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## GENERAL NOTICE

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### NOTICE 1162 OF 2009

Issued in terms of Section 9 (1) of the BBBEE Act 53, 2003

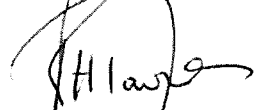
(DEPARTMENT OF TRADE AND INDUSTRY)

### CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

Whereas, the Minister of Trade and Industry:

- (a) Has issued a **DRAFT TRANSPORT SECTOR CODE (THE DRAFT CODE)** provided for in Code 000 Statement 003 of the Codes of Good Practice under **Section 9 (5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003) on the **24<sup>th</sup> December 2008**
- (b) In terms of which the public and interested persons were invited to comment on the Draft Sector Charter within a period of **60 days** from the date on which the Draft Sector having been published,
- (c) The public having commented, I, **Dr Rob Davies**, now publish the **TRANSPORT SUB-SECTOR CODES** as a **SECTOR CODES** on black economic empowerment in terms of **Section 9 (1)** of the BBBEE Act, 53 of 2003.

This notice is effective from the date of publishing and means that the **TRANSPORT SUB-SECTOR CODES** are binding on all stakeholders operating in the **TRANSPORT** Sector within which the Sub-Sector Codes apply.



.....  
**DR ROB DAVIES**

MINISTER OF TRADE AND INDUSTRY

DATE: 28/7/09

# **INTEGRATED TRANSPORT SECTOR CODES**

**GAZETTED IN TERMS OF SECTION 9 (1) OF THE  
BBBBEE ACT 53 OF 2003**

**JULY 2009**

## PREAMBLE

The parties to this Charter, organized as Government, Organised Labour, Industry and Interest groups, commit themselves to actively promote a transformed, vibrant, and globally competitive transport sector that reflects the demographics of South Africa, and contributes to the establishment of an equitable society by effectively providing accessible transport services to all South Africans, particularly Black people, and their participation in the transport industry.

The parties to this Sector Codes attest that this Integrated Transport Sector Codes provides guidelines for transformation in the transport sector and represents a partnership of programmes as outlined in the Government's Strategy for Broad-based Black Economic Empowerment and is aligned with the Department of Trade and Industry's Code of Good Practice.

The parties to this Sector Codes concur that the Sector Codes constitutes a framework that establishes the principles upon which Broad-Based Black Economic Empowerment will be implemented in the transport sector and in terms of which each principle shall be underpinned by targets, responsibilities, implementation mechanism and monitoring tools for the transformation of the sector.

The parties to this Sector Codes confirm that all the processes of targets, responsibilities, reviews, implementation and monitoring, shall be carried out primarily by the Transport Sector Black Economic Empowerment Council that shall be established specifically for this purpose.

The parties to this Sector Codes, commit to use Black Economic Empowerment as a tool to unlock efficiencies throughout the transport sector, maximizing all the sub sectors to promote an integrated, intermodal and multifaceted transport logistics system that supports both public and freight for the benefit of our economy.

Lastly the parties to this Sector Codes agree on embarking on a deliberate strategy to increase access to skills, capital and economic opportunities and, therefore raise the economic value added (or productivity) of every employee and enterprise in the transportation industry, while creating opportunities for the unemployed and working poor to enter the formal economy.

**DEFINITIONS**

For purposes of clarification and for avoidance of ambiguity, the following terms apply to the all the gazetted Broad Based Economic Empowerment (B-BBEE) Sub-Sector Codes:

<b>TERM</b>	<b>DEFINITION</b>
<b>Acceptable Valuation Standard</b>	Means a valuation of an asset, an Economic Interest, an Enterprise or another instrument or right relevant to measurement under the ownership indicator undertaken in accordance with normal valuation methodologies which represent standard market practice in the context of the nature as well as the stage of development of the asset, Equity Interest or Enterprise being valued.
<b>Aged Persons Act</b>	Means the Aged Persons Act 81 of 1967, as amended.
<b>Airline Service Providers</b>	Are those service providers that give services to airlines companies e.g catering services, travel news magazines etc
<b>Allowable Exclusions From Total Procurement</b>	Refers to procurement by a measured entity as defined in Code 500 of the Generic Codes of Good Practice gazetted on February 2007 and subsequent amendments.
<b>Associated Enterprise</b>	Means any black Enterprise other than the Measured Enterprise with which the Measured Enterprise has concluded a Qualifying Transaction.
<b>Black aged people</b>	Black people who are also aged people as defined in the Aged Persons Act 81 of 1967, as amended or substituted.
<b>Black designated groups</b>	(a) means unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution. (b) Black people who are youth as defined in the National Youth Commission Act of 1996. (c) Black people who are persons with disabilities as defined in the Code of Good Practise on employment of people with disabilities issued under the Employment Equity Act. (d) Black people living in rural and under-developed areas.
<b>Black Enterprise</b>	Is one that is 50,1% owned by black persons and where there is substantial management control.
<b>Black Empowered Enterprise</b>	Is one that is at least 25.1% owned by black persons and where there is substantial management control.
<b>Black New Entrants</b>	Means a black Partnership(s) (which includes without limitation, black Participants in Broad-Based Ownership Schemes) holding in aggregate in excess of 5% of the total Voting Rights and Economic Interest in a Measured Enterprise who has not, prior to their acquisition of their Equity Interest in the Measured Enterprise, concluded similar transactions in respect of any other Enterprise, which in aggregate have a cumulative value of

TERM	DEFINITION
	R20,000,000.00 measured in accordance with an Acceptable Valuation.
<b>Black People</b>	has the meaning defined in the Act qualified as including only natural persons who are citizens of the Republic of South Africa by birth or descent; or are citizens of the republic of South Africa by naturalisation: (a) occurring before the commencement date of the constitution of the Republic of South Africa Act of 1993; or (b) occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then.
<b>Black unemployed people</b>	Black people who are unemployed, are not attending or are not required by law to attend an educational institution and who are not awaiting admission to an educational institution
<b>Black Women-Owned Enterprise</b>	is one with a minimum of 50,1% representation of black women in the ownership structure, which includes related economic interest and exercisable voting rights.
<b>Black workers</b>	Black Persons employed in market production activities are those (aged 15-64 years) who during the reference week, even if it was for only one hour, did any of the following:  a) Worked for a wage, salary, commission or payment in kind (including paid domestic work).  b) Ran any kind of business, big or small, on their own or with one or more partners.  c) Helped without being paid in a business run by another household member.  d) Were temporarily absent from their jobs or businesses to which they would definitely return.
<b>Black youth</b>	Black persons who are also youth as defined in the National Youth Commission Act 19 of 1996, as amended or substituted.
<b>Broad Based Black Economic Empowerment (B-BBEE)</b>	Government defines B-BBEE as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as

TERM	DEFINITION
	well as significant decreases in income inequalities. Thus the B-BBEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets.
<b>Community or broad based enterprise</b>	has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers.
<b>Control</b>	of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders agreement.
<b>Co-operative or Collective Enterprise</b>	An autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly – owned enterprise and democratically controlled enterprise.
<b>Development</b>	Includes but not limited to Joint Ventures, sub-contracting, and supplier development initiatives. It also includes but not limited to the facilitation provided by established company to its B-BBEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models.
<b>Direct Empowerment</b>	The process of BEE should/may result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of a black persons ownership of assets and enterprises must be a controlling interest, reflecting genuine participation in decision making at board executive management and operational levels, and the assumption of real risk. In this Charter, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments.
<b>Disabled employees</b>	For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation.
<b>Enterprise Development ventures</b>	Includes business ventures such as sub-contracting, joint ventures, driver owner schemes, twinning, etc, which involves the development or setting up of business



TERM	DEFINITION
	ventures which involves black operators, suppliers and especially or black SMME's (small, medium and micro enterprises).
<b>Exclusions from Total Measured Procurement</b>	Generally has the same meaning as that contained in the Codes of Goods Practice gazetted on the 9 February 2007 and as amended however the list of inclusions/exclusions as per Annexure A of this Charter takes precedence.
<b>Executive Management</b>	Means the most senior position in the organisation as well as the overall heads of major divisions or functions (e.g. finance, engineering, operations, human resources etc.) responsible for planning, policymaking and directing of such functions.
<b>Exempted Micro Enterprises</b>	These are enterprises with a turnover of R5 million or less for the purposes of this charter. They have an automatic recognition level of Level 4 in the B-BBEE Recognition Levels in the B-BBEE Codes of Good Practice. This affords companies procuring from these entities 100% B-BBEE recognition of spend.
<b>Fronting</b>	The deliberate misrepresentation of information in order to gain an advantage over another individual or entity. In addition, it includes the use of questionable ownership structures in order to unjustifiably gain points to get preference points in any business/ tender adjudication process.
<b>Growth</b>	Relates to the National Economic Growth, Industry Growth as well as Enterprise Development growth
<b>Indicator</b>	The indicator represent the key measurement yardstick included to determine the BEE contribution made by taxi enterprises within each broad-based BEE factor of Ownership, Strategic Representation (Management), Employment Equity, Skills Development, Preferential Procurement, Enterprise Development, Social Development and Industry Specific.
<b>Indirect Empowerment</b>	<p>a core component of this BEE Strategy is the creation and nurturing of new enterprises established or owned by black people. Preferential procurement by the State, Parastatals and the private sector is an effective and efficient instrument to drive BEE. A second element of indirect empowerment is enterprise development. This can take two forms:</p> <ul style="list-style-type: none"> <li>• Investment in black owned and black empowered enterprises.</li> <li>• Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.</li> </ul>

TERM	DEFINITION
<b>Indirect ownership</b>	Occurs where a company or any other institution owns equity in a company on behalf of beneficiaries and there is no direct participation by the beneficiaries in the voting rights.
<b>Job Creation</b>	Refers to the creation of opportunities for sustainable permanent employment.
<b>Job Creation Target</b>	This is not a payroll tax but refers to a stakeholder commitment to create opportunities for unemployed learners for which there is a tax rebate from government. These employees must account for 5% of the workforce.
<b>Learners</b>	Refers to the people participating in learnerships or other learning interventions.
<b>Leviable Amount</b>	Bears the meaning as defined in the Skills Development Levies Act of 1999 as determined using the Fourth Schedule to the Income Tax Act.
<b>Locally-owned Enterprise</b>	A commercial undertaking or business where 50% or more of shareholding is held within the borders of the Republic of South Africa.
<b>Management</b>	Refers to the effective control of economic activities and resources. This involves the power to determine policies as well as the direction of economic activities and resources. Management control measures black representation at board of directors' level and executive management level.
<b>Managerial or Supervisory Employees</b>	Means employees who are working in supervisory or managerial positions i.e. those who have other employees reporting to them and who are responsible to oversee and supervise subordinates and/or processes.
<b>Midibus</b>	Minibus means a motor vehicle designed, or lawfully adapted by a registered manufacturer in compliance with Road Traffic Act, 1989 (Act No. 29 of 1989), to carry from nine to 18 seated persons, excluding the driver.
<b>Net Asset Value</b>	Within the context of this Sub-Sector Code this term refers to Total Asset less Liabilities.
<b>Net Value</b>	This is the portion of equity in the hands of black shareholders that is fully paid up. Essentially it is the value of the shareholding, less the outstanding amounts owed by that shareholder to third party funders or the principle entity in which the stake was acquired.
<b>Net Economic Interest</b>	Is the percentage of the shareholding by black shareholders that is unencumbered by any financial obligations to third parties or to the principle company in which the stake is held.
<b>Non-Discretionary spend</b>	Non-discretionary spending is spending that is required and by law.

TERM	DEFINITION
<b>Ownership</b>	refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. These rights and obligations include the right the economic interest flowing from the shareholding and the right to exercisable voting rights in proportion to that shareholding. It also refers to the net economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target of the aggregate value of the equity will be based on the asset values per the audited accounts of the entities concerned and that the net economic interest will be calculated according to the market value of the shareholding less the outstanding amounts owing to third parties or the principle company by the black shareholders.
<b>People Living With Disabilities</b>	<p>Disabled employees. For the purpose of this Charter, the definition of employees with disabilities as contained in the Employment Equity Act is used. It means employees who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into or advancement in employment. The total number of employees with disabilities (irrespective of race or gender) is expressed as a percentage of the total number of employees (irrespective of race or gender) in all levels of the organisation.</p> <p>Types of disabilities include:</p> <p>Spinal injuries-quadriplegic, paraplegic;</p> <p>Physical disabilities and deformities-post polio, amputations, arthritis, cerebral palsy;</p> <p>Epilepsy;</p> <p>Traumatic brain injuries &amp; neurological disorders, strokes;</p> <p>Visual impairments - blind, degrees of blindness, retinitis pigment, albinism;</p> <p>Hearing impairments- deaf, degrees of deafness;</p> <p>Psychiatric conditions- depression, bi-polar, personality disorders, mood disorders;</p> <p>Learning disabilities - dyslexia, downs syndrome; and</p> <p>Communication/speech problems</p>
<b>Preferential Procurement</b>	Is a measure designed to widen market access for entities, in order to integrate them into mainstream of the economy. Preferential Procurement will create economic empowerment benefits indirectly but meaningfully as it multiplies the effects of private and public sector intervention to promote broad-based BEE.
<b>Scorecard</b>	means the standard B-BBEE scorecard used by the transport sector.
<b>Skills Development</b>	Refers to all expenditure on Black skills development; education and training (including the Skills Development

TERM	DEFINITION
	Levy). The actual expenditure on Black skills development, education and training that has been conducted during the last completed financial year to be used as a basis for the calculation. The total expenditure on Black skills development, education and training is expressed as a percentage of the total payroll costs. Total payroll costs include all remuneration related expenditure such as basic wages/salaries, overtime, and employment related company contributions.
<b>Socio-economic Development</b>	Specifically aimed at targeted socio-economic development projects or initiatives. Organisations are encouraged to support, develop and invest in targeted community projects – this includes e.g. poverty alleviation initiatives, HIV/ Aids programmes, study bursaries, programmes or projects for the disabled, occupational health programmes, youth camps, crime prevention programmes, alcohol and drug awareness, and internships.
<b>Stakeholders</b>	Refers to a range of interest groups who directly and indirectly participated in this process. These groups included Government, Private Industry, Parastatals, Agencies, Financial Institutions (Private and Public), Organised Labour, Civil Society Associations, B-BBEE operators, suppliers, SMME's as well as individuals.
<b>Taxi Recapitalisation</b>	The overall goal of the Taxi Recapitalisation (TRP) initiated by Government in 1999 is the replacement of the current ageing fleet that constitute the bulk of the taxi industry with new vehicles that are safe and reliable. The programme also sought to ensure the sustainability of the industry as a business, as well as ensure its formalisation and effective regulation.
<b>Total Measured Procurement Spend</b>	Generally has the same meaning as that contained in the Codes of Good Practice gazetted on 9 February 2007 and as amended however the list of exclusions as per Annexure A of this Charter takes precedence.

Definitions of terms and concepts not captured in this Charter are contained in the Codes of Good Practice gazetted on 9 February 2007.

**MARITIME TRANSPORT & SERVICES INDUSTRY SUB-  
SECTOR CODE FOR BBBEE**



**REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID AFRIKA**

**DEPARTMENT OF TRANSPORT**

**MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR  
BBBEE**

## **MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE**

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## MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE

### ABBREVIATIONS

<b>B-BBEE</b>	Broad-Based Black Economic Empowerment
<b>ABET</b>	Adult Basic Education and Training
<b>ABMOSA</b>	Association of Black Maritime Organisation of South Africa
<b>ASGISA</b>	The Accelerated and Shared Growth Initiative of South Africa
<b>BCEA</b>	Basic Conditions of Employment Act
<b>CIPRO</b>	Company Intellectual Property and Registration Organisation
<b>DBSA</b>	Development Bank of South Africa
<b>DOL</b>	Department of Labour
<b>DPE</b>	Department of Public Enterprises
<b>DTI</b>	Department of Trade and Industry
<b>EAP</b>	Economically Active Population
<b>EE</b>	Employment Equity
<b>EEA</b>	Employment Equity Act
<b>EMEs</b>	Exempted Micro Enterprises
<b>GDP</b>	Gross Domestic Product
<b>GDS</b>	Growth and Development Summit
<b>HDSA</b>	Historically Disadvantaged South Africans
<b>IDC</b>	Industrial Development Corporation
<b>JSE</b>	Johannesburg Securities Exchange
<b>JIPSA</b>	The Joint Initiative for Priority Skills
<b>KPI</b>	Key Performance Indicators
<b>MSA</b>	Moving South Africa
<b>MT &amp; SI</b>	Maritime Transport & Services Industry
<b>NDOT</b>	National Department of Transport
<b>NEF</b>	National Empowerment Fund
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NSDS</b>	The National Skills Development Strategy
<b>NSF</b>	National Skills Fund
<b>NPAT</b>	Net Profit After Tax
<b>PIC</b>	Public Investment Commissioners
<b>PIPO</b>	Public Industry Port Operations
<b>PPFA</b>	Preferential Procurement Policy Framework Act
<b>PSA</b>	Proudly South African
<b>QSEs</b>	Qualifying Small Enterprises
<b>RDP</b>	Reconstruction and Development Programmes
<b>SAMSA</b>	South African Maritime Authority
<b>SATAWU</b>	South African Transport and Allied Workers Union
<b>SETAs</b>	Sector Education and Training Authorities
<b>SMMEs</b>	Small Micro and Medium Enterprises
<b>TEO</b>	The Enterprise Organisation
<b>TETA</b>	Transport Education and Training Authority
<b>TNPA</b>	Transnet National Ports Authority
<b>TPT</b>	Transnet Port Terminals
<b>WSP</b>	Workplace Skills Plan

## **MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE**

### **1. SCOPE OF APPLICATION**

#### **1.1 Delineation of the Sector**

The Maritime Transport & Services Industry (MT & SI) is often associated with shipping lines involved in the carriage of cargo and associated service providers. More specifically, economic activities in South Africa which share a relationship with the sea include the following:

- 1.1.1 Enterprises concerned with the marine transport of cargo and services ancillary to such transport;
- 1.1.2 Enterprises concerned with the manufacture, provision, maintenance and repair of marine equipment, including marine craft;
- 1.1.3 The commercial ports system and authorities responsible for the provision and operation of navigational aids, including lighthouses;
- 1.1.4 Institutions concerned with rescue, salvage and anti-pollution operations;
- 1.1.5 Government departments and agencies concerned with international maritime relations, administration of maritime safety, the protection and conservation of the marine environment and law enforcement within South Africa's offshore jurisdiction; and
- 1.1.6 Institutions concerned with marine and maritime education, training and resources.

#### **1.2 Exclusions**

The following activities, which constitute part of the Maritime Transport & Services Industry, broadly defined, **are excluded** for the purposes of developing a Broad-Based Black Economic Empowerment (B-BBEE) Charter, as appropriate policies are formalised for these entities by other Government Departments:

- 1.2.1 Enterprises concerned with the exploitation of renewable and non-renewable marine resources (Departments of Minerals and Energy and Environment and Tourism, for fishing);
- 1.2.2 The Marine Tourism Industry (Department of Environment and Tourism); and; and
- 1.2.3 Naval defence (Department of Defence).

### **2. LONG TERM VISION**

#### **2.1 Overarching long-term vision**

- 2.1.1 Our overarching long-term vision is to develop South Africa to become one of the world's top 35 maritime nations by the year 2014. South Africa's sea-borne trade during this period amounted to approximately 135 million tonnes. This level of trade closely matches some of the countries featuring in the top 35 merchant fleet owners.
- 2.1.2 Our vision is to substantially increase the number of SA flagged vessels and develop new South African shipping companies that are globally competitive, not only in trade between South Africa and the rest of the world. These companies must eventually be able to compete with other merchant navies operating on other lucrative international trade routes, e.g. the Far East and Europe and America.



## **MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE**

### **2.2 Developing a World Class Industry**

2.2.1 Our vision is to develop a world-class industry, based on seamless integration of all modes and multiple networks that will grow in size stimulate economic growth and development, facilitate trade, comply with international safety standards and deliver efficient and quality services to customers. Our industry seeks to achieve a significant increase in black participation in ownership, management and employment in companies throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs, most of which are on landside operations.

2.2.2 To make this vision become a reality will require a deliberate strategy to increase access to skills, capital and economic opportunities and, therefore, raise the economic value added (or productivity) of every employee and enterprise in the industry. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black entrepreneurs (and the development of existing ones) who can participate in economic opportunities throughout the MT & SI value chain.

2.2.3 The signatories to this document believe that every company in South Africa must embrace Broad-Based Black Economic Empowerment (B-BBEE), recognising that it is a constitutional, legislative and economic imperative to secure a prosperous future for all our country's citizens and, therefore, a larger market in which to trade. We commit ourselves to embark on a major communications and marketing campaign that will take this B-BBEE Sub-Sector Code for the Maritime Industry to every company within our industry to ensure maximum participation by all stakeholders.

2.2.4 Accordingly, all private sector stakeholders, who commit themselves to this Charter, will agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) verified by an independent B-BBEE verification agency that is accredited by an appropriate verification body.

### **2.3 Undertakings by all Stakeholders (to achieve this vision):**

2.3.1 To promote a collaborative relationship with organisations such as Proudly South Africa (PSA) and stakeholders in the mining and liquid fuels industries through the Ship South African Campaign to persuade local cargo owners to increase the cargo carried on South African ships<sup>1</sup> to 25% of the total within the next five years. South African companies, with particular focus on B-BBEE compliant companies, should broker 25% of all cargo handled by brokers within the next five years, subject to review.

2.3.2 The new mining and liquid fuels industry leadership should place shipping on the agenda as part of their strategic level discussions on export and

<sup>1</sup> As defined and amended in the Ships Registration Act. Please refer to Appendix (A) Definitions

## **MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE**

import programmes. These industries are well positioned to facilitate the utilisation of black shipping service providers in joint ventures with established companies. What we are calling for is a clear strategy or plan that will result in the bulk of cargo going through South African ports to be carried on South African ships.

- 2.4 National Government Undertakings (to achieve the vision):**
- 2.4.1 Over and above the above, Government is committed towards developing South Africa into a leading maritime nation by adopting a more active stance and increasing its advocacy around maritime matters and the proposed Ship South African Campaign.
  - 2.4.2 Continue to create an environment that is conducive for the country to substantially increase its trade (exports and imports) with the rest of the world. Recognising that the level of trade is the main driver of growth and, therefore, job creation in our industry. Key elements of an enabling environment for trade include: trade promotion; enhancing feeder and inland transport connections; improving the quality of available maritime infrastructure & superstructure and restructuring to ensure reliability and cost effectiveness of port operations.
  - 2.4.3 Resolve legislative and fiscal restrictions, which have a negative impact on the competitiveness of the South African Maritime Industry.
  - 2.4.4 Use its leverage in the industry to incentivise all stakeholders to achieve the objectives of this Sub-Sector Code.
  - 2.4.5 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport sector wide and MT & SI B-BBEE Sub-Sector Code processes. Examples of cross-cutting issues that require interventions across government departments and agencies include:
    - 2.4.5.1 The Department of Trade & Industry's (DTI) Maritime Industry Strategy;
    - 2.4.5.2 Discussions with the National Treasury to address fiscal issues e.g. tonnage tax;
    - 2.4.5.3 Department of Foreign Affairs – Free Trade Agreements.
    - 2.4.5.4 The Department of Labour and the Transport Education and Training Authority to monitor compliance with the Employment Equity and Skills Development Act;
    - 2.4.5.5 The countrywide shortage of engineers and artisans across all disciplines; and
    - 2.4.5.6 Increasing awareness within the transport sector about available government investment incentives and grants.
    - 2.4.5.7 Monitoring of stakeholder achievements in terms of the indicators in the MT & SI Scorecard.
  - 2.4.6 Convene a stakeholder forum to investigate the scale of B-BBEE opportunities in the MT & SI. The stakeholder forum will also:
    - 2.4.6.1 Engage public and private funding institutions to highlight opportunities in the sector;

## **MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE**

- 2.4.6.2      Make proposals on financing mechanisms; and
- 2.4.6.3      Investigate, together with stakeholders in other Transport sub-sectors, the feasibility of setting up a Transport Sector Bank.
  
- 2.4.7        Engage public and private sector funding agencies to develop innovative funding mechanisms for B-BBEE compliant or black-owned enterprises seeking to invest in the sector. This will require a high-level workshop with these agencies and major black-owned and B-BBEE compliant companies to inform them about opportunities that will emerge in the MT & SI following the adoption of this Sub-Sector Code.
  
- 2.4.8        Increase awareness among B-BBEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the DTI and The Enterprise Organisation (TEO) and investigate the possibility of motivating for new products that take into account the unique nature of the maritime industry.
  
- 2.4.9        Ensure that the restructuring of Ports to effect new institutional arrangements and to increase the international competitiveness of ports, port operations and services must proceed in a manner that results in an increase in black participation at all levels – in ownership, management, employment and the procurement of services and goods and to increase the international competitiveness of the ports, port operations and services. The restructuring of port operations must not result in a reversal of B-BBEE gains made by the Transnet National Ports Authority (TNPA) and Transnet Port Terminals (TPT). Public sector contributions to B-BBEE will be measured against the Public Sector Sub-Sector Code.
  
- 2.4.10      Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment Equity, Skills Development and Competition Acts.
  
- 2.4.11      Publish an annual report on B-BBEE within the MT & SI that consolidates various reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry B-BBEE Forum.
  
- 2.5        Labour Undertakings (to achieve this vision):**
  
- 2.5.1        Encourage employers to first look towards their own employees when considering options for achieving black equity participation.
- 2.5.2        Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage companies in the industry.
- 2.5.3        Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
- 2.5.4        Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts. Non-complying companies must be reported to the Transport Charter Council to take further action by inspecting the causes for non-compliance and reviewing performance targets as necessary.

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- 2.5.5 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.
- 2.5.6 Monitor the impact of procurement/outsourcing on job creation and report findings to the Transport Charter Council and MT & SI Steering Committee.
- 2.6 TETA undertakings (to achieve this vision):**
  - 2.6.1 Play a more interventionist role to influence training priorities in the Maritime Chamber.
  - 2.6.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender.
  - 2.6.3 Continuously conduct analysis and update statistics about the future demand of critical skills sets and the supply side of the equation.
  - 2.6.4 Continuously conduct an analysis of the quantity, quality and nature of MT & SI training that companies are doing.
  - 2.6.5 Commit to this B-BBEE Sub-Sector Code and strive to achieve the targets set (where applicable) as per the indicators (Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development) in the B-BBEE Scorecard both internally and with specific reference to service providers.
  - 2.6.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Sub-Sector Code.

### **3. INDICATORS OF EMPOWERMENT**

#### **3.1 Introduction**

This "Broad-Based BEE Sub-Sector Code for the Maritime Transport & Services Industry seeks to encourage all stakeholders to pursue transformation agenda according to the broad guidelines set out in the BEE National Strategy and B-BBEE Act 53 of 2003. It is also necessary to set different targets and timeframes for the public and private industry because the two are at different stages of the transformation process.

This Sub-Sector Code shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this Sub-Sector Code process agreeing to do so. The Transport Charter Council that will be established pursuant to this gazette will review this Sub-Sector Code following the end of the 5<sup>th</sup> year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

#### **3.2 Ownership**

##### **3.2.1 Guiding Principle**

- 3.2.1.1 Stakeholders commit to increase black participation across the entire spectrum of the domestic MT & SI value chain in ownership, management control and operational involvement and design appropriate funding

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mechanisms to facilitate the process. The ownership component will be measured against the exercisable voting rights and the economic interest that the black equity participants are entitled to.

- 3.2.1.2 This principle is linked to the long-term strategy of growing the domestic Maritime Transport & Services Industry so as to ensure that B-BBEE does not become a zero-sum game.
- 3.2.1.3 The ownership contribution by enterprises in the MT & SI refers to direct ownership and is specifically aimed at any enterprise that has a MT & SI domestic asset base. There is also a need to measure the level of net economic interest that is possessed by the black equity participants. Net economic interest is the unencumbered equity stake that the black shareholders hold.
- 3.2.2 Foreign Ownership**
  - 3.2.2.1 Foreign companies, which have an asset base in South Africa, will implement B-BBEE strategies in accordance with the guidelines provided by this Charter. They will be encouraged to sell equity in their local operations.
  - 3.2.2.2 The standard ownership target and measurement methods outlined below will apply as long as there is non-existence of the global practice that disallows the sale of equity to local investors. If such a global policy can be evidenced, the company that holds the asset will be encouraged to contribute to ownership by making an application to the DTI for the implementation of an Equity Equivalent Programme.
  - 3.2.2.3 Multinationals should give the necessary attention to the creation and development of black owned and controlled enterprises within the MT&SI. The beneficiary enterprises of such programmes should have black people having more than 50% of economic interest and voting rights and/or black women having more than 30% of the economic interest and voting rights.
  - 3.2.2.4 Other programmes that can be supported through the Equity Equivalent programmes are such that they are supportive of the following programmes:
    - 3.2.2.4.1 The Accelerated and Shared Growth Initiative of South Africa (ASGISA);
    - 3.2.2.4.2 The Joint Initiative for Priority Skills (JIPSA); and
    - 3.2.2.4.3 The National Skills Development Strategy (NSDS).
  - 3.2.2.5 Equity Equivalent Programmes may also take the form of socio-economic development initiatives, particularly with reference to companies that have ownership structures where more than 50% of the economic interest and exercisable voting rights in the hands of black people, and/or more than 30% of the economic interest and exercisable voting rights are in the hands of black black-women. Or black people who are rural-dwellers, youth, unemployed or disabled own more than 50% of the economic interest and exercisable voting rights.
  - 3.2.2.6 Companies that choose to include enterprise development or socio-

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economic development initiatives as Equity Equivalent Programmes will not be able to earn points for those initiatives under any other element on the B-BBEE Scorecard of the Sub-Sector Code.

- 3.2.2.7 The value of the contributions, measured against the value of the domestic asset or South African operations, using a standard valuation method, will be used to calculate the equivalency percentage and this will be applied to the stated targets for ownership in order to score points for ownership.
- 3.2.2.8 Ownership fulfilment will occur once the black equity participants are free from any third party financial obligations relating to the share acquisition as well as any financial obligations to the principle entity.
- 3.2.3 The Private Industry commits to:**
- 3.2.3.1 Broaden the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people and 10% is earmarked for black women;
- 3.2.3.2 25% +1 vote voting rights, or equivalent thereof, are in black hands, with a minimum of 10% earmarked for black women;
- 3.2.3.3 A minimum of 3% for black people who are rural-dwellers, youth, unemployed or living with disabilities, within the next 5 years. The first option will be extended towards employees when considering options for achieving this ownership target; and
- 3.2.3.4 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
- 3.2.3.5 For Qualifying Small Enterprises (QSEs) as defined in this Sub-Sector Code will also commit to:
- 3.2.3.5.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people
- 3.2.3.5.2 25% +1 vote voting rights, or equivalent thereof, are in black hands,
- 3.2.3.5.3 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
- 3.2.4 Funding Mechanisms**
- 3.2.4.1 Facilitate through creative financing mechanisms the acquisition of equity in their operations by B-BBEE companies so as to ensure the sustainability of the investment by black shareholders and to maximise their net economic interest.
- 3.2.4.2 Increase awareness about the industry amongst the traditional banking institutions as well as Public Financing Institutions.

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### **3.2.5 Measuring Principles and the Application of the Charter**

- 3.2.5.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Sub-Sector Code will apply.
- 3.2.5.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

### **3.3 Management Control**

#### **3.3.1 Guiding Principle**

- 3.3.1.1 Our guiding principle is to increase the participation of black people on MT & SI company boards and similar governing structures to create decision-making structures that truly represent the racial, ethnic and gender diversity of our country. This involves the promotion of the appointment of black people to board of directors, executive positions, and top management positions. The appointment of black women to these positions is an integral part of this guiding principle. The industry will be transparent, endeavour to eliminate unscrupulous business practices including misrepresentation and fraud, and adopt best-practice corporate governance policies as outlined in the King II report.

#### **3.3.2 The Private Industry commits to:**

- 3.3.2.1 Recruit onto their boards and similar governing structures black directors (who do not necessarily own equity) to reach a target of at least 50% within 5 years. 50% of these targets, which is equal to 25% of the total for both number of black women directors with exercisable voting rights.
- 3.3.2.2 Recruit onto their boards black directors to constitute 50% of executive directors. 25% of the number of black executive directors should be earmarked for black women.
- 3.3.2.3 Recruit into senior top management structures in enterprises black people

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such that a target of 40% of the total number of senior top management positions, such as a Chief Executive Officer, Chief Financial Officer or Chief Investment Officer, will be occupied by black people.

- 3.3.2.4 20% of senior top management positions should be earmarked for black women.
- 3.3.2.5 Recruit into other top management structures in enterprises black people such that a target of 40% of the total number of other senior top management positions, such as a Marketing Director/Manager, Human Resources Director/Manager, IT Director/Manager.
- 3.3.2.6 20% of other top management positions (e.g. Divisional managers) should be earmarked for black women.
- 3.3.2.7 Endeavour to recruit black people living with disability at management levels, where they should constitute 3% of total executive management.
- 3.3.2.8 If the measured entity does not differentiate between senior top management and other top management; senior top management and the other top management can be collapsed into one indicator-top management. The target remains 40%, and the weighting will be the sum of the senior top management and other top management weighting.
- 3.3.2.9 QSEs within the sector commits to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.
- 3.3.2.10 Recruiting black women at Top Management level; where they should constitute 25% of all such positions.

### **3.3.3 Measurement Principles and the Application of the Charter**

- 3.3.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.3.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
- 3.3.3.3 Measurement principles needed for the application of the Sub-Sector Code with regards to the management control element for QSEs are contained in statement 802, Code 800, of the Generic Codes of Good Practice.

## **3.4 Employment Equity**

### **3.4.1 Guiding Principle**

- 3.4.1.1 Our principle is to increase the participation of black people in senior management, middle management and junior management in the Maritime Transport & Services Industry to create a workforce that truly



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represents the racial, ethnic and gender diversity of our country.

- 3.4.1.2 This will require that all stakeholders create a supportive culture within their organisations to be an 'Employer of Choice', attract new talent, facilitate the development of existing employees, and accelerate their progress into key positions within the industry.

### **3.4.2 Private Industry commits to:**

- 3.4.2.1 Increase the representation of black people in senior management positions so that a minimum of 60% of people at this level are black within 5 years. 50% of the 60% should be black women.
- 3.4.2.2 Increase the representation of black people in middle management positions so that a minimum of 75% of people at this level are black within 5 years. 50% of the 75% should be black women.
- 3.4.2.3 Increase the representation of black people in junior management positions so that a minimum of 80% of people at this level are black within 5 years. 50% of the 80% should be black women.
- 3.4.2.4 Increase the representation of black people living with disabilities in the workforce of the enterprise so that a minimum of 3% of people at this level are black living with disabilities within 5 years. 50% of the of the 3% should be black women.
- 3.4.2.5 If the measured entity does not differentiate between top management and senior management, the top management indicator can be collapsed into the senior management. The senior management target – 60% will apply and the target will be the weighting will be the sum of the top management target and senior management weighting.
- 3.4.2.6 Measured entities falling within the QSE threshold commit 40% of all management staff is black within 5 years. 50% of the 40% should be earmarked for black women.
- 3.4.2.7 QSE within this sector commit to all 60% of all staff should be black within the 5 years. 30% of all positions should be occupied by black women within 5 years.
- 3.4.2.8 Ensure total compliance with the Employment Equity Act (EE Act), presenting accurate figures and statistics on EE to the Department of Labour (DoL). These targets will set in the EE Plans within the set period. Due regard should be paid to the composition of the Economically Active Population (EAP) figures published by Stats SA from time to time. These figures serve as targets for the composition of the workforce of enterprises. Any enterprise which does not evidence compliance with the EE Act will be deemed not to comply with the EE element of the MT & SI B-BBEE Charter

### **3.4.3 TETA commits to:**

- 3.4.3.1 Play a significant role in monitoring and supporting stakeholders to meet their EE targets. The Sub-Sector Code Steering Committee on an annual basis will report on this role.

### **3.4.4 Labour Standards**

#### **3.4.4.1 Guiding Principle**

- 3.4.4.1.1 Our guiding principle is to develop an industry that is characterised by fair

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labour practices.

### **3.4.5 All Stakeholders commit to:**

3.4.5.1 Implement fair labour practices across the board in line with the requirements of the Basic Conditions of Employment Act, the Employment Equity Act and the Skills Development Act. Seafarers employed by South African owners and operators will be afforded the same rights as other workers.

3.4.5.2 Ensure non-discrimination against employees living with HIV/AIDS and allocate funds and resources towards initiatives aimed at HIV/AIDS education, counselling and treatment in maritime communities in conjunction with international best practices.

### **3.4.6 Measurement Principles and the Application of the Charter**

3.4.6.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.

3.4.6.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.

3.4.6.3 Measurement principles for the determination of the Employment Equity score for QSE are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

## **3.5 Skills Development**

### **3.5.1 Guiding Principle**

3.5.1.1 Our vision is to substantially increase the economic value added (or productivity) of every employee in the Maritime Transport & Services Industry through best practice human resource and skills development policies and to increase the scale of initiatives aimed at developing black professionals and technical experts. This will be facilitated by training black people, including black women and black people living with disabilities.

### **3.5.2 Private Industry undertakes to:**

3.5.2.1 Invest at least 5% of payroll or the leviable amount (whichever is applicable) on skills development initiatives within the next 5 years. The target is inclusive of all associated costs and the current 1% skills development levy. Fifty percent - 50% of the beneficiaries of these initiatives should be black women.

3.5.2.2 Invest at least 0.5% of payroll on skills development initiatives for black people living with disabilities, over and above the 1% skills levy within the next 5 years. 50% of the beneficiaries of these initiatives should be black women living with disabilities. Black employees having participated in

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Learnerships or Category B, C or D programmes being 5% of the total employees - 50% of the beneficiaries of these initiatives should be black women.

- 3.5.2.3 Identify within and outside their companies a talent pool of black people for accelerated development through:
  - 3.5.2.3.1 International assignments that provide high-quality operational and managerial exposure, where appropriate;
  - 3.5.2.3.2 Mentorship programmes;
  - 3.5.2.3.3 Learnerships;
  - 3.5.2.3.4 Intra-industry exchange and internship programmes; and
  - 3.5.2.3.5 Higher education and training.
- 3.5.2.4 Measured entities qualifying as QSEs to invest 2% of the leviable or payroll whichever is applicable on skills development expenditure on learning programmes for black employees. 50% of this amount to be spend on learning programmes for black women employees.
- 3.5.3 TETA commits to:**
  - 3.5.3.1 Conduct research to identify scarce management (generic) and professional (maritime-specific) skills that the industry will require over the next decade and map out future demand-supply scenarios in the detailed skills audit.
  - 3.5.3.2 Conduct research on the supply side of the skills development equation i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the Maritime Transport & Services Industry.
  - 3.5.3.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships, in management, technical and professional occupational categories, to help public and private sector organisations to achieve their employment equity targets.
  - 3.5.3.4 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category. Also, to monitor the industry's progress in meeting its targets and publish an annual report on the EE Profile of the industry according to occupational level and category.
  - 3.5.3.5 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in the identified areas.
  - 3.5.3.6 Together with the South African Maritime and Safety Authority (SAMSA), continuously benchmark training programmes against international best practice.

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- 3.5.3.7 Expand the number of learnerships available based on the sector's skills requirements identified in the sector skills plan and the demands of the industry.
- 3.5.3.8 Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants. This would entail streamlining processes and developing user-friendly procedures that encourage companies to participate in learnership programmes.
- 3.5.4 Measurement Principles and the Application of the Charter**
- 3.5.4.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.
- 3.5.4.4 The Learning Programme Matrix: Annexure 400 (A) of statement Code 400 the Generic Codes of Good Practice will apply.
- 3.6 Preferential Procurement**
- 3.6.1 Guiding Principle**
- 3.6.1.1 Our guiding principle is to accelerate procurement from black-owned and B-BBEE compliant enterprises, thus creating opportunities for the establishment of new enterprises and the development of existing ones that will grow the industry and create jobs.
- 3.6.2 The Private Industry commits to:**
- 3.6.2.1 Commission, together with other stakeholders, a study to establish current levels of procurement from B-BBEE companies and identify areas where they can achieve "quick wins" to accelerate B-BBEE. The research report will be discussed by Transport Charter Council and communicated to relevant stakeholders.
- 3.6.2.2 Procure a minimum 70% of total procurement spend from B-BBEE compliant suppliers, as defined by the B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice, within the next 5 years.
- 3.6.2.3 Procure at least 15% of total procurement spend from B-BBEE Compliant QSEs and EMEs within the next 5 years. The B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice will define the level of recognition of each Rand spent.

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- 3.6.2.4 Procure a minimum of 12% of total procurement spend from 50% black owned suppliers.
- 3.6.2.5 Procure a minimum of 8% of total procurement spend from 30% black women-owned enterprises within the next 5 years.
- 3.6.2.6 QSEs within this sub-sector commit to procuring a minimum of 40% of total procurement from B-BBEE compliant suppliers.
- 3.6.2.7 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Charter Council.
- 3.6.3 Measurement Principles and the Application of the Sub-Sector Code**
- 3.6.3.1 Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.2 Pass through third party procurement for a third party or a client that is recorded as an expense in the third party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements will be excluded. In this regard, only the commission portion paid to agents will be recorded as under procurement.
- 3.6.3.3 Maritime related services however will be included within total procurement spend. These include, but are not limited to:
  - 3.6.3.3.1 Chandelling; and
  - 3.6.3.3.2 Tallying.
- 3.6.3.4 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.5 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.7 Enterprise Development**
- 3.7.1 Guiding Principle**
- 3.7.1.1 Our principal objective is to help set up, nurture and grow viable B-BBEE enterprises in the Maritime Transport & Services Industry that are majority-owned by black operators while developing existing companies. We aspire to increase investment in black-owned and empowered enterprises as a proportion of net asset value.
- 3.7.2 Private Industry commits to:**
- 3.7.2.1 Pro-actively seek opportunities to enter into creative joint ventures, provide discounts, give preferential credit terms and other forms of support, with B-BBEE compliant and black-owned enterprises

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- 3.7.2.2 Facilitate the development of new enterprises by the sharing of knowledge and expertise with beneficiary entities, which will be B-BBEE compliant or black owned enterprises.
- 3.7.2.3 Aspire to contribute to enterprise development which amount to 3% of net profit after tax (NPAT) evaluated annually over the next 5 years.
- 3.7.2.4 QSEs within this subsector aspire to make contributions to enterprise development, which will amount to 2% of NPAT evaluated annually over the next 5 years.
- 3.7.3 TETA commits to:**
- 3.7.3.1 Develop training programmes specifically designed for entrepreneurs in the Maritime Transport & Services Industry. The Transport Charter Council will monitor the progress of this commitment. The number of successful entrepreneurs that have undergone training under the TETA accredited programmes will measure the success, over time.
- 3.7.4 Measurement Principles and the Application of the Charter**
- 3.7.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this subsector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.
- 3.7.5 Sector Specific Targets**
- 3.7.5.1 Job Creation - Guiding Principle**
- 3.7.5.1.1 There has been significant growth in the container and bulk industry over the past decade with huge increases in volumes of imports and exports, but the growth in these areas of trade has not been accompanied by a similar increase in employment. Our vision is to ensure the retention and creation of quality jobs.
- 3.7.5.1.2 The guiding principle for job creation shall be related to growth in the overall South African economy, industrial production and enterprise development. To this end a certain percentage in economic growth should at least create a significant number of jobs in our Industry.

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### **3.7.5.2 All Stakeholders therefore commit to:**

- 3.7.5.2.1 Supporting any ED initiatives that will lead to job creation. Any enterprise development contributions leading to the creation of jobs will be enhanced by a factor of 1.25

### **3.8 Socio-Economic Development**

#### **3.8.1 Guiding Principle**

- 3.8.1.1 The maritime industry is well placed to make a contribution towards the development of local communities. Our aim is to increase the impact of companies within the MT& SI value chain on local communities. The beneficiaries of such projects must be 75% black people.

#### **3.8.2 All Stakeholders commit to:**

- 3.8.2.1 Participate in social development projects as identified by historically disadvantaged employees, which can include HIV/AIDS treatment and prevention, education, community development and maritime awareness.

- 3.8.2.2 Spending 1% of NPAT for the private sector on the social development projects articulated in the above guiding principle.

- 3.8.2.3 QSEs within this sector contributing a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.

- 3.8.2.4 Social development contributions leading in the following key focus areas will be enhanced by a factor of 1.25. The key focus areas are:

- 3.8.2.4.1 HIV Aids Programmes;
- 3.8.2.4.2 Education;
- 3.8.2.4.3 Community Development; and
- 3.8.2.4.4 Maritime Awareness.

#### **3.8.3 Maritime Awareness - Guiding Principle**

- 3.8.3.1 Given the lack of awareness about the impact and contribution of the Maritime Transport & Services Industry in our economy, it becomes an imperative to embark on a comprehensive Maritime awareness campaign.

#### **3.8.3.2 All Stakeholders commit to:**

- 3.8.3.2.1 Develop an industry-wide awareness campaign to showcase the MT & SI and its interrelated activities and demonstrate its impact on the economy through facilitating trade, economic growth and development, B-BBEE and job creation.

- 3.8.3.2.2 The awareness campaign should target all South Africans, the African region as well as the international community. Targeted campaigns to be spearheaded at government departments (Department of Trade and Industry, Department of Transport and National Treasury), schools, tertiary institutions and financial Institutions.

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- 3.8.3.2.3 SAMSA's mandate is to promote South Africa's maritime interests.
- 3.8.4 Measurement Principles and the Application of the Sub-Sector Code**
- 3.8.4.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.4.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.8.4.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.8.4.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this subsector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

### 4. **MARITIME TRANSPORT & SERVICES INDUSTRY B-BBEE SCORECARD**

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
<b>Foreign Ownership:</b> Provide evidence of a global practice against selling equity to locals in investee countries	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation; OR	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR	20
	4% of Total Revenue from its South African operations annually over the period of continued measurement Equity Equivalence	4% of Total Revenue from its South African operations annually over the period of continued measurement 20	
<b>Ownership</b>	Exercisable voting rights in the hands of black people	25% + 1 vote	3
	Exercisable voting rights in the hands of black women	10%	2
	Economic Interest in the hands of black people	25%	4
	Economic Interest in the hands of black women	10%	2



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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	3%	1
	Net Economic Interest/Net value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	7
	Ownership Fulfillment		1
	<b>Bonus points:</b>		
	Involvement in the ownership of the Enterprises of black new entrants:	10%	2
	Involvement in the ownership of the Enterprises of black Participants: ESOPS, Broad-Based Ownership schemes; Co-operatives	10%	1
<b>Management</b>	% of total exercisable voting rights in the hands of black board members	50%	1.5
	% of total exercisable voting rights in the hands of black-women board members	25%	1.5
	% Black persons who are executive directors	50%	1
	% Black women who are executive directors	25%	1
	% of black people who hold senior top management positions	40%	1.5
	% of black women who hold senior top management positions	20%	1.5
	% of black people who hold other top management positions	40%	1

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	% of black women who hold other top management positions	20%	1
	<b>Bonus Point:</b> Black Independent Non-Executive Board Members	40%	1
	<b>Bonus points:</b> Percentage of black people living with disability as a percentage of total management	3%	1
<b>Employment Equity</b>	% Black People in Senior Management	60%	3
	% Black Women in Senior Management	30%	2
	% Black People in Middle Management	75%	2
	% Black Women in Middle Management	38%	2
	% Black People in Junior Management	80%	2
	% Black Women in Junior Management	40%	2
	Black People living with disabilities as a % of all employees	3%	1
	Black Women living with disabilities as a % of all employees	1.5%	1
	Bonus Points: Meeting or exceeding EAP Targets in each category of employment equity	-	3
<b>Skills Development</b>	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Employees as a percentage of leviable amount	5%	3.5
	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Women Employees as a percentage of leviable amount	2.5%	3.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black employees with disabilities	0.5%	1.5
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black women employees with disabilities	0.25%	1.5
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	5%	2.5
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	2.5%	2.5
<b>Preferential Procurement</b>	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a % of discretionary spend	70%	12
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a % of Total Measurable Spend	15%	3
	Procurement from 50% Black-Owned as a % of Total Measured Procurement Spend	12%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	8%	2
<b>Enterprise Development</b>	Expenditure on supplier development initiatives	3% NPAT	

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	as a % of NPAT		15
Socio-Economic Development	Expenditure on social development programmes as a % of NPAT	1% of NPAT	5
<b>Total</b>			<b>100</b>

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### 5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
<b>Ownership</b>	Exercisable voting rights in hands of black people	25% + 1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points:		
	Ownership fulfilment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	<b>Bonus Points:</b>		
	Involvement in the ownership of the Enterprise by black women	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
<b>Management Control</b>	Black Representation at Top Management level	50.1%	25
	<b>Bonus Points:</b> Black women representation at Top-Management	25%	2
<b>Employment Equity</b>	Black Employees of the Measured Entity who are Management	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black Women employees of the Measured Entity as a percentage of total employees	30%	5
	<b>Bonus points</b> for meeting or exceeding the EAP targets in each category		2
<b>Skills Development</b>	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	2%	12.5
	Skills Development spend on learning programmes for black women employees as a percentage of the leviable/payroll	1%	12.5

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B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
<b>Preferential Procurement</b>	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
<b>Enterprise Development Spend</b>	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	2% of NPAT	25
<b>Socio-Economic Development</b>	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	25
<b>TOTAL</b>			<b>175</b>

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

### APPENDIX A: COMMITMENT EVALUATION MATRIX

This is an example of a matrix that will be used by this Sub-Sector Code to measure the commitments by stakeholders to the Sub-Sector Code. This matrix represents commitments to Skills Development made by TETA.

Action Undertaken	Input measurement	Output measurement	Quality Control
Conduct research to identify scarce skills	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Conduct research on the supply side of the skills development equation	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Introduce new categories of learnerships	Money spent on research as a % of total discretionary funds	Report to Steering Committee/Council on the number of new learnership categories introduced and accredited as a % of the number of new categories identified	TETA & Transport Charter Council
Collect and publish detailed and aggregated statistics on the EE profile of the industry	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Assist in unlocking the funds from the National Skills Fund	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding unlocked as a % of total funds required to	Transport Charter Council

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		address learnership needs in the Maritime Sector	
Continuously benchmark training programmes against international best practice	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	SAMSA & Transport Charter Council
Expand the number of learnerships available based on the sector's skills requirements	Number of new learnership categories introduced and accredited as a % of the number of new categories identified	Number of learners in initiated learnerships as a % of total skills required in each category	TETA & Transport Charter Council
Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding available as a % of total funds required to address learnership needs in the Maritime Sector	TETA & Transport Charter Council











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