foreign exchange, it is also the vital link in trade. There is not much any government can do to reduce international freight rates. Without interfering in the commercial aspects of transportation, the government is nevertheless committed to minimising the cost of getting goods on and off ships.

4.2.3.2 The commercial ports are the vital link between terrestrial and sea borne transport for imports and exports. To this end the government established a Port Regulator to be involved in the shipping and ports sectors, and its function includes:

- Closely monitor the cost drivers of loading and discharging cargo in the commercial ports to ensure policy and regulations do not unnecessarily push up these costs; and
- Closely monitor the turn around time for shipping through South African ports to ensure that infrastructure and other development is in place to speed up the process.

#### **4.2.4 Governance of South Africa's maritime zones**

4.2.4.1 Departments of Transport are internationally accepted as the lead departments in government on the commercial aspects of maritime policy. The situation in South Africa is the same with the knowledge and experience in the broader maritime sphere being present in the DOT and its agencies.

4.2.4.2 Maritime transport does not exist in a void but is an integral part of the broader maritime sector of the country. Its efficiency and growth potential is dependent on coherent general maritime policy and a well-structured and vibrant general maritime sector.

4.2.4.3 The DOT recognises a need to review overall maritime policy in South Africa with the view to formulate a holistic strategy to ensure the country gains maximum benefit from its adjoining seas. To this end the DOT as the lead department on commercial maritime matters is committed to initiate:

- A process to establish holistic arrangements to govern South Africa's maritime zones and ensure the co-ordinated development of the maritime sector.
- A process to review arrangements for 'service delivery' at sea to ensure cost-effective use of resources, people, information, assets and infrastructure.
- A programme to promote the potential of the maritime sector within the coastal provinces and metropolitan cities to ensure their commitment to the development of South Africa's maritime sector.

#### **4.2.5 Small Vessels**

4.2.5.1 The enhancement of a safety regime on inland waters is recognised; as is the need to harmonise the safety regime applicable to all small vessels – whether operating at sea or on inland waters. To this end the DOT is committed to urgently consolidate the registration, safety standards, qualifications of skippers/coxswains, aids to navigation and issuing regulations in this regard.

#### **4.2.6 People In The Maritime Transport Industry**

4.2.6.1 The growth and development of maritime transport, as a fundamental facilitator of trade is inextricably linked to the availability of a skilled work force. The DOT as the lead department in maritime transport matters is committed to:

- Review, in conjunction with the DOE, the education and training of seafarers and people working in the associated industries.
- Enhance its efforts to create an awareness of maritime transport as a career of choice and facilitate the recruitment of people to the sector.
- In conjunction with the DOL, review the ILO Maritime Labour Convention, 2006 and domestic legislation in order to ensure decent work for seafarers.

#### **4.2.7 International Maritime Transport Relations**

4.2.7.1 Due to the international nature of shipping and the importance to the continent and region of this mode of transport, the DOT is committed to actively participating in the promotion of maritime transport as a growth and development vehicle in Africa and the region.

#### **4.2.8 Establish A Home-Grown Shipping Line**

4.2.8.1 The declining strategic nature of a home-grown shipping line from a security perspective is recognised but the potential economic benefits are seen as justification to develop a home-grown shipping line, particularly in short sea shipping. To this end the government will:

- Investigate means to stimulate local ownership of ships;
- Liaise with the other governments in the region to develop a regional fleet; and
- Investigate how home-grown fleets can promote coastal development corridors.

#### **4.2.9 Safe Navigation**

4.2.9.1 Given South Africa's obligations as a party to UNCLOS, a member of the IMO, IALA and the importance of safe navigation, the resolution of the fragmented arrangements to provide this service will be reviewed.

#### **4.2.10 Cabotage and Coastal Development Corridors**

4.2.10.1 South Africa's growth and development is inextricably tied to the simultaneous growth and development of the region. Although a minor proportion of South Africa's trade at present takes place within the region, there is a trend toward greater regional trade. Indications are that regional coastal shipping could play an important role in facilitating intra-regional trade and development.

4.2.10.2 Coastal shipping has not received appropriate policy attention in the past, both domestically and regionally. To this end the government will:

- Initiate an in depth investigation into the potential of regional coastal shipping and integrate this with the SADC cabotage policy;
- Consider the role coastal shipping could play in the development of coastal industry in the region; and
- Engage the regional structures with the view to establishing coastal development corridors based on the benefits of shipping as a primary means of transportation.
- Engage on all forms of policies that impinge on coastal shipping: tonnage tax, cabotage etc.



## APPENDICES

### APPENDIX A – LIST OF ABBREVIATIONS

APDP	Automotive Production and development Programme
ASGISA	Accelerated Agenda for the Growth Initiative of South Africa
AU	African Union
BBBEE	Broad Based Economic Empowerment
CGD	Gross Domestic Product
CIF	Cost Insurance and Freight
DEAT	Department of Environmental Affairs and Tourism
DFA	Department of Foreign Affairs
DOD	Department of Defence
DOT	Department of Transport
DST	Department of Science and Technology
DTI	Department of Trade and Industry
EEX	Exclusive Economic Zone
EIP	Environmental Implementation Plan
EPA	Economic Partnership Agreements
FOB	Free On Board
GCIS	Government Communication and Information Services
Gear	Growth and Economic and Redistribution
HDI	Historically Disadvantaged Individuals
HIV	Human Immuno Virus
IALA	International Association of Lighthouse Authorities
IBSA	India Brazil South Africa
IHO	International Hydrographic Organization
IIC	International Investment Council
IIP	Integrated Infrastructure Programme
ILO	International Labour Organization
IMC	International Maritime Centre
IMO	International Maritime Organization
IOMOU	Indian Ocean Memorandum of Understanding
ISH	Island Hydrographic Commission
ISPS	International Port Facility Security
ITS	Intelligent Transport Systems
LRIT	Long Range Identification and Tracking System
MADAMES	Maritime Safety and Marine Environment Subcommittee
Marpol	Maritime Pollution Act
MDGs	Millennium Development Goals
MIDP	Motor Industry Development Plan
MOU	Memorandum of Understanding
MP	Member of Parliament
NEMA	National Environment Management Act
NEPAD	New Partnership for Africa's development
NIPF	National Industrial Implementation Framework
NNA	National Navigational Agency
NSRI	National Sea Rescue Institute

OAU	Organization of African Unity
OPRC	Oil Pollution Preparedness Response and Co-operation
PCOT	Portfolio Committee of Transport
PEOBC	Public Entity Oversight and Border Control
PPPs	Public Private Partnerships
PR	Ports Regulator
PSC	Port State Control
RDC	Regional Development Corridors
REC	Regional Economic Communities
SA and IHC	South African and Island Hydrographic Organisation
SADC	Southern African Development Community
SAMSA	South African Maritime Safety Authority
SAN	South African Navy
SANDF	South African National Defence Force
TPT	South African Ports Authority
SAQA	South African Qualifications Authority
SASAR	South African Search and Rescue
SATCC	Southern African Transport Coordinating Committee
SDI	Spatial development Initiative
SDR	Special Drawing Rights
SMC	Standing Maritime Committee
SOLAS	Convention on the Safety of Life At Sea
STCW	Standards of Training, Certification and Watchkeeping
TETA	Transport Education and Training Authority
TIA	Technology Innovation Agency
TPNA	Transnet National Ports Authority
TPT	Transnet Ports Terminals
UNCLOS	United Nations Convention of the Law of The Sea
UNCTAD	United Nations Commission For Trade and development
UNEP	United Nations Environmental Programme
US	United States

## **APPENDIX B – TERMINOLOGY USED**

### **Cost, Insurance and Freight**

A trade term requiring the seller to arrange for the carriage of goods by sea to a port of destination, and provide the buyer with the documents necessary to obtain the goods from the carrier.

### **Ex Works**

A trade term requiring the seller to deliver goods at his or her own place of business. All other transportation costs and risks are assumed by the buyer.

### **Governance**

For the purposes of this White Paper, Governance is considered to mean the “rules, processes and behaviour that affect the way in which powers are exercised....particularly as regards openness, participation, accountability, effectiveness and coherence”.

### **Littoral state**

States lying adjacent to the shore

### **National Maritime Policy**

National Maritime Policy (NMP) is that component of national policy relating to all maritime interests of the state. NMP is concerned with creating the conditions for a safe, secure and stable environment within which all national maritime assets can develop and be utilized for the socio-economic growth and prosperity of the nation.

### **National Maritime Transport Policy**

National Maritime Transport Policy is that component of National Maritime Policy and National Transport Policy relating to all forms of transport by sea (waterborne transport) and intermodal links (including inland ports).

### **Public Consultation**

Public Consultation for the purpose of this White Paper means a structured public engagement, which involves seeking, receiving, analysing and responding to feedback from stakeholders.

### **Regulation**

The term ‘regulation’ can be defined narrowly to mean primary legislation enacted by the legislature and secondary legislation (Statutory Instruments) enacted by Ministers/MECs empowered under primary legislation. Depending on the context, ‘regulation’ can also mean ‘to regulate’ in the economic and social sense of the word.

**Regulator**

A regulator generally refers to any one of a number of public bodies with responsibility for regulation of specific aspect of government.

**Stakeholder**

For the purposes of this White Paper, a stakeholder is broadly defined as any individual or organisation with a direct or indirect interest in the maritime transport policy. Transport Policy is that component of national policy relating to all modes of transport, as contained in the White Paper on National Transport Policy, 1996.

## **APPENDIX C: LEGISLATION**

### **The Constitution**

The Constitution of the Republic of South Africa, 1996, promulgated as Act 108 of 1996

### **Shipping**

The Merchant Shipping Act 57 of 1951  
The South African Maritime Safety Authority Act 5 of 1996  
The Marine Traffic Act 2 of 1981  
The Ship Registration Act 58 of 1998  
The Carriage of Goods by Sea Act 1 of 1986  
The Sea Transport Documents Act 65 of 2000

### **Ports**

The Legal Succession to the South African Transport Services Act 9 of 1989  
The National Ports Act 12 of 2005  
The Sea Shore Act 21 of 1935  
The Maritime Zones Act 15 of 1994  
The Cape Town Foreshore Act 26 of 1950

### **Environment**

The Environment Conservation Act 73 of 1989  
The National Environmental Management Act 107 of 1998  
The Marine Pollution (Control and Civil Liability Act) 6 of 1981  
The Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986  
The Marine Pollution (Intervention) Act 64 of 1987  
The Dumping at Sea Control Act 73 of 1980  
The National Parks Act 57 of 1976

### **Fishing and fisheries**

The Sea Fishery Act 12 of 1988  
The Marine Living Resources Act 18 of 1998

### **Admiralty Jurisdiction**

The Admiralty Jurisdiction Regulation Act 105 of 1983

### **Disaster Management including Search and Rescue**

The Disaster Management Act 57 of 2002  
The South African Maritime and Aeronautical Search and Rescue Act 44 of 2002

## **Wrecks and Salvage**

The Wreck and Salvage Act 94 of 1996  
The National Heritage Resources Act 25 of 1999

## **The Navy**

The Defence Act 42 of 2002

## **Inland Waterways**

The National Water Act 36 of 1998

## **Financial and Fiscal**

The Customs and Excise Act 91 of 1964  
The Income Tax Act 34 of 1953

## **Immigration**

The Immigration Act 13 of 2002

## **Law Enforcement**

The Criminal Procedure Act 51 of 1977  
The Counterfeit Goods Act 37 of 1997

## **Promotion of Small Business and Black Economic Empowerment**

The National Small Enterprise Act 102 of 1996  
The Broad-Based Black Economic Empowerment Act 53 of 2003

## **Labour**

Labour Relations Act 66 of 1995  
The Basic Conditions of Employment Act 75 of 1997.

## **Health**

The National Health Act 61 of 2003, (not yet in operation)  
The Health Act 63 of 1977 applies  
The International Health Regulations Act 28 of 1974

## **Regulations**

Many of the Acts empower the appropriate Minister to make regulations on specific issues. These regulations tend to deal with more detailed and technical issues, and usually have the same status as the Act, which empowers them. They often contain provisions creating offences for non-compliance, with maximum penalties.

Because of the volume of regulations they are not listed. For example approximately 58 sets of regulations are directly related to maritime transport and shipping.

### **SAMSA Notices**

SAMSA issues notices on a wide variety of subjects, which are binding on the persons concerned. A full updated list of these notices is available on the SAMSA Website.

### **Policy Documents**

The following are examples of policy documents having a bearing on maritime transport policy: Draft Policy on Hazardous Waste Management in terms of the Environmental Conservation Act 73 of 1989 – Notice 1064 in GG 15987 of 30 September 1994

## **APPENDIX D – LEGISLATION AND ASSOCIATED INSTRUMENTS THAT COULD BE RELEVANT TO MARITIME TRANSPORT POLICY**

White Paper on National Maritime Transport Policy  
White Paper on National Transport Policy, 1996  
White Paper on Environmental Management Policy for South Africa – Notice 749 in GG 18894 of 15 May 1998  
Draft White Paper on Integrated Pollution and Waste Management for South Africa, 1998  
White Paper on Disaster Management – Notice 23 in GG 19676 of 15 January 1999  
White Paper on Integrated Pollution and Waste Management for South Africa – Notice 227 in GG 20978 of 17 March 2000  
First Edition Environmental Implementation Plan of the Department of Environmental Affairs and Tourism – Notice 354 in GG 23232 of 28 March 2002  
White Paper on National Commercial Ports Policy – Notice 1409 in GG 23715 of 8 August 2002  
National Department of Transport Environmental Implementation Plan (First Edition) – Notice 3410 in GG 24140 of 13 December 2002  
National Freight Logistics Strategy, September 2005

### **The International Maritime Organisation**

South Africa has ratified the following international maritime conventions:

#### **Conventions**

International Maritime Organisation Convention 1948  
International Maritime Organisation Convention Amendments 91  
International Maritime Organisation Convention Amendments 93

#### **Maritime safety**

International Convention for the Safety of Life at Sea (SOLAS), 1974  
  
Protocol 78 and Protocol 88 International Convention on Load Lines (LL), 1966 and Protocol 88  
International Regulations for Preventing Collisions at Sea (COLREG), 1972  
Convention on the International Maritime Satellite Organisation (INMARSAT), 1976  
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978  
International Convention on Maritime Search and Rescue (SAR) 1979

#### **Marine pollution**

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and Annexes III, IV, V, VI  
International Convention Relating to Intervention on the High Seas in cases of Oil Pollution Casualties (INTERVENTION). 1969 and Protocol 1973  
International Convention on Oil Pollution Preparedness,



Response and Co-operation (OPRC), 1990

### **Liability and Compensation**

International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969 and Protocol 76 and Protocol 92

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND), 1971 and Protocol 76 and Protocol 92

Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea (PAL) 1974, 1976, 1990, 2003

### **Other subjects**

Convention on Facilitation of International Maritime Traffic (FAL), 1965

International Convention on Tonnage Measurement of Ships (TONNAGE), 1969

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUAPROT), 1988

International Convention on Salvage (SALVAGE), 1989

London Convention 1972 and Protocol 96

### **Codes & Recommendations**

International Maritime Dangerous Goods Code (IMDG – first adopted in 1965);

Code for the Safe Practice for Solid Bulk Cargoes (BC Code –1965);

International Code of Signals;

Code for the Construction and Equipment of Ships Carrying

Dangerous Chemicals in Bulk (BCH Code – 1971);

Code of Safe Practice for Ships Carrying Timber on Deck Cargoes (1973);

Code of Safety for Fishermen and Fishing Vessels (1974);

Code for Construction of Ships Carrying Liquefied Gases in Bulk (1975);

Code of Safety for Dynamically Supported Craft (1977);

Code for the Construction and Equipment of Mobile Drilling

Units (MODU Code – 1979);

Code on Noise Levels on board Ships (1981);

Code of Safety for Special Purpose Ships (1983);

International Gas Carrier Code (IGC Code 1983);

International Code for the Safe Carriage of Grain in Bulk

(International Grain Code 1991);

International Bulk Chemicals code (IBC Code 1983);

Code of Safety for Diving Systems (1983);

International Safety Management Code (ISM Code 1993);

International Code of Safety for High Speed Craft (HSC Code –1994) and 2000);

International Life-Saving Appliance Code (LSA Code- 1996);

International Code for Application of Fire Test Procedures (FTP Code – 1996);

Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines (NOx Technical Code – 1997).