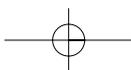


Department of Transport

White Paper
on
National Maritime Transport Policy

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Organisation/Institution

Association of Ships' Agents & Brokers

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National Sea Rescue Institute

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Provincial Departments of Transport: Western Cape, Eastern Cape and KwaZulu Natal

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South African Lighthouse Services

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South African Ports Operations

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Ministerial Foreword

SECTION 1

INTRODUCTION



1.1 Background

Since the publication of the White Paper on National Transport Policy in 1996, the Department of Transport (DOT) 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 (SAMSA), the National Ports Authority (NPA) and South African Port Operations (SAPO) within Transnet.

Since the publication of the 1996 White Paper, South Africa has also greatly increased its participation in international forum such as the International Maritime Organisation (IMO) and regional organisations such as the Indian Ocean Memorandum of Understanding (IOMOU) and the Southern African Transport Co-ordinating Committee (SATCC) to promote sea-borne trade through these regional and international forum and agreements.

South Africa's geographic location relative to its main trading partners makes it imperative that maritime transport is efficient. 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.

Trends in international shipping

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 one government. These ever increasing volumes together with ongoing technological advances have the following consequences:

South Africa's geographic location relative to its main trading partners makes it imperative that maritime transport is efficient.

Introduction

South Africa's geographic location relative to its main trading partners makes it imperative that maritime transport is efficient.

- Increases in ship size and specialisation require 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.

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



The need to review the policy

South Africa is experiencing strong economic growth as a result of government's macro-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.

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.

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.

The context of maritime transport policy

Trade is the economic life-blood of nations, with maritime transport carrying over 90% of all international trade. The past decade has seen steady growth in South Africa's trade with the different regions of the world. The bulk of South Africa's trade (in excess of 80%) is moved by sea through the country's seven commercial ports.

In the context of national transport policy

As was highlighted in the 1996 White Paper on Transport, 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.

In the context of general maritime policy

The earth's land area is politically divided into different states. The sea area, with minor exceptions, is traditionally considered an international common where ships are free to sail

Maritime transport is the silent element of South Africa's transportation system but is the jugular vein of our trading system.

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.

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 these maritime zones. The responsibility to properly govern the ocean territory according to the regimes applicable to the various zones includes obligations such as providing for safe navigation, search and rescue services, conservation of the marine environment, research and policing. 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.

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.

In the context of national policy

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.
- Black economic empowerment, 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 Indian Ocean, South Atlantic and the Southern Ocean.
- Environmental sustainability by adhering to international conventions and agreements.

Regional imperatives

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

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.



The responsibility to properly govern the ocean territory according to the regimes applicable to the various zones includes obligations such as providing for safe navigation, search and rescue services, conservation of the marine environment, research and policing.

■ 1.3 The Aim, Scope and Structure of this White Paper

Aim

The aim of this White Paper 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 the economic growth of our country and the ultimate welfare and well being of our people.

While this National Maritime Transport Policy is in pursuit 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.

Scope

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 coherent and complement each other, is clearly recognised. The focus of this White Paper, however, is limited to policy relating to maritime transport. It is specifically focused on shipping as the link in an integrated and inter-modal transport system joining South Africa and, where appropriate, the region's exporters and importers with their international markets or sources of supply.

The White Paper addresses industries associated with shipping but only where they have a direct influence on shipping as the transport segment of the maritime sector.

The White Paper further recognises the need for action after the democratisation of South Africa and hence the thrust of the policy is on service delivery with a greater emphasis on tangible goals.

Structure of this document

The White Paper consists of four parts.

- The first addresses the strategic 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.
- The fourth part of the White Paper is concerned with implementation of new policy or shifts in existing and related policies. ■

The White Paper addresses industries associated with shipping but only where they have a direct influence on shipping as the transport segment of the maritime sector.



SECTION 2

VISION, POLICY PRINCIPLES, GOALS



■ 2.1 Background

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 main 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 some 35% of GDP. More than 90% of the country's trade (by volume and by value) flows through its seven commercial ports. To be competitive exports and imports must be as cheap 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.

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. 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.

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

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.

Vision, Policy Principles, Goals

offering diverse employment opportunities and economic activity. With government committed to accelerated and shared growth, there is great potential for this sector to become a significant contributor to the national economy.

■ 2.2 A Vision for Maritime Transport

The vision for South African Maritime Transport is to be globally competitive and through socially and environmentally responsible arrangements, contribute to the development and growth of the economy.

■ 2.3 Policy Principles and Guidelines



Maritime transport takes place within the broader transport, maritime and national policy framework. Maritime transport policy must thus be harmonised with the broader policy framework so that it complements the policies that are supportive of the goals and strategies of government.

Constitutional provisions

The Constitution 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.

International law and practice

South Africa is 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 national maritime transport policy.

Domestic imperatives

Government has recognised transport as one of its five main priority areas for social and economic development. Maritime transport policy support 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 (as defined in the Maritime Charter).

National transport policy

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.

Regional considerations

South Africa is committed to the development programme of the AU, the NEPAD, regional development initiatives of the SADC, western and central Africa, and the multi-lateral and bilateral co-operative developments around the Indian Ocean Rim, South Atlantic, and Southern Ocean. Government is particularly committed to the transport components of development corridors in the South African Customs Union and the landlocked states

Government has recognised transport as one of its five main priority areas for social and economic development.

dependent on South Africa's maritime transport system. The maritime transport policy takes cognisance of and supports these initiatives.

■ 2.4 Goals and Objectives of Maritime Transport Policy

The goals of this policy fall into two broad categories. The first relates to increasing ship ownership, registration and operation; and the second to the creation and fostering of a 'maritime friendly' environment conducive to shipping.

Ship ownership, operating and registration

In common with any other industries, a fundamental element driving the growth of a shipping industry is a demand for the service. In the case of shipping, this demand is international and need not necessarily be centred on or confined to South Africa's volumes and growth in trade. The fact that South Africa is a significant import and export driven economy, does however make the local environment well suited to launch such an industry and allow it to grow until it is able to compete internationally.

It is a goal of the South African government to develop an internationally competitive shipping industry that affords investors opportunities to make fair returns on their investments while contributing to the growth of South Africa's economy and improving the lives of South Africans. To this end an inter-departmental initiative will explore how entrepreneurs can enter the shipping industry to establish a home-grown merchant fleet. This initiative will take into account the removal of barriers to entry, Broad Based Black Economic Empowerment (BBBEE), Public/Private Partnership and skills development imperatives in the field of maritime transport.



Building a nation of seafarers

Seafaring is an international employment opportunity. Employment as a seafarer is not tied to one national shipping register. Access to a career in seafaring is, however, facilitated by high standards of local training and education and greatly assisted by locally registered shipping conforming to international standards, where qualifications can be attained and experience gained.

South Africa has world-class education and training facilities. The country has the potential to become a source of quality seafarers for the international and own shipping industry. However, there are inadequate training berths to enable accumulation of sea time as a requirement for obtaining a seafaring qualification.

It is a goal of the South African government to create a national resource of seafarers that can serve a growing South African shipping industry and are competitive in the international workplace as competent and sought after mariners.

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A maritime transport friendly environment

Like any major industry, a shipping industry flourishes in a climate that is supportive, stable, and free from constraints to fair competition that could threaten its long-term growth prospects. Internationally, shipping is one of the most commercially unregulated industries and it is characterised by open and fierce competition. To grow such an industry, a conducive environment must be created where investments are secure, business principles are simple

Vision, Policy Principles, Goals

It is a goal of the South African government to continue to maintain an 'open ports' policy, to allow market forces to dictate business arrangements in the shipping industry as far as it is economically sound and practicable.

and regulatory frameworks are optimised for efficiency. The shipping industry is, in return, obliged to meet its social responsibilities towards the natural environment and the community where it operates.

It is a goal of the South African government to continue to maintain an 'open ports' policy, to allow market forces to dictate business arrangements in the shipping industry as far as it is economically sound and practicable. However, it will consider the introduction of protectionist policies for a period of time if it deems it necessary to do so in order to allow the nurturing of a home-grown merchant fleet.

Further, it is the goal of the South African government to ensure world-class infrastructure, systems and institutions that will encourage and support shared growth in the South African maritime transport industry.

South African participation

Neither the registration and the operation of shipping in South Africa, nor the existence of enterprises associated with shipping, implies ownership of ships by South African interests. Thus, although local ownership is not a pre-requisite for the growth and development of a shipping industry, for the country to benefit from a thriving shipping industry, it is in South Africa's interest to develop local direct participation in shipping and the associated support industries.

It is the goal of government to facilitate direct participation in the broader maritime transport industry including shipping by South Africans to ensure that an increased share of the benefits of the industry accrues to the country and its people. ■



SECTION 3

MARITIME TRANSPORT POLICY STATEMENTS



■ 3.1 Governance of Maritime Transport

The interaction between maritime transport policy and general maritime policy is described in Sections 1 and 2 of this White Paper. This interaction is essential to the efficiency of maritime transport and is acknowledged. As the focus of this White Paper is on maritime transport, general maritime issues impacting on maritime transport are recognised where they affect maritime transport. However, specific policy concerning general maritime issues is not developed within this policy due to the “transport” focus of this White Paper. Notwithstanding the ring-fenced transport mandate of this White Paper, wherever possible, direction is suggested regarding general maritime issues for the purposes of ensuring socio-economic efficiency and growth.

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.

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

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.

Maritime Transport Policy Statements

on these different aspects are spread between different departments and agencies, with the DOT, South African Maritime Safety Authority (SAMSA) and the Department of Public Enterprises (DPE) being the nodal points in South Africa.

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 organisations like the International Maritime Organisation (IMO), the International Labour Organisation (ILO) and the United Nations Environmental Programme (UNEP). 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. 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, the SADC and the ideals of the NEPAD.

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.

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. 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 DOT.

As a consequence, the legislative framework is complex and tends to be fragmented. Shipping legislation as well as the Merchant Shipping Act, needs to be reviewed in order to take into account the latest developments both at national policy and international relations levels. Issues, such as BBBEE, NEPAD and ASGISA need to be accommodated. Legislation on some issues such as inland waterways and ports are still to be finalised. 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.

The Maritime Sector

Government recognises the potential social and economic opportunities that the maritime sector offers South Africa. A comprehensive maritime policy for South Africa does not, and never has existed which makes it difficult to place the maritime transport policy within the broader maritime context.

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. 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.

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. In South Africa, the Department of Transport has that responsibility and also represents the country



A comprehensive maritime policy for South Africa does not, and never has existed which makes it difficult to place the maritime transport policy within the broader maritime context.

at regional and international forums dealing with maritime matters, such as the IOMOU, SATCC and IMO.

As the lead department in government regarding maritime matters in general, the DOT will initiate a programme to holistically and coherently grow and develop South Africa's maritime sector. The programme will include but not be limited to:

- Investigating, developing and integrating a national maritime policy involving all departments, government institutions, industry and community stakeholders and a means to consolidate policies and legislation relating to maritime matters.
- Investigating arrangements to gain optimum benefit from costly material resources used in service delivery and enforcement at sea.
- Reviewing 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.

The Department of Transport

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 department 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.

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.

In order to ensure an environment 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.

The South African Maritime Safety Authority

An Act of Parliament 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 ten years. SAMSA is industry's first point of contact with government and provides vital services. It is thus essential that it is organised, staffed and equipped to provide the vital service for which it was established, 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.

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).

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. A multi-agency approach has been taken in South

As the lead department in government regarding maritime matters in general, the DOT will initiate a programme to holistically and coherently grow and develop South Africa's maritime sector.



Maritime Transport Policy Statements

The profile and importance of maritime security has increased dramatically during the past decade and is expressed in IMO Conventions and Protocols.

Africa to meet this developing requirement. Within this approach responsibilities have been allocated to SAMSA, which are not specifically addressed in the Act.

The DOT will initiate a review of tasks, functions and responsibilities allocated to SAMSA since its establishment and verify the legislative, regulatory, administrative, organisational 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.

Maritime legislation

South African domestic shipping legislation is 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.

The DOT has initiated a process to review South Africa's maritime transport related legislation and is committed to continue developing a clear legislative framework within which this vital industry can grow and facilitate South Africa's trade. To this end the DOT will allocate resources to vigorously review maritime transport related legislation and regulations and in particular the Merchant Shipping Act of 1951.

■ 3.2 Shipping



The cost of transport is a major factor in trade and hence maximum efficiency through "seamless inter-modal transport" at all stages of the transport chain must be constantly pursued in order to move cargo with minimum handling at optimum speed and lowest cost. Shipping is the unavoidable mode of transport in global trade, with international market forces ensuring that competition in shipping provides cost effective transport. This international competition does not exist within countries. Therefore countries that do not ensure that their ports and inland transport systems are efficient will lose their competitive advantage in the global market. Inefficient transport systems can simply choke a country's potential economic growth. From an international transportation perspective, the

limitations on trade are thus not necessarily shipping per se, but are often linked to arrangements, facilities and infrastructure ashore.

Characteristics of shipping

Shipping can be considered from two different perspectives:

- Operational and geographic aspects relating to shipping services.
- Economic aspects of shipping relating to where ship owners register and the peripheral value of the shipping register.

Operational categories typically include liner services, non-liner or seasonal services and regular or contractual service arrangements between shippers and receivers. Geographically differentiated operations are typically global or coastal/regional shipping. Global shipping moves cargo all over the world while coastal/regional shipping essentially move cargo between ports of a country or within a region, where the region has agreed upon regional cabotage. The trade patterns in a region will determine to what extent coastal shipping has clear liner and non-liner characteristics. Containerisation has made it easier and cheaper for ships trading internationally to call at various ports in the same country or region to compete

with coastal/regional shipping. These operational characteristics of shipping are all present to various degrees in South Africa and the region.

In a free enterprise system, the owners of goods determine both the mode of transport and the carrier. These choices are based on economic considerations. As a mode of transport, shipping directly faces international market forces and competition in an environment where international standards apply, which are not governed by domestic legislation. Where a country chooses to adopt protectionist policies in favour of its national fleet, the free enterprise system will not apply.

A country will usually opt for protectionism in favour of its national fleet where it has clear and achievable objectives regarding areas of potential economic growth and usually this should be in operation for a defined time period. The prerogative of a littoral state to adopt such protectionist policies is not necessarily diametrically opposed to the free market philosophy, as fair competition cannot exist where a country does not have the necessary resources to compete with the international abundance of resources that ply its waters.

Shipping as a stand-alone industry

In recent years maritime states have recognised that having ships on their register is no longer a strategic necessity in times of conflict but has economic benefits such as:

- The income and economic activity gained from the presence of ship owners and their use of technical, legal, banking, insurance, telecommunications and other services.
- To a lesser extent, the possible benefit through the use of local crews.

The new paradigm is to harvest some benefit rather than none at all, and that to achieve growth in their registers, countries have to compete with other flag states. The objectives are thus to create a ship register that is more attractive to ship owners than all other registers. This involves the creation of a "package" that includes taxation benefits, efficient shipping administration, a safe and secure environment and competitive support industries.

Cost drivers in maritime transport

Shipping is a link in the inter-modal transport chain. The cost of the shipping link in the chain is determined less by the cost of shipping per se than by competitive factors in the transport system. Individual governments can influence this cost directly or indirectly by:

- Ensuring optimal port efficiency with respect to cargo handling, ship turnaround times and documentation processing.
- Ensuring the lowest cost of port services and port related services.
- Providing a safe and secure environment in its ports and territorial seas.
- Encouraging the cost effective provision of ship repair and other services required by ship owners.
- Ensuring level playing fields for competing ship operators through equal access policies and the application of internationally agreed standards for shipping. The levelling of the playing fields for competing operators is considered achievable through interim measures of protectionism.



All costs in the transportation process are eventually added to the cost of the goods being

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.

Maritime Transport Policy Statements

transported and hence impact on either the consumer or the trader, who may find that his/her goods are not competitive in the market.

Shipping in South Africa's transport chain



Ports and landside infrastructure are fixed capital investments of a national nature. Ships are mobile capital investments which can be deployed anywhere and bought and sold freely on the international markets.

South Africa has generally been served with satisfactory landside freight infrastructure (roads and rail), satisfactory ports and port services. The 2005 National Freight Logistics Strategy has however identified that landside and port infrastructure development has lagged behind consistent growing demand, resulting in delays and increasing the overall cost of sea borne imports and exports to the detriment of our national economy.

Ports and landside infrastructure are fixed capital investments of a national nature. Ships are mobile capital investments which can be deployed anywhere and bought and sold freely on the international markets. As an emerging economy, South Africa is a net importer of capital and seeks direct foreign investment. Interest or dividends then flow to the providers of capital. South Africa needs investment in infrastructure and the means of production to grow the economy. Investment in ships is not an essential component of internal investment, especially given the urgent need for investment ashore identified in the freight logistics strategy. This however does not detract from the benefits of investments in ships to promote broad economic growth.

The provision of services is a growing sector of the economy. Like shipping itself, the provision of international services to shipping is a source of foreign earnings. Investment in the provision of services to shipping is an area of potential growth for South Africa.

Scope of shipping

International shipping is considered to represent the perfect market. It reacts readily and immediately to supply and demand factors. Shipping services are freely available in all market conditions and national shipping is no longer of any strategic consequence. It is a commodity whose price is dependent on international market conditions together with local conditions such as port efficiency and risk. Coastal shipping in a deregulated environment must thus provide the most cost effective solution to compete against road and rail. National coastal shipping operators must also compete against fierce international shipping, able to carry coastal cargoes at extremely competitive rates based on economies of scale.

Moving goods by sea implies efficient ports to load and discharge cargo. Where landlocked states are involved, corridors may involve two or more states and close co-operation is fundamental if those corridors are to function optimally and keep cost down as each document change, load/unload and inspection carries a time and monetary cost.

Regional shipping can connect the industrial centres around ports and has the further potential to create a development corridor of its own. There is no reason why development corridors have to be ashore. Port development must go hand in hand with shipping developments, as larger ships require bigger and deeper ports.

Coastal shipping is not economical over short distances due to multiple handling. Over longer distances it becomes a desirable option for stock transfers and lower value goods. Coastal shipping should be encouraged for the following reasons:

- The user pays. The sea is a free highway and thus general taxation for the provision and maintenance of infrastructure as in land transport is not required.
- Energy efficiency. Energy utilisation is less per ton of cargo moved.

- Environmental protection. Pollution is less and is dispersed over a wide area.
- Traffic flow. There would be less traffic on the highways.
- Roads. The cost of road maintenance could be reduced.

The arguments for coastal shipping apply also to rail transport but over longer distances the economies of scale of larger ships make shipping the obvious choice for cargo moving between port areas.

Protectionism in shipping

In the past it was common for coastal cargo to be carried by own flagships between the ports of a country. Over time nations introduced legislation to protect their national fleets for strategic and commercial reasons including cabotage legislation. With containerisation it sometimes became even easier and cheaper for ships trading internationally and calling at various ports in the same country to carry cargo between those ports. Cabotage legislation became further complicated when coastal shipping operators chartered in foreign flag vessels to supplement or replace their own vessels.

Coastal shipping should be encouraged to transport goods cheaply and efficiently and any artificial impediment to coastal shipping should be removed. Although protection is often considered as being an undesirable option, it is the prerogative of any state to enforce such policies as and when it deems fit, in order to ensure that economic benefits of coastal shipping accrue to its national economy and are not eroded by fierce international competition. South Africa, therefore, reserves the right to enact cabotage legislation applicable for a limited period to allow coastal operators to adapt to any rapid changes in the competitive environment.

The potential for coastal shipping in Southern Africa

On the African seaboard, regional coastal shipping protectionism considerations are generally the same as for national coastal shipping. Regional development in Africa is dependent on among others, political, economic and social factors. Economic development is subject to the development of transport corridors with efficient ports at the ends. The large numbers of landlocked states necessitate corridors involving two or more states working in close co-operation. As is the case around the world, industrial development is generally focused along the coast. The same holds true for Southern Africa, which presents great potential for a "coastal corridor" where coastal shipping is the basis of the transportation system.



Institutional arrangements

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. The key departments:

- The Department of Transport formulates overall policy affecting shipping and regulates the operation of shipping.
- The Department of Labour has regulatory influence on the conditions of service of crews serving on South African registered ships and associated enterprises.
- The National Treasury and more specifically the South African Revenue Service (SARS)

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.

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The benefits to the coastal cities of establishing themselves as international shipping centres can be extensive.

determine the tax regime under which shipping takes place in South Africa as well as the smooth flow of documentation required when goods are imported and exported. The National Treasury is further in a position to either simplify or complicate the flow of funds necessary in an international industry such as shipping.

- The Department of Trade and Industry facilitates international trade and is also the department that is responsible for stimulating the local shipping services industry in all its facets, including considerations such as Free on Board and Cost Insurance Freight (CIF).
- The Department of Safety and Security and specifically the South African Police Service (SAPS) have become closely involved in shipping as a result of an increased need for security in ports.
- The Department of Justice is responsible for enactment of some of the required legislation and the prosecution of offenders.
- The Department of Public Enterprises (as it presides over the NPA), is critical to efficient maritime transport.
- The Department of Mineral and Energy Affairs has the role of ensuring that the bunker services industry is efficient in the supply of bunkers for vessels calling at the ports of Cape Town and Durban.
- The Department of Education has the role of training and educating people for the industry, even to the extent of introducing maritime related prerequisite subjects at high school level, in order to prepare school leavers for a maritime career at a tertiary education level.



Although shipping is constitutionally a matter of national government competence, provincial and specifically local government is in a position to indirectly encourage enterprises involved in the shipping industry to establish offices in South Africa's coastal cities. The benefits to the coastal cities of establishing themselves as international shipping centres can be extensive.

At an operational level SAMSA plays a major role in shipping in South Africa. Its role encompasses both technical functions (e.g. Port State and Flag State inspections) and administrative responsibilities relating to the management and running of the shipping register. The authority will need to be extensively enhanced to be able to execute its functions cost effectively around the world (particularly technical functions). If this is not possible, arrangements will need to be made with one or more of the International Association of Classification Societies members to ensure that the responsibilities of a flag state can be maintained to international standards. Failure to offer internationally competitive shipping administration will directly impact on a ship owner's decision to register ships in South Africa.

Government's approach to shipping

The government's approach to shipping has remained consistent since the White Paper on Transport Policy was published in 1996. The basis of government's approach has been recognition of:

- The international nature of shipping.
- The critical role it plays in the transportation chain of South Africa's international import and export trade.
- The greater benefits of coastal shipping relative to terrestrial transport.

The government's policy position on shipping is that South Africa will maintain an 'open ports' policy, as far as is economically practicable. It will retain the prerogative as an emerging economy to adopt protectionist policies as it deems fit. Moreover, as far as possible will ensure that South African cargo interests are free from interference in freight negotiations. Where it is deemed practicable, the DOT will offer guidance to the DTI on the issues regarding the terms of trade that would best benefit the South African economy from a shipping perspective. In such instances, South African cargo owners will be encouraged to sell CIF and to nominate South African carriers. Government will remain committed to limit as far as possible any unwarranted interference.

International shipping

Government's approach, as indicated in the 1996 White Paper on National Transport Policy, is essentially to allow maritime transport to be regulated by market forces as far as possible.

Government recognises that shipping is internationally regulated and that intervention in the working of this free market activity should be limited to matters such as the provision of infrastructure, safety, security and environmental matters, passing relevant legislation and the maintenance of fair and equitable competition.

To facilitate the seamless inter-modal movement of goods both nationally and internationally, government will introduce legislation to complement the Carriage of Goods by Sea Act 1 of 1986 so as to govern the liability framework for the carriage of goods by road and rail along the lines of the International Carriage of Goods by Road Convention and the International Convention for Merchandisers.

To simplify trade the DOT, in conjunction with the other relevant departments, will seek to harmonise the documentation and practices relating to documents of title of goods being transported internationally. This harmonisation will follow the best practice and systems proposed or in use by South Africa's main trading partners and will be promoted in bilateral and multilateral agreements so as to develop intelligent transport systems and appropriate information sharing.

To enable the South African authorities and third parties to recover costs and/or damages for breaches of regulations, wreck removal, collision liabilities, injuries to third parties etc legislation will be introduced requiring the owner or operator of any ship entering a South African port to carry Protection and Indemnity Insurance underwritten by insurers recognised by the leading maritime nations.

Development of a shipping industry in South Africa

The government recognises that shipping is a fully-fledged export orientated industry in itself that can strengthen South Africa's balance of payments and create employment. The government further appreciates that to develop the industry it needs to create an environment attractive to local, regional and international ship owners and operators. South Africa is at a geographical disadvantage being outside the main global shipping routes. South Africa does however have certain competitive advantages that could facilitate the growth of a shipping register. South Africa, for example, is a significant trading nation. Other advantages are that the country has a developed financial and legal sector, the fact that English is the common language in shipping and the country's industrial base in ship repair and similar support industries is established. A "package" can thus be created that will attract ship owners from the direct competition of other ship registration regimes around the world.

In this regard South Africa reviewed the Ship Registration Act in 1998 and is nearing completion of its review of the taxation structure on ship owners and operators. The Ship Registration Act and the reviewed tax regime will form the basis of direct incentives to attract



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.

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ship owners. The DOT will also liaise closely with the DTI to create a competitive environment for shipping through world-class support services.

The DOT in conjunction with DPE (to whom the NPA is responsible) will continue to seek methods to hasten efforts to improve the efficiency of South Africa's commercial ports and the turn around time of ships in the ports. The Departments will also engage the shipping industry to advise on interventions that may be required to ensure South Africa maintains a world class cost effective shipping administration regime that does not impede the development of the South African register.

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Development of regional shipping

Weak road, rail and port infrastructure in the region have an inhibiting effect on regional development. The landlocked states in Southern Africa in particular are severely disadvantaged by the backlog in transport infrastructure development. Regional shipping and regionally structured feeder arrangements have the potential to reduce import and export costs in the region. The DOT will engage the regional governments through the regional structures to investigate how coastal/regional shipping can be used as a vehicle for development and facilitation of trade in conjunction with the development of landside infrastructure.

Cruise shipping

The passenger aircraft has replaced the passenger liner of old. The cruise ship market however is a growth 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. 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. The government welcomes initiatives by stakeholders to pro-actively develop the cruise shipping market.

Ports

The government is committed to ongoing efforts to improve the efficiency of the commercial ports through commercialisation and development of its landlord function as these are vital to the improved efficiency of maritime transport. The Port Regulator will provide the essential oversight function to ensure these goals are attained.

■ 3.3 People in Maritime Transport

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 Shipping Register. Both these goals will require competent people both in shipping at sea and in the associated industries ashore. 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.



Employment opportunities at sea

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.

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 on different types of ships.

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 and operators and enterprises ashore are subject to national labour legislation such as the Basic Conditions of Employment Act 75 of 1997, the Employment Equity Act 55 of 1998 and the Skills Development Act 97 of 1998.

To ensure adherence to international practice, government will ratify consolidated ILO Maritime Labour Conventions as adopted by the 94th (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 the practice in international shipping.



Employment opportunities ashore

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 and 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 and thus the DOT in conjunction with other departments such as the Department of Trade and Industry (DTI) are committed to developing enterprises ashore that meet this challenge while promoting national programmes as conveyed in Basic Conditions of Employment Act 75 of 1997, the Employment Equity Act 55 of 1998 and the Skills Development Act 97 of 1998 and the Maritime Charter.

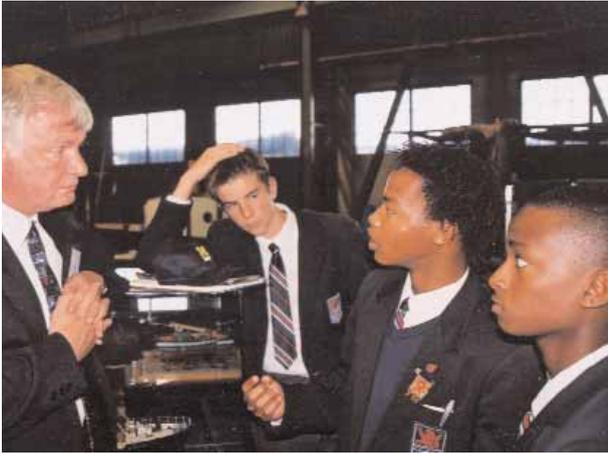
Training and education of seafarers

Seafarer training accreditation

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 Standards of Training and

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 the practice in international shipping.

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Certification for Watchkeepers Convention (STCW). 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 STCW and thus ensure that South Africa's education, training and eventual certification standards continue to be internationally recognised.

Seafarer training institutions

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. 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.

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.

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.

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.

The DOT as the main sponsor of seafarer training in government will liaise with the Department of Education (DOE) to ensure that funding as well as standards of seafarer training are maintained through world class maritime colleges. The system will be reviewed to certify that optimisation of facilities mitigates the high 'unit' cost of training seafarers and the financial pressures on the Universities of Technology so as not to impede the excellence of South African seafarer training. The review will further ensure that the accreditation of SAMSA as a standards authority is maintained in order that trained people would not lose their marketability internationally.

Training and education for the associated industries

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. 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

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.

structured in South Africa and in certain cases does not exist or is not formalised or accredited. 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.

The DOT, in conjunction with the Dept of Labour's Policy Proposals for Skills Development Strategy for Economic Growth in South Africa 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.

Awareness

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.

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. 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 Shipping Register. To this end the DOT is committed to developing its awareness programme and engage the Department of Labour (DOL) and Department of Education (DOE) in this regard.

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■ 3.4 Safety and Security

For the purposes of this White Paper 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.

The nature of the sea

Four unique factors which do not apply to terrestrial territory are considered in the formulation of this White Paper. Firstly the sea is a hostile environment where a person will soon perish if not sustained by some form of technological innovation. Secondly there are no borders at sea in the terrestrial sense and goods and people thus move freely between the maritime areas of jurisdiction of states. Thirdly the concept of innocent passage implies legal and diplomatic considerations at sea that do not exist ashore. Finally different juristic regimes apply to the different declared maritime zones of the state's ocean territory.

The concepts 'safety' and 'security'

Although the terms 'safety' and 'security' are often used interchangeably, the issues at stake are fundamentally different. In the context of this White Paper '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. The IMO makes



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this distinction in the 1974 Safety of Life at Sea Convention (SOLAS), dealing with safety issues in Chapter XI-1 and security issues in Chapter XI-2.

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.

■ 3.4.1 Safety at sea



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).

Pro-active measures

Pro-active measures are based on three elements with weakness in any one of these increasing the risk to life and property. In its simplest form this 'safety triangle' comprises a "sound vessel" operated by "skilled and healthy mariners" navigating in "safe seas".

The 'soundness' of a vessel is determined by its design, construction, maintenance, the safety equipment carried and its operating within design specifications. In addition measures and procedures are required to minimise the risks presented by certain types of cargo, or the improper stowage of cargo. The Minister of Transport, through SAMSA, is responsible for compliance with, and enforcement of, maritime safety standards on ships. The DOT recognises that, as a result of advances in technology and the increasing cost of fossil fuels, merchant ships and other craft wishing to enter South African waters and ports may soon be nuclear powered and that arrangements are required to manage such a development.

Skilled and competent seafarers form the base of the safety triangle. Policy relating to the competency of seafarers is addressed in paragraph 3.3 of this White Paper.

Safe navigation or 'safe seas' relates to the information at the seafarer's disposal concerning his environment, his 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.

South Africa is obliged to comply with IMO conventions and protocols relating to pro-active measures for safety of life at sea. These conventions are given effect through legislation and regulations. Arrangements for these pro-active measures are complex due to various organisations with often overlapping responsibilities being involved without coherent co-ordination or integration mechanisms.

Although the responsibility for navigation and collision avoidance equipment on vessels is the responsibility of the owner, the DOT through SAMSA is responsible to ensure that minimum specified equipment is fitted and that masters, skippers or coxswains and watch-keepers are competent to safely navigate and avoid collisions. A primary objective of SAMSA

South Africa is obliged to comply with IMO conventions and protocols relating to pro-active measures for safety of life at sea.

is to ensure safety of life and property at sea and is central to maritime safety with functions such as vessel registration, licensing and statutory surveys, the competency of seafarers and Port State Control inspections.

As party to the UNCLOS and international bodies concerned with safe navigation such as the IMO, the International Hydrographic Organisation (IHO) and the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA), South Africa is obliged to provide reliable navigation services to mariners. The National Ports Authority (NPA), currently South Africa's national member of IALA, has determined in conjunction with SAMSAs that standards for aids to navigation in South Africa will comply with the recommendations and guidelines from IALA. The NPA responsibility is carried out by the National Lighthouse Service (NLS). A conflict of interests exists in this arrangement as the NPA (and by implication the NLS) are profit-orientated organisations responsible for these services. The Hydrographic Service makes a critical contribution by providing charts and a wide range of Maritime Safety Information services.

These complex relationships lead to excessive co-ordination arrangements and need to be streamlined. Government is committed to ensuring safe navigation on the South African coast and will:

- Ensure that South Africa follows IALA recommendations, guidelines and standards for the establishment and operation of aids to navigation and is prepared, in principle, to participate in the voluntary IMO Member State Audit Scheme in this regard.
- Initiate a programme to rationalise arrangements to provide aids to navigation.
- Consider the likely future request by nuclear powered vessels to transit South African waters or enter South African ports and will develop regulations in this regard.

Reactive measures

Reactive measures refer to the actions taken when an abnormal situation arises and life and/or property is in danger. These measures under the general heading of Search and Rescue (SAR) include the institutions and the assets maintained to deal with such contingencies. SAR has the dual purpose of firstly, saving lives at sea and secondly – but equally important – providing seafarers with the assurance that, should they get into difficulties at sea, help is at hand.

South Africa has established the South African Search and Rescue Organisation (SASAR) and has adopted a multi-agency approach in the implementation of SAR with the only full time element of SASAR dedicated to SAR being the Maritime Rescue Co-ordinating Centre (MRCC). The only institution on permanent stand-by with the specific purpose of actively saving life at sea, at least on inshore waters, is the National Sea Rescue Institute (NSRI).

At the heart of SAR operations is command and control (i.e. to receive distress messages, locate those in distress and rescue them). In South Africa the MRCC and Air Rescue Co-ordination Centre are not co-located although these two centres use similar infrastructure and procedures in their different environments. A case can be made that they should be co-located. The DOT in conjunction with other departments and agencies in government will investigate the most appropriate approach to command and control at sea.

As SAR is a fundamental service provided by a coastal state to its citizens, and indeed to the seafaring community as a whole, the DOT will ensure that the MRCC is properly staffed and equipped to provide seafarers and their families with assurance that, should they get into trouble at sea, the SAR organisation is geared to assist them.

SAR has the dual purpose of firstly, saving lives at sea and secondly – but equally important – providing seafarers with the assurance that, should they get into difficulties at sea, help is at hand.

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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.

Accident and incident investigation

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 recurrence; and secondly to establish any unlawful or negligent action in order to hold offenders accountable and to compensate those that suffered loss. 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.

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.

The DOT further recognises 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.

■ 3.4.2 Maritime security



Security in the context of this White Paper refers to threats to life, property or the environment as a result of unlawful human action and falls in two broad categories: national and civil security. In recent times a third overlapping category, international terrorism, has greatly increased in importance. National Security issues emanate from threats to the sovereign independence of the state and are not addressed in this White Paper.

Civil Security concerns the coastal state's legal authority in its maritime zones. Civil security at sea typically includes piracy, smuggling (including drugs, weapons and other contraband), illegal exploitation of resources, unlawful pollution and illegal immigration. It also includes the enforcement of laws and the prevention, combating, investigation and prosecution of crime and thus a constabulary function. This security function at sea supports the

creation of a secure environment for maritime transport, which is a goal of this White Paper.

The important consideration in civil security lies in the motive of the perpetrator. A criminal act committed for gain is a policing matter and is subject to domestic law. However, a similar act committed with political objectives (the emerging terrorism threat) presents a threat to the national interest and thus takes on a political, diplomatic or military dimension and is increasingly governed by international law enabled through national legislation. In recognition of this terrorism threat a new maritime security regime was adopted through the IMO.

IMO measures to deal with security threats to shipping were first adopted in 1988 in the form of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Further measures adopted in December 2002 comprised amendments to SOLAS and the adoption of the International Ship and Port Facility Security Code (ISPS Code). A diplomatic conference in 2005 substantially broadened the SUA Convention. Under this security regime contracting

governments are obliged to provide IMO with extensive information and should also make it available to the worldwide shipping industry.

The ISPS Code does not deal with security aspects of ships below 500 GRT, port facilities not serving international ships and the security of the cargo/ supply chain. IMO however urged contracting governments to establish the appropriate measures to enhance the security of ships and port facilities other than those covered by the SOLAS Chapter XI-2.

Maritime security regulation in South Africa

South Africa has acceded to the SUA Convention and its Protocol and the Chapter XI-2 amendment to SOLAS. To enable the Republic to meet its obligations under SOLAS and the ISPS Code a Maritime Security Advisory Committee was established. The Minister of Transport promulgated the Merchant Shipping (Maritime Security) Regulations in 2004, which define measures to be instituted by maritime industry and defined vessels. The regulations allocate responsibility to the Director-General DOT and SAMSA with respect to maritime industry participants and shipping respectively.

The SAMSA Act 5 of 1998 does not explicitly include "security" as contemplated in SOLAS and the ISPS Code sufficiently to cover a matter of such importance and far-reaching implications although SAMSA is responsible for certain security functions under the subordinate Merchant Shipping (Maritime Security) Regulations. The DOT will review legislation to ensure SAMSA's mandate and accountability with respect to ships' security.

Vessels and harbours not covered by ISPS

South Africa's Merchant Shipping (Maritime Security) Regulations, 2004 compiled in accordance with the ISPS Code do not apply to cargo ships of less than 500 gross tonnage and vessels not used for commercial activities. While South African law does cater for reactive measures covering these vessels there is a vacuum concerning pro-active security measures concerning small craft. This is an unsatisfactory situation since many of these vessels visit non-commercial ports, regulated commercial harbours and foreign ports and harbours where they interface with ISPS-regulated ships. This will invariably 'contaminate' the security integrity of the ISPS-regulated ships.

With regard to ISPS implementation, government intends developing security legislation covering vessels currently excluded, especially where they may interface with facilities and ships covered by the Code. Structures for co-operation with neighbouring countries will also be developed in order to implement security measures on non-SOLAS vessels.

Security governance in South Africa's maritime zones

A policy of co-operative governance is applied in the maritime zones, as it is ashore where several departments and agencies conduct surveillance, protection and law enforcement. This approach works ashore but the special circumstances at sea such as the international legal environment and the high cost of resources indicate a need for different arrangements. Government is conscious of ambiguities in current maritime safety and security arrangements and the risks in excessive co-ordination mechanisms at the operational level. Surveillance and rapid deliberate action as prerequisites to enforce the state's authority in South Africa's extensive maritime area of jurisdiction are performed by, among others, the

While South African law does cater for reactive measures covering these vessels there is a vacuum concerning pro-active security measures concerning small craft.



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SANDF, DEAT, DOT and the SAPS. The command and control aspects guiding these multi-agency efforts are not well developed which result in less than optimal use of costly resources with consequent waste and operational limitations.

Government recognises that due to the high cost of maritime surveillance and operations, maximum force multiplication is needed through simple coherent organisation. To this end it intends reviewing arrangements relating to the civil security function at sea, including the overlapping roles of the DG of Transport and SAMSA, craft and ports not covered by current legislation, the optimum use of scarce and costly resources and the efficiency of command and control arrangements.

■ 3.5 Protection of the Marine Environment



There is a growing global awareness of the threats presented to the environment as a result of human conduct. Against this background, environmental protection and sustainable practice has become a major international concern, with much of the thrust on the protection of the oceans.

With due cognisance of the vast scope of this subject, the focus of this White Paper is on the impact of shipping activities on the environment, but also the ever-increasing threat of pollution from a rapidly growing offshore oil, gas and mining industry, and its impact on efforts to preserve the marine environment.

The nature of marine pollution

Pollution emanating from shipping activity can be broadly divided in two categories:

- Pollution as a result of harmful waste products generated in the normal conduct and operation of shipping (can be equated to common 'household' waste products ranging from 'greenhouse' gasses and solid waste to 'black water') and includes discharges of bilge and ballast water. The latter is specifically recognised as a mechanism for the transfer of harmful marine organisms from one part of the globe to another.
- Pollution that occurs as a result of accident or damage as well as deliberate discharge for safety reasons. Such pollution normally relates to a vessel's own fuel or oil and other noxious substances carried as cargo and, as a result of the volumes involved, can result in catastrophic environmental damage.

When considering policy regarding environmental protection, the international, regional and national dimensions are considered for three reasons. Firstly because pollution at sea knows no international boundaries, it needs to be addressed on a regional basis. Secondly because the right of innocent passage allows foreign ships to pass through territorial waters and the EEZ without restraint and international dimension emerges. Finally international programmes to preserve the maritime environment must be considered.

Government's approach

Government's approach to combating pollution of the marine environment is both pro-active and re-active. The pro-active component is aimed at preventing pollution from ships. This component comprises:

- Legislation and regulations aimed at preventing damage to the environment;

... the focus of this White Paper is on the impact of shipping activities on the environment, but also the ever-increasing threat of pollution from a rapidly growing offshore oil, gas and mining industry, and its impact on efforts to preserve the marine environment.

- Provision of facilities to process waste from ships so that there is no excuse to pollute the sea;
- Verification arrangements to ensure and encourage compliance with legislation and regulations and the use of facilities provided; and
- Enforcement systems to prosecute offenders who disregard or fail to comply with legislation and regulations.

The reactive component is aimed at mitigating the effects of pollution from ships once it has occurred. The reactive component takes the form of:

- Legislation and regulations establishing organisational structures and maintaining appropriate capabilities to combat pollution; and
- Ensuring and monitoring contingency plans including the responsible authorities, organisational structures, operational and communication procedures, pollution combating equipment, dispersants and budgetary provisions.

South Africa, located at a choke point on shipping lanes for oil tankers with a high risk of major maritime pollution incidents, has a good record of averting disasters and combating pollution when it occurs. The DOT, DEAT, SAMSA, NPA, elements of the maritime industry and other stakeholders are finalising a comprehensive contingency plan for the prevention and combating of pollution from ships.

The arrangements to protect the marine environment in South Africa, on which this contingency plan is based, are however fragmented. This is attributable to factors like the provisions of Schedule 4 to the Constitution, the fact that South Africa's maritime zones fall outside the normal three spheres of government and the functional splitting of responsibilities between different departments and agencies. In this situation the close co-operation and integration of the efforts and budgets of the different spheres of government, government departments and authorities is imperative, yet in practice remains a complex, challenging and time consuming process.

Regional and international considerations

International conventions and programmes relating to environmental protection of the sea emanate from two United Nations bodies. Specifically with respect to shipping from the IMO and at a more general level from the UNEP. South Africa is party to IMO conventions relating to pollution from ships.

Under the UNEP the Regional Seas Programme (UNEP RSP) initiated in 1974, two African areas are relevant:

- The West and Central African region: The Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (the Abidjan Convention, 1981), and its Protocol concerning Co-operation in Combating Pollution in Cases of Emergency, include the SADC states of Namibia and Angola.
- The Eastern African region: The Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region and related Protocols (The Nairobi Convention, 1985) include the SADC states of Madagascar, Mozambique, Mauritius and Seychelles.

South Africa acceded to both the Abidjan and Nairobi Conventions in 2003 and pursues the goals of these conventions and related protocols through the SADC structures such as the SATCC.

One of the eight SATCC sub-sectoral committees, the Marine & Inland Waterway

South Africa, located at a choke point on shipping lanes for oil tankers with a high risk of major maritime pollution incidents, has a good record of averting disasters and combating pollution when it occurs.



Maritime Transport Policy Statements

Committee (MASCOM) has established three sub-committees, one of which is the Maritime Safety and Marine Environment sub-committee (MASAMES), which is specifically concerned with marine environmental protection.

Arrangements in South Africa regarding maritime environmental protection

Government is committed to carry out its responsibility as member of the international community to protect the adjacent seas under its jurisdiction from pollution. In the 1996 White Paper on National Transport Policy government identified the "... unsatisfactory overlap of departmental jurisdictions relating to oil pollution at sea ...", as needing attention.

The DOT will continue to investigate the organisational, responsibility and accountability arrangements to prevent and combat pollution at sea from ships as well as the offshore oil, gas and mining industry with the view to simplifying responsibility arrangements, streamlining processes and optimising the use of costly resources.

Regional co-operation with respect to protecting the marine environment

Due to the nature of the sea and the cost of maritime operations, close co-operation and integration on maritime issues on a regional basis is a growing international trend. Government recognises that the protection of the marine environment, and particularly the combating of pollution, is an essential element of regional maritime co-operation and integration; with joint action enhancing the effectiveness in operations, while sharing the burden could also lead to efficiencies of scale.

The government through the DOT and the DEAT intends reviewing its position in the region on the subject of maritime environmental protection and specifically as regards its role and membership of regional organisations. The DOT will promote greater regional integration and the establishment and exercising of regional contingency plans.

Small craft pose a security, migration and customs challenge, especially on stretches of the coast where it is easy to launch off the beach.

■ 3.6 Small Craft and Inland Waters



Waters used by small craft are divided into two areas: the sea (which may include tidal waters) and inland waters. These two areas fall under different regulatory regimes. The former is regulated by SAMS 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 organisations. South Africa thus has no national safety regime for inland waterways.

Small craft can be divided into two broad categories: small craft used for recreation (the vast majority) and those used for commercial purposes. In South Africa an insignificant number of small craft are used to transport goods and the focus is thus on small craft used either for transporting people recreationally, or for fishing. Craft used for the transportation of people includes ferries and craft in the tourism/hospitality industries. Small craft are also used in a specialist role where they are normally specifically designed to conduct research or as tenders to larger vessels.

The Constitution is not specific on matters relating to small craft. The Schedules do however 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 NPA's harbour master. When considering policy issues relating to small craft, these legal regimes must be taken into account.

This White Paper is focused on small craft used for both recreation and commercial purposes operating on waters open to the public (the responsibility for the safety of craft used on private dams rests with the owner of the dam), but for practical reasons excludes craft designed specifically for sport/recreation with a carrying capacity of one or two persons such as sailboards, canoes or kayaks.

Design and construction variety make small craft difficult to technically specify and hence to regulate, licence and administer. Likewise, the ease of access to small craft 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.

Many accidents involving small craft 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.

Small craft 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.

Regulatory arrangement

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

The current system of registration of small craft 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 3rd Party insurance for small craft in South Africa. Although 3rd 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 craft.

The DOT will establish a system that will allow for the registration of small craft 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 craft.

Safety Standards

The mobility of small craft 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. Standards for small craft operating on the sea are contained in the Merchant Shipping (Small Vessel Safety) Regulations issued under the Merchant Shipping Act.

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

The DOT will establish a system that will allow for the registration of small craft 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.



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Fees and levies

Numerous authorities in the process of regulating small craft collect fees and levies. The authority, their means of collection as well as the allocation of revenue from fees and levies, needs to be reviewed.

In order to control revenue associated with small craft the DOT will liaise with the National Treasury. This will ensure an equitable fee structure for small craft, taking into account the Schedules of the Constitution, survey and inspection costs and the allocation of revenue to community based organisations, that provide services to small craft operators such as the National Sea Rescue Institute (NSRI).

■ 3.7 Regional Imperatives Relating to Maritime Transport



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.

African Union (AU)

The African Maritime Transport Charter is an instrument of the Organisation 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 harmonise 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
- Cabotage at sub-regional, regional and continental levels.

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

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.

The New Partnership for Africa's Development (NEPAD)

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.

The Southern African Development Community (SADC)

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)
- The Inland waterway Sub-Committee

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.

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

With regards to hydrography, a SAIHC has been established as part of the International Hydrographic Organisation (IHO) to encourage states to strengthen their hydrographic capabilities in order to promote safe navigation and to facilitate regional co-operation in hydrographic training.

Search and Rescue (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.

Trans-oceanic arrangements

Trans-oceanic agreements related to maritime transport include 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) 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.

Memoranda of Understanding on Port State Control

South Africa is a member of the Indian Ocean Memorandum of Understanding on Port State Control and also has a Port State control agreement in the SADC context. South Africa has not yet joined the West and Central Africa Memorandum of Understanding on Port State Control.

Spatial Development Initiatives (SDI) and Development Corridors

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.

Coherent interstate maritime policy

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

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.

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It is in the region's interest that the Southern Atlantic, Southern Ocean and Southern Indian Ocean 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.

interstate relations on maritime matters and specifically those relating to shipping.

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. 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.

Regional coastal shipping, a development corridor

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.

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.

Regional maritime integration

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. 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.

It is in the region's interest that the Southern Atlantic, Southern Ocean and Southern Indian Ocean 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.

The government is committed to engage the countries in the region to co-operate in effective governance of the adjoining seas. ■



SECTION 4

THE WAY FORWARD



This White Paper provides a framework for the future growth and development of the maritime transport sector. The 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.

The underlying policy principles are consistent with those reflected in the 1996 White Paper on National Transport Policy. This White Paper expands on the broad framework established in 1996 and takes into account developments in South Africa in the past ten years. From a maritime transport perspective, the most significant have been the establishment of SAMSA, the review of the Ship Registration Act, 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, the ship's ballast water regime and working conditions of the seafarers. Within the structural framework that has developed over the past ten years, this 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.

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.

Within the structural framework that has developed over the past ten years, this 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.

The Way Forward

Implementation framework

Nine 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 nine focus areas are:

- The shipping register
- The ports
- Governance of the sea
- Small craft
- People in maritime transport
- International maritime transport relations
- Establishment of home-grown shipping line
- Safe navigation
- Regional coastal corridors

The attraction of ships to the register and the enterprises associated there will have the potential to create a major industry in South Africa with many job opportunities and foreign earnings.

Building the shipping register

Ship-owners and operators register their ships in an environment conducive to that specific enterprise. The attraction of ships to the register and the enterprises associated there 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

Ports

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. The commercial ports are the vital link between terrestrial and sea borne transport for imports and exports. To this end the government is committed to the establishment of a Port Regulator and involvement of the shipping and ports sectors, which will:

- 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
- 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.



Governance of South Africa's maritime zones

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 or its agencies.

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. The DOT recognises a need to review overall maritime policy in South Africa with the view to

formulating 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:

- Initiating a process to establish holistic arrangements to govern South Africa's maritime zones and ensure the co-ordinated development of the maritime sector.
- Initiating a process to review arrangements for 'service delivery' at sea to ensure cost-effective use of resources, people, information, assets and infrastructure.
- Initiating 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.



Small Craft

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

People in the maritime transport industry

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:

- Reviewing, in conjunction with the DOE, the education and training of seafarers and people working in the associated industries.
- Enhancing 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, reviewing the ILO Maritime Labour Convention and domestic legislation in order to ensure decent work for seafarers.

The growth and development of maritime transport, as a fundamental facilitator of trade is inextricably linked to the availability of a skilled work force.

International maritime transport relations

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.

Establish a home-grown shipping line

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
- Investigate how home-grown fleets can promote coastal development corridors.

Safe navigation

Given South Africa's obligations as a party to UNCLOS, the IMO and IALA and the

The Way Forward

importance of safe navigation, the resolution of the fragmented arrangements to provide this service will be reviewed.

Coastal development corridors

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. Coastal shipping has not received appropriate policy attention in the past. To this end the government will:

- Initiate an in depth investigation into the potential of regional coastal shipping
- Consider the role coastal shipping could play in the development of coastal industry in the region
- Engage the regional structures with the view to establishing coastal development corridors based on the benefits of shipping as a primary means of transportation. ■



APPENDICES

Appendix A – List of abbreviations

AU	African Union	PTA	Preferential Trade Agreements
ASGISA	Accelerated Shared Growth Initiative of South Africa	RDC	Regional Development Corridor
BBBEE	Broad Based Black Economic Empowerment	RDP	Reconstruction and Development Programme
CIF	Cost, Insurance & Freight	RECs	Regional Economic Communities
DEAT	Department of Environmental Affairs and Tourism	SADC	Southern African Development Community
DFA	Department of Foreign Affairs	SAIHC	Hydrographic Commission of Southern Africa and Islands
DPE	Department of Public Enterprises	SAMSA	South African Maritime Safety Authority
DOE	Department of Education	SANDF	South African National Defence Force
DOL	Department of Labour	SAPO	South African Port Operations
DOT	Department of Transport	SAPS	South African Police Service
DTI	Department of Trade and Industry	SAQA	South African Qualifications Authority
EEZ	Exclusive Economic Zone	SAR	Search and Rescue
FTA	Free Trade Areas	SASAR	South African Search and Rescue Organization
GDP	Growth Domestic Product	SATCC	Southern African Transport and Communication Commission
GEAR	Growth, Employment and Redistribution Strategy	SCOM	"SADC" Sub-sectoral Committee
IALA	International Association of Marine Aids to Navigation and Lighthouse Authorities	SDI	Spatial Development Initiative
IBSA	India-Brazil-South Africa	SMC	Standing Maritime Committee
IHO	International Hydrographic Organisation	SOLAS	Safety of Life at Sea Convention
ILO	International Labour Organisation	STCW	Standards of Training and Certification for Watchkeepers Convention
IMO	International Maritime Organisation	SUA	Safety of Maritime Navigation
IOMOU	Indian Ocean Memorandum of Understanding	TETA	Transport Education and Training Authority
IOR-ARC	Indian Ocean Rim Association for Regional Co-operation	UNCLOS	United Nations Convention on the Law of the Sea
ISM Code	International Ship Management Code	UNEP	United Nations Environmental Programme
ISPS	International Ship and Port Facility Security	UNEP RSP	United Nations Environmental Programme Regional Seas Programme
LOSC	Law of the Sea Convention		
Maritime SCOM	Marine & Inland Waterway Committee		
MARSCOM	Maritime Sub Committee		
MASAMES	Maritime Safety and Marine Environment Sub-committee		
MRCC	Maritime Rescue Co-ordinating Centre		
MSAC	Maritime Security Advisory Committee		
MSCC	Maritime Security Co-ordination Centre		
NEPAD	New Partnership for Africa's Development		
NPA	National Ports Authority		
NSRI	National Search and Rescue Institute		
OAU	Organisation of African Unity		
PMAESA	Port Management Association of Eastern and Southern Africa		
PSO	Port Security Officers		

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 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 and Associated Instruments that could be relevant to Maritime Transport Policy

1. 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

2. 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.

3. 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.

4. 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

Appendices

- 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

5. 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 and 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 Annexe 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).