

PROGRESS WITH THE TETA INITIATIVE ON THE SOUTH AFRICAN SHIPPING ENVIRONMENT

1. SUMMARY

Given the shortage of training berths for South African seafarers and the negative consequences that this may have on the implementation of the National Skills Development Strategy, the Maritime Chamber established a Training Berth Task Team, with a view to facilitating solutions towards the crisis surrounding training berth availability.

By reviewing the circumstances prevailing at the time, as well as the initial reasons for commencing with the initiative, the paper tracks the progress made by the Training Berth Task Team since its establishment in January 2003. It considers the mandate that was provided, the planning and objectives that were set, as well as the processes and actions that followed.

Given that finding broader stakeholder support was a primary objective for this initiative, the paper also looks at how the task team managed to secure such support and further dovetail with similar initiatives or calls for change. It concludes with an overview of the current state of play and provides broad recommendations for possible resolutions to follow from the 9th National Maritime Conference.

2. BACKGROUND

In March 2002, the Maritime Chamber commissioned the University of Natal to investigate the crisis that had developed in the South African maritime industry around training berth availability. Simply put, the technikons were producing more prospective Deck and Engineering Cadets than there were training berths available at sea. Experiential training at sea, following theoretical studies, is a key component of any seafarer's training. Given the STCW-95 requirement that all students complete a minimum twelve-month to eighteen experiential sea training component in order to complete their qualification, the shortage of training berths had far reaching implications.

The report "*Seafarer Training and the Availability of Training Berths: The Case of the South African Shipping Industry*" was released in June 2002 and, through in-depth interviews with key stakeholders in the South African maritime industry, investigated the reasons behind the shortage of training berths. It examined, on a company-by-company basis, the availability of training berths at that time and the capacity of shipping companies to create more berths. The report evaluated and presented various policy options that could be investigated as a way to resolve the issue.

Based on the idea that if the number of vessels registered under the South African flag could be increased, this should translate into an increase in the number of training berths available for South African cadets, the report focused on resolution of the issues surrounding the South African ships register. Key amongst the recommendations in developing an enabling environment included:

- Resolving the delays experienced in promulgating the Ship Registration Act, No 58 of 1998 (the primary purposes of which was to modernise the ships register);
- Implementing a tax regime that would favour registration on the South African ships register;
- A review of the exchange control regulations (seen to be a constraint in a capital intensive dollar-based market), labour legislation (the inability of the shipowner to test crew for HIV/AIDS status was perceived to be a problem) and legislation governing the ranking of mortgage claims (in South Africa, the Admiralty Jurisdiction Act was seen to be at variance with the requirements of international banks that finance the purchase of vessels).
- The involvement of Government in incentivising the offering by shipowners of training berths to South African cadets through training subsidies and other incentives;

The report identified the need to look to other successful international seafarer training environments for lessons and, in particular, recommended that Government becomes more proactive in the maritime sector.

2.1 Mandate

The Chamber Mancom decided that the Chamber should assume some responsibility for finding resolutions to the on-going problem of training berth availability. It established the Training Berth Task Team to put together a strategy to determine the necessary interventions and make the necessary representations. This committee was mandated to facilitate a framework of learning for the training of merchant navy officers for employment at sea - and to ensure the implementation thereof. Implicit in this, the committee was to address the recommendations of the University of Natal research report and make recommendations to government with regard to the current legislative framework and enacting existing legislation.

The committee comprised representatives from relevant training institutions, shipowners, labour, the SA Navy and various public authorities. From time to time it also co-opted relevant expertise from academia and other relevant sectors. Reporting directly to the Chamber management structures, the committee enjoyed the support of the major employee and employer bodies represented in the maritime sector.

2.2 Considerations

In finding a suitable point of departure, consideration was given to the following factors, namely:

- Notwithstanding the shortage of training berths for cadets in South Africa, a future worldwide shortage of officers is predicted. There should therefore be a ready market for well trained, competent officers;
- The provision of an adequate number of training berths for South African Cadets is obviously a pre-requisite to producing competent officers for

employment at sea. The training berth task team would therefore have to focus on ways to increase the number of training berths available to South African cadets;

- The issue at hand was not only that of creating berthing opportunities but also promotion, streamlining and coordination of South African cadet training;
- Quality training could not be compromised;
- The efforts should be seen to continue to build on the positive promotion of transformation within the shipping industry.

3. PRELIMINARY FINDINGS

Following preliminary investigations into the reasons for the shortage of training berths for South African seafarers, it soon became apparent that one of the main reasons for this, was the shortage of foreign-trading vessels on the South African Shipping Register.

On a deeper level, it was found that there were a number of factors that had contributed to the demise of the South African Shipping Register over the years. It became increasingly clear that these disincentives for registering a vessel under the South African flag would have to be addressed. If they could be satisfactorily addressed, shipowners would hopefully find South Africa an attractive flag under which to register their vessels and this, in turn, should result in more training berths becoming available for South African cadets.

It was also found that a number of maritime countries around the world had achieved great success in boosting their shipping registers and funding cadet training in their countries through innovative schemes such as the Tonnage Tax scheme in the United Kingdom.

4. PLANNING

The committee deemed it necessary to distinguish the fundamental changes that were required to address the legislative, institutional and policy problems from the short-term issues that required the immediate placement of new cadets into training berths at sea.

4.1 Long Term Issues

In developing their approach, the committee identified the need to get the system right. It would focus on developing an enabling environment for the training of merchant officers, create (if necessary) a new model for training and, where relevant, make representation for legislative and institutional changes to be made.

The committee recognised that a fair degree of inter-departmental cooperation would be required at government level. It recognised therefore, the futility of introducing ad hoc proposals to government for legislative amendments without simultaneously introducing the maritime industry's broader vision and plan. The model should be constructed to create something that would attract both government and the international shipping industry.

Three primary objectives were identified:

1. To make recommendations for a legislative environment that is conducive to removing current disincentives and attracting shipowners to the South African Ship's Register. It was intended that the proposal would take cognisance of:
 - Introduction of a tonnage tax system;
 - Enactment of any additional regulations that may be required to modernise the Ships Registration Act;
 - Amendments to the Admiralty Jurisdiction Act;
 - The implications of current labour legislation on ships registration in South Africa.
2. To develop systems necessary to ensure a coordinated and sustainable process for recruitment, placement, training and management of cadets at sea. Factors to be considered included:
 - Local and international supply and demand analysis;
 - Cost analysis of cadet training (i.e. identify the sources of funding and develop a funding mechanism to support the cost of cadet training);
 - Investigation of crewing, funding, utilisation of government assets / government influence to maximise training opportunities, etc.;
 - Quality assurance of seafarer training (i.e. ensuring quality assurance for experiential training that meets the requirements of the national and international authorities as well as the broader shipping industry).
3. To lobby and communicate in order to achieve full stakeholder participation and support.

4.2 Short Term Need

It was recognised that, until such time as the effects of the long-term vision had filtered through, the need to create new berths for current maritime studies and marine engineering graduates would remain. It is not the intention of this paper to report on the progress regarding the short-term interventions. It will suffice to note that the disjuncture between technikon output and berth availability was about one placement for every three technikon graduates (although this situation has improved recently since recruitment started for Safmarine's new buildings). Various ad-hoc initiatives have resulted in the commitment of foreign vessel owners to provide berthing opportunities to South African cadets and, more recently, through the intervention of the Society of Master Mariners, eight additional berths will be made available to cadets on foreign owned vessels (under a scheme to be managed by a South African crewing agency). The possibility of creating foreign berthing opportunities is also receiving consideration in discussions between TETA and the Government of Flanders.

While these interventions are useful, it should be noted that this solution (i.e. acquiring training on foreign vessels) should not be over-simplified. In itself, it presents a host of additional complexities, e.g. challenges relating to culture, language, travel, assessment, quality assurance, co-ordination, financing, etc.

5. SCOPE & ANALYSIS OF MANDATE

Over and above the regular meetings of the committee, most of its information was obtained by:

- Research (commissioned for specific purposes);
- Participation at the 4th Annual Ships Register 2004 Conference, London;
- Interviews with international maritime policy experts;
- Interviews with local maritime experts;
- Corporate questionnaires;
- Reference to primary documentary sources and secondary material;
- Broader stakeholder consultation.

5.1 Legislative Environment

The first aim of the committee was to understand the environment for ships' registration in South Africa and the potential competitiveness of the Ships Register. Implicit in the brief was an evaluation of the SA Ships Registration Act (Act 58 of 1998), an international benchmark of (and comparative analysis of) registration requirements against other competitive registers, recommendations for a tonnage tax system and report on the status of the Admiralty Jurisdiction Act.

Some of the principles established during the process that followed, include:

- **Ships' Registration:** While fiscal reasons and crew costs are unanimously agreed to be the two main reasons for choosing a flag, it is ultimately a combination of factors that influence the choice of flag - and no single register provides the optimum choice to all shipowners and operators at all times. A country that wishes to grow its maritime presence should therefore identify and focus on its niche competence. Government intervention could then be directed to those areas that will yield the highest added value.

It is clearly the intention of the Ship Registration Act of 1998 (promulgated on 25 April 2003) to create a register more conducive to favourable registration - but not a Flag of Convenience. However, if South Africa wishes to train and employ seafarers on a large scale, an international or second register for South Africa will nevertheless need to *compete* with the low cost environment of Flags of Convenience.

As South Africa's beneficially owned tonnage is limited, the objective of introducing beneficial fiscal regimes and other incentives should not be to retain or relocate beneficially owned tonnages - but to attract foreign tonnage. The potential to attract foreign tonnage, however is limited to the extent that a

genuine link must exist between the flag state and the owner of the vessel hence, attempts to get foreign vessels to register in South Africa may include that of partnerships with the local persons/businesses. The definition of genuine link differs from country to country depending on the register's prescription and legislation governing company law¹.

The two significant implications of the new ships' register in South Africa are believed to be the creation of extended eligibility criteria and the provision for bareboat chartering-in for financing reasons. These will attract registration by a greater range of ships as well as some foreign participation.

- **Fiscal Regime:** The tax regime for income derived from the operation of commercial ships on the South African registry, as prescribed in the Income Tax Act, Act. 58 of 1962, allows 20% of the cost of a ship to be deducted each year for five years. It also allows deduction of a reserve for the anticipated repairs to a ship within five years.

The concessions do not afford internationally competitive advantages. In the majority of countries shipowners enjoy the benefit of accelerated depreciation where taxes can be deferred indefinitely. The majority of shipping companies therefore are in a no-tax category. Some companies have accumulated tax allowances to the extent that it is unlikely that they will be taxable for the indefinite future and, under such circumstances.

Many maritime countries have now introduced an alternative tax option to be chosen for a minimum time period, i.e. tonnage tax. Tonnage tax is a tax to be collected (on a group-wide basis) on taxable profits from shipping activities determined at a fixed rate on the tonnage by the ships employed, rather than on the variable business results. The tonnage of the ships employed is determined and the tonnage tax rate applied, subject to normal companies' tax in the flag country. Under the open registry countries, no income taxes are levied on the company through which vessels are registered. However, it is argued that those companies are taxable in the country of ownership and not by the flag state.

The Netherlands has redefined the meaning of a national fleet to include the different nationalities of the various activities and thereby the degree of foreignness could be established accordingly. Accordingly, the definition of a national fleet is structured into three categories, i.e. beneficial ownership, flag and ship management. Each of these activities can be foreign or domestic, which influences the degree of foreignness. To register for tonnage tax in the Netherlands a shipping company need not fly the Dutch flag but the company should have a genuine link to that country and either the management or the flag should be that of the Netherlands.

¹ In determining whether to designate a register as an FOC, the ITF (International Transport Workers Federation) continues to take into account the degree to which foreign-owned vessels dominate the register. If the majority are foreign-owned and there is no "genuine link" between the shipowner and the flag of the country concerned, then the registry will automatically qualify to be designated by the Fair Practices Committee (FPC) as an FOC.

- **Manning:** As the single largest cost to shipowners, manning is a key issue when considering the flag under which to register a vessel. Shipowners have historically shown a strong dislike for flag state-imposed manning inflexibility and this has been a major reason for the demise of many traditionally strong shipping registers.

Shipowners have shown a preference for a flexible manning regime, which enables them to compose their crews according to their specific requirements. As nice as it would be to insist that only South African crew be employed on South African registered vessels, we know - based on reliable history - that this requirement would not have the desired effect of attracting shipowners to the South African flag. Provided that we are able to keep the costs of employing South African seafarers competitive with those of other major seafarer supplying countries, it is reasonable to expect that South Africans would stand a good chance of finding employment on South African registered vessels.

In conjunction with the competitive fiscal incentives associated with, for example, a tonnage tax regime, owners of South African registered ships could, however, be required to offer training berths to South African cadets. This is a requirement in terms of the tonnage tax scheme in the United Kingdom and the result has been rapid growth of the UK flag and a strong increase in the number of UK cadets being trained. In this way, the growth of the South African Shipping Register would have a direct positive impact on the availability of training berths for South African cadets.

In South Africa, the Immigration Act 13 of 2002 as amended, presently has far-reaching consequences for companies employing foreign nationals on South African flagged vessels. Although well intended, this Act has to date unfortunately contributed to making the South African Shipping register an unattractive option for international shipowners. The Act clearly supports the ideal of indigenisation and providing jobs for South Africans. It also carries with it a heavy administrative burden where foreign nationals are employed. When applying for work permits, for example, proof of a fixed term employment contract must be provided which stipulates the termination date (and the maximum period that a foreign national may be employed being five years and six months). A detailed list of short list candidates must also be provided together with reasons why they were unsuccessful. The Act further provides for a detailed training plan indicating the transfer of skills from the foreign national to a local unit upon completion of the contract of employment.

While compulsory testing for HIV/AIDS of seafarers has become common practice amongst the world's crew supplying nations, it is currently prohibited in terms of the Employment Equity Act in South Africa. Already, international shipowners are wary of employing South African seafarers because of the prevalence of the disease. The average merchant vessel is not equipped to provide adequate medical support to an HIV positive seafarer that falls ill at sea. It is also argued that shipowners run an unacceptably high risk of incurring substantial medical, deviation and repatriation expenses under these circumstances. Further, the safe operations of a vessel may also be

compromised as each and every crew member has a role to perform during emergencies at sea – and all need to be able bodied.

- **Ship Mortgages:** The problem caused by ship mortgages concerns the priority of claims by the mortgagees in terms of the jurisdiction of the flag state. In South Africa, in terms of section 11 of the Admiralty Jurisdiction Regulation Act (Act 101 of 1983) and the Insolvency Act (Act 24 of 1936) the priority of a mortgagee's claim is at variance with legislation in most maritime countries. South Africa ranks a mortgagee's claim 11th out of the possible 13 categories, whereas in most other countries it is ranked 6th or 7th.

5.2 Training Model

- **Demand and supply of seafarers:** Fluctuations in the demand and supply of seafarers can always be explained by the continuous fluctuation in the demand and supply of the shipping industry - as influenced by the economic climate of regions, countries, global trade and market forces. Achieving some equilibrium in the demand and supply of seafarers can however not be sustainable if new recruits are not put into the system. The intake of officers to the available pool should therefore match with the outflow that occurs as a result of retirement due to age, wastage to other occupations and shore-based employment, natural attrition as well as the increase in shipping fleets. Care should therefore be exercised in creating incentives for training and thereafter being in a position where they are unable to obtain employment.

Shipping cycles are erratic and due to the short-term inelasticity of the supply of new officers (minimum three years), the demand cannot be met in the short term if a shortfall is experienced. It is therefore essential that a core number of cadets be at different stages of training to meet such shortages in the short term. The balance between the two pools can only temporarily be managed by providing land-based jobs to seafarers who also go to sea and maintain their seafarer experience. However, to develop and maintain a core long-term pool of officers is expensive and individual shipping companies are reluctant to do so in a competitive market, especially as seafarers can be headhunted at much lower costs. Although an imbalance in seafarer demand and supply is untenable, those shipping companies that continue to seek short-term competitive cost advantages by opting not to train seafarers are ignoring the future possible shortage of suitable seafarers.

- **Funding:** One of the biggest problems stems from the cost of training. While the State largely bears the cost of the formal education needed to commence training as a seafarer and subsidises the cost of formal tuition in maritime subjects at government institutions, substantial expenditure must be borne by the maritime industry in providing the practical training at sea. The costs are estimated at an average of R55 000 per year for a deck cadet and R60 000 per year for an engine cadet for a minimum period of three years and are inclusive of wages, training costs, provision of a training berth and subsistence. The problem, however, is that shipping companies cannot ensure that successful candidates will remain in their employ at sea to justify the expense of training, as many other job opportunities exist with other maritime companies, both at

sea and on land. In the United Kingdom this phenomenon is being addressed in that a training fund has been established whereby non-training companies can voluntarily contribute to the training of such candidates.

Shipowners cannot be expected to bear the cost of training more seafarers than needed for their own employment. If trained crews are not available, it will not be feasible to prescribe to shipping companies willing to locate in South Africa that only or mostly South African crew should be employed on their ships; this will merely act as an impediment. The availability of South African crew at competitive wages nevertheless constitutes the biggest attraction of the South African Ships' Register.

- **Other Training Related Considerations:** South Africa has a history of producing highly competent merchant navy officers and the training of cadets is adequately undertaken at existing institutions. The training and certification of seafarers, however, is regulated both internationally and nationally and currently two monitoring and certifying bodies exist in South Africa, i.e. the South African Maritime Safety Authority (SAMSA) and the Transport Education and Training Authority (TETA).

The International Convention on Standards of Training, Certification and Watchkeeping (STCW-95) governing training and accreditation of seafarers aims to impart practical skills. The value of any training programme remains dependent, however, on the capacity to obtain training berths for those completing it. The official certifying body in terms of STCW-95 in South Africa is SAMSA, which issues certification for training programmes that comply with International Maritime Organisation requirements. TETA was established in terms of the Skills Development Act, which aims, amongst other things, to promote greater upward mobility and mobility between different vocations. In terms of the legislation the TETA is authorised as the Education and Training Quality Assurance Body (ETQA) for the transport industry. TETA must accordingly accredit all training providers in the industry. This ensures that the quality of learning for all training can be maintained according to unit standards and industry qualifications.

This has resulted in considerable confusion, with industry and training institutions finding it difficult to understand the need for both TETA and SAMSA accreditation, and a call for role clarity and greater cooperation between the two bodies.

While on board training programmes are currently being successfully implemented, concerns nevertheless have been raised that an institutional gap in South Africa's training environment exists – with sustainability and funding being the key challenges. Consideration was given to a more coordinated approach towards recruitment, placement, training and management of cadets at sea (perhaps along the lines of a national agency). In order to ensure quality of training and compliance to the minimum standards, all qualifying sea time undertaken by South African cadets (i.e. accelerated training programmes) must be accredited by SAMSA. Managing such a training programme is a

complex business, and a costly one, which, in a developing economy may require direct support.

Lastly, it was recognised that training and development in the South African shipping industry has not only to take on board the exigencies of global competition, and new certification regimes, but also the pressing need to promote equity, and, above all, to continue to facilitate the upward mobility of black seafarers.

5.3 Broader Consultation

From an early stage it was the intention of the committee to consult with other interested stakeholders; with a view to both finding support and participation in the initiative as well as to lobby government to implement the proposed changes. One of the more significant developments occurred in April 2004. Safmarine, for reasons very similar to that of the Training Berth Committee (i.e. creating an environment more conducive to registration), had made significant inroads in drawing the need for a revised tax regime to the attention of National Treasury. The berthing committee has since this time worked in collaboration with the Safmarine initiative in achieving their respective goals.

A series of meetings (involving, amongst others, Safmarine, Unicorn Shipping, SAMSA, National Treasury and the TETA Training Berth Committee) have resulted in principle agreement on how to take the initiative forward for ministerial consideration. National Treasury have indicated very clearly that their intention is not merely to consider a new tax regime for the shipping sector; their fundamental premise is involving other ministries to remove the other non-tax impediments that negatively impact the shipping industry.

6. RECOMMENDATIONS & FURTHER DEVELOPMENTS

From its report, *Report on South African Ships' Register, Van Niekerk, H C.*, the berthing committee adopted the following recommendations:

- **Fiscal:** Tonnage tax should be introduced in South Africa with the necessary change to the South African Ships' Register. Companies owning and operating ships will be afforded a choice between the alternative schemes of taxation, and the scheme chosen should remain in force for ten years. The alternatives will comprise the existing regime or a tonnage tax regime. The existing tax regime will lead to a high tax burden when substantial profits are made and no tax when losses are made. However, under the tonnage tax regime a low tax will always be paid irrespective of the company's profits or losses.

The proposal does not deal with the rate/scale of tax but does include specific recommendations on the principles underlying the proposed regime; qualifying businesses; requirements that should be complied with and importantly, the meaning of a shipping company for the purposes of tax should be clearly defined.

- **Definition of National Fleet:** The development of a maritime presence in manning, flagging and beneficial ownership similar to that in the Netherlands

should be pursued to increase the national income from shipping activities and to create job opportunities.

- **Training:** A company registering for tonnage tax should be committed to training and to filling a certain number of training berths on board their vessels (based on the principles of the SMarT system the United Kingdom). The scheme would be funded from the income from the skills levies (as promulgated in the Skill Levies Act of 1998) and to be administered by TETA in line with the existing funding regulations and disbursement practices. In the case of supernumerary cadets, funding could be accessed from the National Skills Fund, depending on the needs as determined by the minimum training requirements for ships under the tonnage tax scheme. This would link with the National Skills Authority's vision in pursuance of job creation.

Specific guidelines would need to be developed for these bursaries (*note: TETA is currently drafting a bursary scheme in accordance with the new funding regulations*) and these guidelines should be developed to prioritise previously disadvantaged individuals in pursuance of the goals of the broader socio-economic environment (*note: TETA is already committed towards achieving the equity targets of the Department of Labour as well as the targets within Maritime Industry Black Economic Empowerment Charter*).

The proposal contains detailed recommendations for minimum training obligations, core training commitment, accredited status, end of period adjustment, etc. In establishing these guidelines, it would be incumbent upon TETA to monitor the balance of supply and demand for seafarers (according to its sector skills plan) and ensure a prudent allocation of funds.

During the past 18 months, the Department of Labour have registered the navigation and engineering cadet programmes, as well as the Ratings programmes, as learnerships. This has paved the way for shipping companies to receive maximum grant benefit and tax rebates to offset their training costs.

- **Competitive Crewing:** The wages for crew should be negotiated with the domestic unions, taking into account the prevalent wage scales in South Africa as well as the social costs encumbering competitive manning costs.
- **Ships Mortgage:** There is no legal certainty around this issue and many viewpoints are held about the merits of the ranking. It is believed that the Ship Registration Act has corrected the anomaly in that, in the instance where a ship forms part of an insolvent estate, the mortgage is deemed to be a special mortgage. In terms of the South African Insolvency Act a ship's mortgage is not recognised as either a preferred or a secured creditor. However, the Ship Registration Act deems a registered ship's mortgage to be a special mortgage, which is recognised by the Insolvency Act. In the unlikely event of a vessel being part of an insolvent estate, the ranking of claims against the vessel would thus proceed as an insolvency rather than as an admiralty distribution.

The controversy around the Admiralty Jurisdiction Regulation Act (Act 101 of 1983) may be based on perceptions and may not in itself demote flag

registration. SAMSA and the Maritime Law Association of South Africa have discussed the issue at length and could pursue it if and when necessary.

Most of the above recommendations have been absorbed into discussions with National Treasury. In addition to the above report, the committee further considered:

- **HIV AIDS:** Chapter 2 of the Employment Equity prohibits medical testing of an employee unless legislation permits or requires the testing (e.g. the Merchant Shipping Act) or it is justifiable in terms of the medical facts, employment conditions, social policy or the inherent requirements of the job. Testing of an employee to determine that employee's HIV status is prohibited unless such testing is determined to be justifiable by the Labour Court in terms of section 50(4) of the Act.

Embedded in the problem of HIV/AIDS are personal liberties, socio-economic responsibilities and commercial realities. The issue is an emotive one and, if incorrectly handled, highly contentious too. If the intention behind the Employment Equity Act (or the Constitution for that matter) is protection against prejudice and discrimination, then clearly the shipowners cannot operate contrary to such principles. However, this should not deprive them of their right to information. Knowledge is a key resource to any commercial enterprise and the basis against which it must manage its risk profile.

The merchant shipping environment is unique in many respects; it is inherently demanding and dangerous and requires pro-active minimisation of all potential risks upfront. It is contended that testing with a view to managing the situation, should therefore be permissible; testing with a view to prejudicing an employee, should not. As guardian of South Africa's merchant shipping regulations (including seafarer eyesight and medical regulations), SAMSA should petition the Labour Court for permission to make testing for HIV/AIDS a mandatory requirement of every seafarer's annual medical examination. The motive behind such a petition would be broader than merely casting an infected seafarer out of employment; but integrated into a programme of care, treatment and support. Ultimately, industry needs to take responsibility for this issue and it is recommended that a steering committee (similar to that of the Road Freight Industry), comprising industry, labour and other relevant stakeholders be constituted to guide and support SAMSA through the process.

- **Immigration Act:** The constraints placed on the employment of foreign nationals has been somewhat softened by a dispensation granted by the Department of Home Affairs, to ship owners operating out of South African ports on local trades, to obtain work permits for foreign seafaring officers. This followed a representation by Unicorn Shipping to the Director General, Home Affairs. Accordingly, South African diplomatic representatives abroad are authorised to finalise work permit applications for certain categories of seafaring officers. In the event of an emergency situation, the Department will process the application with 24 hours.

The dispensation however is discretionary and, in that it could be revoked at any stage, does not provide legal certainty. Further, while it does alleviate the

problem, it does not remove the constraint. It is recommended that National Treasury also consider this issue, together with the other impediments. The constraints surrounding the Immigration Act should, however, in no way detract from the need to train South Africans into competencies and positions for which foreign nationals are currently recruited.

- **Quality Training:** Events have superseded this concern, with the signing of a memorandum of understanding between TETA and SAMSA in 2004. Accordingly, the understanding provides for joint accreditation by both authorities, whereby SAMSA remain responsible for all matters relating to the licensing of learners and TETA will issue learner achievement certificates. It further clarifies the manner in which we the two bodies cooperate with one another and the manner in which they coordinate their respective functions.

7. WAY FORWARD

The 9th Maritime Conference has provided the platform to share the initiative to the broader maritime industry. It further provides the platform for the maritime industry to adopt the initiative, mould it and drive it to its logical conclusion. South Africa has a shrinking maritime economy; it also has a vast source of unemployed labour. A substantial reduction in unemployment is indispensable for the future of the economy and initiatives in pursuance of that goal should be promoted. Intervention by the government to create jobs whenever such opportunities arise is essential and the prospect of employment in seafaring affords such an opportunity.

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