MARITIME TRANSPORT IN THE CONTEXT OF THE MARITIME SECTOR IN SOUTH AFRICA

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ABSTRACT

Advances in maritime technology have made the resources of the sea more accessible to humankind and facilitated the greater use of the sea for transportation. This has lead to the international community establishing a regime to govern the oceans. Maritime transportation, which carries the bulk of the world's traded goods functions in this environment. In South Africa's case maritime transport is the life-blood of the country's trade. Maritime transport can be viewed from a purely transportation perspective but should also be viewed from a maritime perspective if it is to develop rationally. In South Africa's case there is a need for coherent policy on the maritime sector in general so that the growth and development of maritime transport can take place in an orderly and structured environment including the pure transportation policies.

1. INTRODUCTION

1.1 Background

Traditionally the land surface of the earth is divided into internationally recognised areas that are sovereign nation states. Within these national borders states govern their area with jurisdiction that is recognised in international law and in relations between the community of states.

The situation on the oceans and seas of the earth is different. The sea, with minor exceptions, has traditionally been viewed as an international common where no state has sovereignty. This situation is changing as advances in technology allow humans to make ever greater use of the sea for transportation and to exploit its resources.

This changing situation at sea is currently reflected in the United Nations Convention on the Law of the Sea (UNCLOS). Relevant to this paper are the provisions of UNCLOS which afford coastal states rights and obligations in defined areas of ocean (maritime zones) adjacent to their coastlines. These rights and obligations thus give the coastal states jurisdiction in these maritime zones that is superior to other states.

The implication for coastal states is that they are in a privileged position regarding the exploitation of the wealth of the sea in these zones. They are expected to fulfil certain obligations toward the international community and by implication govern their adjoining seas. South Africa's maritime zones are extensive and in fact cover an area larger than its terrestrial territory.

1.2 Problem Statement

South Africa has a well developed maritime sector. The problem is that it is not well described and its development is fragmented. Maritime transport which is the life blood of our trade, functions within this broad maritime sector, and is limited in its development due

to the somewhat haphazard social and economic growth and development of the maritime sector in general.

1.3 Aim of Paper
The aim of this paper is to explore the general maritime sector in South Africa and attempt to identify linkages with maritime transport within the sector.

1.4 Scope of Paper
The paper will dwell on the imperatives of being a coastal state in order to put maritime transport in a context broader than just transportation. This is necessary because to take a narrow focus results in many of the inhibiting factors not being taken into account in an endeavour to grow and develop this vital facilitator of trade in South Africa.

Thus, though a considerable portion of the paper deals with issues that may not appear to be directly related to maritime transport *per se,* one does need to consider the context. This paper is divided into four parts as follows:

- Firstly an examination of the notion of a maritime state
- Secondly an attempt to describe the maritime sector in South Africa.
- Thirdly to attempt to "ring-fence" maritime transport within the context of the maritime sector on the one hand and the transportation sector on the other.
- Finally considering the development of maritime transport within the broader maritime and transportation sectors.

2. A LITTORAL STATE

In the background to this paper mention was made of the UNCLOS. Important features of the Convention are the delineation of the oceans into maritime zones and the rights and obligations of states in those maritime zones.

As regards the maritime zones in general, UNCLOS defines a "baseline" along the coasts of littoral states. The different maritime zones are defined by measurements to seaward from the "baseline" (an exception is the so called continental shelf which is not defined in the same way but also ends in a line from the coast). The area of ocean beyond the maritime zones is referred to as the 'high seas' with jurisdiction on the 'high seas' not being the exclusive reserve of any single state.

2.1 The Notion of "Ocean Territory"
A renowned international jurist described the existence of a state in the community of nations as follows: (Brierly 1963)

"… at the basis of international law lies the notion that a state occupies a definite part of the surface of the earth, within which it normally exercises, subject to the limitations composed by international law, jurisdiction over persons and things to the exclusion of the jurisdiction of other states."

The core of this description or definition is that states are defined by internationally recognised borders within which they have jurisdiction over people and things to the exclusion of other states. In essence what UNCLOS does is define internationally recognised borders within which the coastal state has jurisdiction superior to other states. The notion of a littoral state having ocean territory in addition to its terrestrial territory is thus not absurd.

2.2 South Africa's "Ocean Territory"

The idea of South Africa having ocean territory is important as it implies proper governance of the territory with all the ramifications of planning, policy and growth and development strategies. In essence South Africa has a "10th Province" that must be integrated into the broader South Africa along with the other nine provinces. It is an aspect of growth and development that would not be necessary if South Africa were a landlocked country like Botswana or Zambia. It is in the existence of this 10th Province that South Africa is faced with the task of growing and developing a maritime sector and within the maritime sector a maritime transport sub-sector.

2.3 Rights and Obligations

In broad terms, UNCLOS affords coastal states privileged access to the resources of the sea in their adjoining maritime zones, be it living resources such as fish or non-living such as energy or minerals. It, however, also places on the coastal state obligations toward international seafarers and the community of nations which range from constabulary functions, providing safe navigation, search and rescue services to protecting the marine environment.

These rights and obligations are fundamentally no different to the situation ashore. There are however two unique differences at sea. The first is the concept of innocent passage where foreigners can transit your "ocean territory" provided the transit is innocent. There are no border posts or designated points of entry to a coastal state's "ocean territory". The second is the nature and environment of the sea where knowledge and assets are required that are very different to those used ashore.

3. SOUTH AFRICA'S MARITIME SECTOR

In order to get a grasp of the significance of the sea in South African society it is useful to consider South Africa as a landlocked state, located somewhere around Botswana, Zambia and Zimbabwe. The next step is to consider what social and economic activity would not exist in South Africa if it were a landlocked state.

3.1 The Significance of the Maritime Sector

It does not take much effort to imagine how different life in South Africa would be if it were landlocked. Besides the hassle of passports and visas required before taking a quick holiday break at the coast or the thought of emigrating to a coastal retirement house soon focuses the mind.

These social implications are profound but this paper is focused on the economic implications of the maritime sector. An indication of this is a review of government and the fact that, with very few exceptions, government departments have sections dealing with maritime matters. The Department of Transport in the case of shipping, the Department of Defence in the case of the navy and Environmental Affairs in the case of fishing are the ones that come to mind. One does not immediately think of the Departments of Trade and Industry, the National Treasury, Mineral and Energy Affairs, Foreign Affairs, Justice, Safety and Security to name a few that have people specifically focusing on maritime matters.

From a commercial perspective for example, the South African Chamber of Business has a maritime chamber in the region of 400 members. These are not limited to enterprises at the coast. The tentacles of the sea reach into the heartland of Gauteng where a large part of many business activities are a direct consequence of South Africa being a littoral state.

It is thus proposed that all that exists in South Africa as a consequence of not being a landlocked state represents South Africa's maritime sector.

3.2 The Governance of South Africa's "Ocean Territory"

Given the large, in fact huge, ocean territory, the extensive economic activity that it sustains and the deep-seated social impact it has on our society, it is surely axiomatic that this area must be governed so that the different functional/sector elements can flourish in an orderly environment and grow and develop in accordance with a coherent and holistic plan. Although the need for maritime transport is driven by what happens ashore, it operates in this maritime area and hence this environment must be conducive to it.

4. TOWARDS RING-FENCING MARITIME TRANSPORT

It goes without saying that transport functions within a greater social, economic and political strategy of South Africa, but maritime transport specifically operates/functions within the two main spheres of policy that are the growth and development of transportation on the one hand and the maritime sector on the other.

4.1 Maritime Transport in the Context of General Transport Policy

The transportation of goods (maritime transportation of people is insignificant in South Africa) between producers in South Africa and consumers internationally and *vice versa* takes place along a chain of transport modes. Transfer points (intermodal facilities) between the links in the chain facilitate the transfer of the goods from one mode to the other. There are thus two dimensions to the challenge of ring-fencing maritime transport.

The first is to describe the "link" in the transport chain; i.e. what are the essential elements that make the maritime transport link efficient. The actual ships are obviously the basis of the mode. A question however is to what extent should the ancillary enterprises (E.g. ship repair facilities, services to seafarers, navigation aids, search and rescue, financial services, brokering) be considered part of the maritime link in the transportation chain. This is an important consideration as these services also support other maritime sectors such as fishing, offshore mining and tourism.

The second dimension is the intermodal point, the commercial ports. The question is: are they essentially a component of maritime, road or rail transport; are they a "marshalling yard", a rail/road head or a terminus of a shipping route? Ports are in fact all of these things and a problem in South Africa is that the ports have essentially been seen as a shipping terminus and not as a rail/road head. Ports are full of shipping sounds and surrounded by the mystique that is seafaring. Port development has generally taken place as a consequence of a push from the sea to accommodate more and bigger ships. The Ngqura development is an example of development resulting from the need to accommodate the new larger deep-draft ships of the future.

Investigations leading up to South Africa's national freight logistics strategy (NFLS) has shown that the challenge is to get the goods onto the ships that call at our ports. There has not been sufficient attention given to the ports as rail/road head or marshalling yards for goods. The result is, certainly in South Africa, that the major clog is on the land side and not the sea side – ships are ready and waiting to take on their cargo - the problem is getting it onto the ships

Any strategy to develop maritime transport in South Africa must thus be clear on what actually constitutes maritime transport as muddled thinking leads to time and resources being wasted on peripheral issues.

4.2 Maritime Transport in the Context of General Maritime Policy

Road transport is flourishing not only because there are trucks but because the whole environment in which trucking takes place is essentially in place – manufacturers, repairers, insurers, signage, communication, warnings, law enforcement, wreck removal, driver training and certification, roadworthy certification, knowledgeable and experienced managers and governors, research institutions, detailed policies, integration at all levels/spheres of government etc. It is integrated with agriculture, mining, FMCGs, forestry and so on. It is this functional support environment and integration that makes road transport work, grow and develop.

Fortunately in shipping the roads are in place, although they are remote and in South Africa's case the "road" can be very rough. This could be a reason for shipping being the silent out-of-sight transportation mode and the associated enterprises not easily identifiable as being part of or linked to transportation. This rather vague idea of the maritime sector in general and shipping and the associated enterprises that collectively constitute the maritime transport sector has led to fragmented growth and development of the maritime sector in general and spilled over into the maritime transport sector.

Maritime enterprises such as shipbuilding and repair, tourism, insurance, training, salvage and financing as well as environmental operations need to be developed coherently. Specialist transport corridors such as Saldanha and Richards Bay, the single buoy moorings and the reefer trade indicate that there is an awareness of the benefits of a holistic view. They are however a special part of the maritime transport sector and very focused, often not to South Africa's benefit (E.g. the question of FOB/cif).

5. GROWTH OF THE MARITIME TRANSPORT INDUSTRY

Maritime transport (with shipping as the carrier) is an international enterprise. The "road map" covers the globe, there are some 90,000 ships registered internationally and these ships sail between the seven seas to where the cargo is. They are not limited to a specific geographic area in the same way that land transport systems are.

If South Africa is to grow and develop its maritime transport industry it has to compete in the international market. In the contemporary world there is little "military strategic" reason for home grown, home owned ships. There is however a good economic argument to carry your goods in your own vessels (E.g. transportation profits taxed at home) For South Africa owning ships is not the crucial critical path due to the availability of international fleets.

Focus needs to be directed at the environment in which maritime transport functions. (ie the broader industry that will promote shipping and reduce costs). This means the "truck stops, road signs, safety, security, environmental sustainability and so on must be in place and be efficient. Maritime transport is an export industry with large foreign earning potential through providing services to international shipping. South Africa could develop into a "Singapore" at the intersection of three great oceans where south-south trade and passing tanker trade complement other growing trade opportunities in the region.

Growing and developing the maritime transport industry in South Africa neccessitates not only a transportation perspective but also a much broader view that recognises the need for a stable orderly maritime sector which facilitates, indeed encourages, a maritime transport sector in all its manifestations.

6. CONCLUSIONS

Maritime transport is clearly a link in a bigger transport chain. In the contemporary world it functions in a highly competitive international environment. South Africa's foreign trade drives the economy and is critically dependent on maritime transport. There is an urgent need to address the governance of South Africa's maritime sector in general in order to create an environment that draws this international industry to our shores.

7. REFERENCES

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