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## SECTION 4: THE WAY AHEAD

### 1. KEY POLICY RECOMMENDATIONS

1. The basic principles and strategic objectives listed above are accepted as the guiding framework for this national commercial ports policy.
2. This policy establishes guidelines for the South African port system which include all existing commercial ports, i.e. Richards Bay, Durban, East London, Ngqura, Port Elizabeth, Mossel Bay, Cape Town, Saldanha Bay, Port Nolloth, and offshore cargo handling facilities as well as all future ports and facilities to be constructed.
3. There is an obligation on government to ensure that all stakeholders are consulted on a regular basis, including port operators, service providers and users.
4. The National Port Authority of South Africa is given a clear mandate to set a strategic direction for the management and development of the ports that will ensure all our ports to become effective and efficient over time.
5. Ports should establish consultation forums to allow for consultation and an exchange of information between stakeholders and authorities on the development and operation matters that include customer service issues.
6. The National Port Authority of South Africa, as a public entity established by the Minister of Public Enterprise through legislation shall be responsible for the management and integration of all the ports into the national transport system.
7. The Port Regulator as a statutory body established by the Minister of Transport shall safeguard port users' interest.
8. The Department of Public Enterprises, Department of Environmental Affairs and Tourism, Department of Minerals and Energy, Provincial and Local Governments, South African Revenue Services (SARS), South African Police Services (SAPS), South African Maritime Safety Authority (SAMSA) and other relevant institutions should co-ordinate themselves and adapt their policies and practices so as to advance the implementation of this policy.
9. Due to the restructuring policy, the National Port Authority will remain within Transnet Limited until the Minister of Public Enterprises directs otherwise.
10. The Government will reduce its direct involvement in operations.

11. The Government will allow a more competitive environment to ensure that efficiency is achieved in the port operations in the interest of the entire national port system and international trade logistic chain.
12. The State, through its security agencies, has the overall responsibility for ensuring port security and to also enhance it further by various means.
13. Transport planning must be seamless and have unhindered access of the port by road and rail transport is an essential factor for effective operations in a port.
14. Commercial ports are to be economically viable and environmentally sustainable.

## **2. IMPLEMENTATION OF THIS POLICY**

After approval of this national commercial ports policy, a framework for the future of commercial ports will have been provided. Those elements of the new policy, which require only administrative action, will be implemented immediately. Those elements of the new policy, which require major changes from existing practice, may not be implementable immediately.

### **2.1. Interim Arrangements**

No relevant institution should embark upon the formulation of policy or the adoption of practices that run contrary to the implementation of this policy. The divisionalisation of Portnet and the restructuring of Transnet Ltd by the Department of Public Enterprises may continue to proceed towards the implementation of this policy.

The Department of Public Enterprise will facilitate the smooth transformation and implementation of this policy together with other relevant policies. The National Port Authority will remain within Transnet Limited until the completion of its (Transnet's ) restructuring.

#### **Interim Regulatory Framework**

The Minister of Transport will:

- Establish and appoint a Port Regulatory Body;
- Appoint the Board of Directors of the Port Regulatory Body; and
- Issue directives to the Port Regulator Body.

#### **The Role of the Port Regulatory Body**

The National Port Authority shall have considerable power and influence over all commercial ports of the Republic. It is considered expedient to introduce some form of regulatory oversight to ensure that the strategic essence of our

ports; the competitive thrust of port development and reform; and the competitiveness of South African commercial ports and businesses, particularly exporters, are not compromised in any way.

An act of Parliament will establish the Port Regulator to exercise oversight in respect of the Port Authority by making recommendations to the Minister of Transport. The Minister of Transport will decide upon the constitution and composition of the Port Regulator mandated and accountable to government.

The Port Regulator will focus on areas requiring technical expertise, but will consult with the Competition Commission on matters falling within the ambit of the Competitions Act.

Appropriate regulation of the Port Authority is necessary therefore in order to:

- Prevent the abuse of monopoly power and to ensure equity of access to the ports and to the provision of port services.
- Monitor the business relationship between Transnet Ltd. And the Port Authority Division to ensure that Transnet does not derive an unfair advantage over other transport companies and that revenues generated by the port authority are used to the benefit of the authority, its customers and its contribution to corporate and social debt (for as long as the port authority is located within Transnet)

The key objectives of the independent port regulator will be to ensure:

- non-occurrence of rent-seeking behaviour by the national port authority via economic regulation;
- acceptable levels of service to tenants and port users;
- impartiality and equity in the access to port services and the provision thereof; and
- an avenue of recourse should the port authority be implicated in anti-competitive behaviour.

Accepted role of the Port Authority post Transnet's restructuring is:

- Landlord function;
- Policy making and planning function;
- The regulatory, supervisory and surveillance function;
- Monitoring and promotion function; and
- Port-training function.

The National Department of Transport is committed to the economic and social development of the South African transport system. In pursuit of the vision for the national commercial ports policy, the Department seeks to prioritise the policies contained in this policy document and translate these priorities into strategies.