

NOTICE 826 OF 2008

TRANSNET NATIONAL PORTS AUTHORITY

MEMORNDUM OF UNDERSTANDING BETWEEN TRANSNET NATIONAL PORTS AUTHORITY AND THE SOUTH AFRICAN POLICE SERVICES ENTERED INTO IN TERMS OF SECTION 13 OF THE NATIONAL PORTS ACT, NO.12 OF 2005

It is hereby made known for general information that a Memorandum of Understanding as set out in the Annexure hereto has, in terms of section 13 of the National Ports Act, No. 12 of 2008, has been entered into between Transnet National Ports Authority and the South African Police.

The agreement has been signed on behalf of Transnet National Ports Authority by Mr K Phihlela, Chief Executive Officer, and on behalf of the South African Police Service by Mr E Mawela, Assistant Commissioner and took effect on 30th November 2007.

MEMORANDUM OF UNDERSTANDING

BETWEEN

TRANSNET LIMITED

trading as

TRANSNET NATIONAL PORTS AUTHORITY

AND

THE SOUTH AFRICAN POLICE SERVICE

Collectively referred to as "the parties"

Handwritten signatures and initials in black ink, including a large stylized signature, a smaller signature, and several initials.

WHEREAS in terms of the National Ports Act, 2005 (Act No. 12 of 2005), Transnet National Ports Authority (hereinafter referred to as "TNPA") is a port authority, which owns, manages, controls and administers commercial sea ports of the Republic of South Africa with the objective of promoting economic growth and development in the country;

WHEREAS the South African Police Service (hereinafter referred to as "SAPS") is an organ of state, established and functioning in terms of Chapter 11 of the Constitution of the Republic of South Africa, 1996, read with the South African Police Service Act, 1995 (Act No. 68 of 1995);

COGNISANT of the functions, rights and duties of all other organs of state present in the sea ports of South Africa;

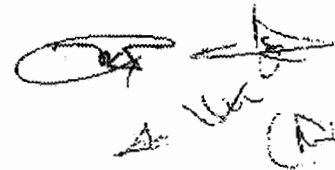
DESIROUS to conclude this Memorandum of Understanding (hereinafter referred to as this "MOU"), to give effect to Chapter 3 of the Constitution of the Republic of South Africa, 1996, and Section 13 of the National Ports Act, 2005, (Act No. 12 of 2005); which provide for co-operative governance and inter-governmental relations amongst organs of state and to integrate the deployment of SAPS personnel in the sea ports of South Africa in terms of Cabinet Memorandum 4 of 2003;

the parties hereby agree as follows:

1. OBJECTIVES

The objectives of this MOU are to -

- 1.1 ensure the effective deployment of SAPS personnel at all South African sea ports;
- 1.2 integrate SAPS and TNPA roles that will result in safe and secure sea ports in South Africa;
- 1.3 ensure the joint implementation of an optimized policing and security strategy at the South African sea ports;



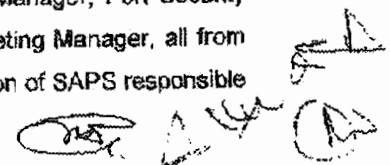
- 1.4 co-ordinate the performance and minimize the duplication of functions, between SAPS and TNPA personnel in the sea ports; and
- 1.5 enhance commercial operations of the South African sea ports

2. DURATION OF THE MOU

- 2.1 Subject to clause 2.2, this MOU will commence on the date of its signature by the party signing last in time and shall remain in existence for an indefinite period.
- 2.2 This MOU may be terminated by mutual agreement or by one party giving the other party one month notice to that effect.

3. STRUCTURES AND FORA FOR IMPLEMENTATION

- 3.1 The parties agree that the governance structures and fora to be established to ensure implementation of this MOU shall be -
 - (a) a steering committee which will meet quarterly. The Steering Committee will be made up of the Executive Legal, Risk and Compliance or his or her appointee as well as the National Security Manager from TNPA and representatives from the Division of SAPS responsible for sea ports who shall include a representative at the rank of Director and a representative at rank of Senior Superintendent. In the interest of safety and good order in a port, any party to this agreement may, as and when so required, co-opt any member or members of other security agencies to attend and give inputs to the steering committee. But, in any event, both TNPA and SAPS shall ensure that at least two representatives from each party from the working group referred to in sub-paragraph (b) hereunder shall attend the meetings of the Steering Committee. In addition thereto, both the Chief Executive of TNPA and the Component Head for Ports of Entry of SAPS shall be ex officio members of the Steering Committee
 - (b) a working group for each port which shall meet monthly. The working group in a port will be made up of the Port Manager, Port Security Officer, Corporate Communications and Marketing Manager, all from the TNPA, and representatives from the Division of SAPS responsible



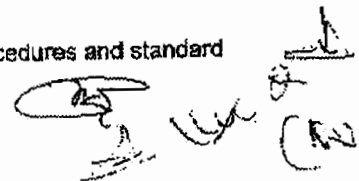
for sea ports who shall include a representative at the position of Unit Commander and his or her Operational Commander; and
(c) port shift interfaces which will operate on a daily basis.

- 3.2 The Steering Committee shall agree on the mechanisms or tools to be used to execute, monitor and evaluate the actions and activities recommended by the working groups and port shift interfaces.
- 3.3 The parties shall make sufficient and suitably qualified personnel available for the implementation of this MOU, as far as it is reasonably possible.
- 3.4 TNPA will provide the necessary secretariat services for the holding, conducting and recording of meetings of the Steering Committee and the working group.

4. IMPLEMENTATION OF THE AGREEMENT

The parties undertake to -

- 4.1 share relevant operational, crime and security related information to ensure the successful implementation of this MOU, subject to the discretion of a party to withhold certain information that party considers sensitive or privileged;
- 4.2 link any initiative or project arising from this MOU with other initiatives, or projects of a similar nature, or which are interrelated, that exist in their respective areas of responsibility by focusing on value adding activities. The incurring of costs in relation to any initiative, or project arising from this MOU shall be agreed to in writing between the parties before the initiative, or project, is implemented;
- 4.3 make every effort to ensure the speedy implementation of this MOU;
- 4.4 develop operational schedules, logical operational procedures and standard operating procedures to govern the working relationship; and
- 4.5 revise the operational schedules, logical operational procedures and standard operating procedures on a biannual basis.

Handwritten signatures and initials in black ink, including a large signature and several smaller initials, located at the bottom right of the page.

5. OBLIGATIONS OF THE PARTIES

The specific obligations of the parties shall be as follows -

5.1 TNPA shall -

- (a) continue to perform its functions in accordance with and subject to the National Ports Act, 2005, and any other applicable legislation;
- (b) subject to the express agreement between the parties at Steering Committee level, co-operate with SAPS to enable the SAPS to perform any function within the parameters of the sea ports and shall afford SAPS every facility and resources reasonably necessary to perform its functions;
- (c) provide accommodation facilities as agreed upon between the parties, subject to the signature of a lease agreement, to accommodate the deployment of SAPS members in the sea ports. Payment of rental for accommodation provided shall be addressed in terms of the lease agreement; and
- (d) endeavour, subject to the budgetary constraints of the TNPA, to implement the physical security requirements in terms of the security assessment report, as issued by SAPS.

5.2 SAPS shall -

- (a) perform its functions in terms of the Constitution of the Republic of South Africa, 1996, read with Chapter 5 of the South African Police Service Act, 1995;
- (b) provide policing services support in the following spheres -
 - (i) within port limits on the water side;
 - (ii) within port boundaries on the land side;
 - (iii) cargo; and
 - (iv) community service centres;



- (c) ensure that, within a period agreed upon by the parties at the Steering Committee, its members deployed at ports have knowledge and must have received training on the provisions of the International Ship and Port Security (ISPS) Code, by an accredited service provider;
- (d) as and when circumstances dictate, provide TNPA with an assessment report on the physical security requirements at the sea ports.

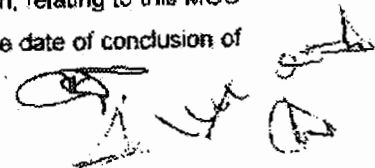
5.3 Performance of the obligations in terms of this MOU is subject to the condition that an institution that is a National Key Point in terms of the National Key Points Act, 1980, (Act No. 102 of 1980), shall be dealt with in terms of the said Act.

6. FINANCIAL ARRANGEMENTS

- 6.1 For the duration of this MOU, each party shall bear its own costs in the fulfillment of its obligations, except as otherwise specifically provided for in this MOU.
- 6.2 The financial implications for both parties in terms of any joint special operations, assignments, or training which may be required, shall be agreed upon by the parties before the commencement of such special operation, assignment or training.

7. CONFIDENTIALITY

- 7.1 Each party shall keep all information obtained or received from the other party for the purpose of this MOU, in confidence, unless consent is given by the disclosing party to the receiving party to disclose such information to third parties or if a party is ordered to disclose such information by an order of court or otherwise in law.
- 7.2 For the purposes of this clause, confidential information means all know-how, information, data and other material written or unwritten, relating to this MOU that may be disclosed by each party before, or after the date of conclusion of



this MOU Confidential information will not include information -

- (a) that was known to the receiving party prior to disclosure in terms hereof;
- (b) that is, or becomes public knowledge through no fault of the receiving party; and
- (c) that comes to the knowledge of the receiving party as a result of disclosure by a third party.

7.3 This clause shall remain in force after the termination of this MOU.

8. DISPUTES

The parties undertake to attempt to resolve any dispute that may arise with regard to any provision of this MOU, by mutual agreement in terms of Section 41 of the Constitution of the Republic of South Africa, 1996.

9. LIMITATION OF LIABILITY

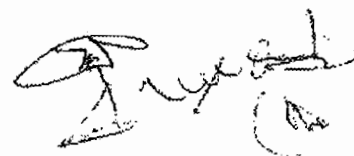
Neither the parties hereto nor their employees or their representatives is liable for loss or damage caused by anything done or omitted by the parties, their employees or their representatives in good faith, whilst performing any function in terms of this MOU.

10. SOLE AGREEMENT

This MOU constitutes the sole record of the understanding between the parties with respect to the subject matter and supercedes any previous agreement between the parties. Neither party is bound by any representation, warranty, undertaking, promise, or the like, not recorded in this MOU.

11. WAIVER

Any relaxation or indulgence which a party may show to the other party in terms of, or pursuant to the provisions contained in this MOU, does not constitute a waiver of any right of that party which granted such relaxation or indulgence.

Handwritten signature and initials in black ink, located at the bottom right of the page.

12. GENERAL

- 12.1 No variation, modification, consensual cancellation or waiver of any of the provisions of this MOU will be of any force or effect, unless confirmed in writing and signed by the parties hereto.
- 12.2 This MOU is entered into in good faith, with the intention of establishing and formalising the co-operative relationship between the parties.

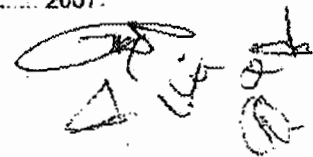
13. DOMICILIUM CITANDI ET EXECUTANDI

- 13.1 The parties elect the following as their *domicilium citandi et executandi*, at which any written notice, legal processes, or any other documents or communications in connection with this MOU shall be delivered -

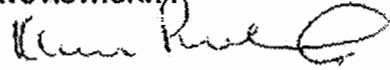
- (a) SAPS -
The Divisional Commissioner
Protection and Security Services
Maupa Naga Building
Cnr of Park and Troye Streets
Sunnyside
- (b) TNPA -
Executive Legal, Risk and Compliance
30 Wellington Street
Parktown
Johannesburg
Gauteng

or other such address in the Republic of South Africa, not being a post office box, or *poste restante*, of which a party may notify the other in writing.

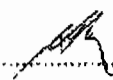
Signed at PRETORIA on this 10 day of November 2007.





CHIEF EXECUTIVE OFFICER OF THE NATIONAL PORTS AUTHORITY
K PHIHLELA



Witnesses:

1. 

2. 


T. C. Williams
Dep. Nat. Commissioner
FOR THE NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE

Witnesses:

1. 

2. 