

# PHAKISA INITIATIVE 5: COMPLIANCE AND ENFORCEMENT

# UNLOCKING THE ECONOMIC POTENTIAL OF SOUTH'S AFRICA'S OCEANS

## Presidential Initiative

Unlocking the Potential of South Africa's Oceans - implement an integrated ocean governance framework for sustainable growth of the ocean economy to maximise socio-economic benefits whilst ensuring adequate ocean environmental protection

Four areas of focus in relation to Oceans Economy namely and fifth one was added:

- Offshore Oil and Gas Exploration
- Marine Transport and Manufacturing
- Aquaculture
- **Marine Protection Services and Governance**
- Small Craft Harbours and Coastal Development and Tourism

DEA → DAFF → Department of Environment, Forestry and Fisheries  
(DEFF after elections) Now DFFE entrusted with Phakisa (thus DFFE leading Phakisa)



# MARINE PROTECTION SERVICES AND GOVERNANCE: INITIATIVES

1. Ministerial Committee and Secretariat to Govern Activities
2. Enhancement of Legislation into the Integrated Coastal and Oceans Management Act or Oceans Act
3. Review of ocean-related legislation
4. Accelerated Capacity Building Intervention in Ocean Governance
5. Enhanced and Coordinated Enforcement Programme
6. National Ocean and Coastal Information System and Extending Earth Observation Capacity
7. National Ocean and Coastal Water Quality Monitoring Programme
8. Creation of a Marine Protected Area Representative Network
9. Marine Protected Area / Marine Spatial Planning Discovery, Research & Monitoring Programme
10. Marine Spatial Planning Process

# OBJECTIVES – INITIATIVE 5

Operation Phakisa Initiative 5 is the Enhanced and Coordinated Compliance and Enforcement Program aimed at securing South African waters, through an integrated multidimensional approach to ensure the environment is conducive for the development of the ocean economy and economic security of the maritime zones

- Co-ordination required for enforcement and policing of coasts and oceans (integrated operational approach)
- Need to improve monitoring, control and surveillance (domain awareness)
- Identification and protection of sensitive and unique marine habitats and species
- Limited human and financial resources to manage ocean resources and environment – need to join forces and leverage resources
- Need to address the high level of Illegal, Unprotected and Unregulated Fishing Activities (IUU) in addition to the other illegal activities (integrated operational approach)



# RISK AREAS

- Maritime compliance and enforcement operations within the Maritime Ports of Entry (MPOE), small ports and fishing harbours, yacht basins and marinas, launching sites, slipways, coastal zones and maritime zones;
- The enforcement of maritime, marine, coastal legislation, and other applicable border regularity frameworks, including the identification of irregularities, in the maritime border environment;
- Support to the enforcement and compliance in Marine Protected Areas (MPA)
- Illegal harvesting of maritime resources hotspots
- Support to the Aquaculture Industry (development of the Ocean Economy)
- Illicit Economy, inclusive of:
  - Illegal, unreported and unregulated (IUU) fishing and associated transnational crime
  - Drug and other commodity smuggling
  - CITES and Wildlife
  - Sand Mining
- Diamond-concession vessels to ensure adherence to licence conditions
- Adherence to the correct environmental procedures by vessels and controlling authorities, inclusive of waste management, Effluent and Industrial Discharges, as well as combating of Illegal Coastal Developments

# Initiative 5

## Enhanced and Coordinated Enforcement Programme

NOT EXHAUSTIVE



**Collaborated & Shared Assets**

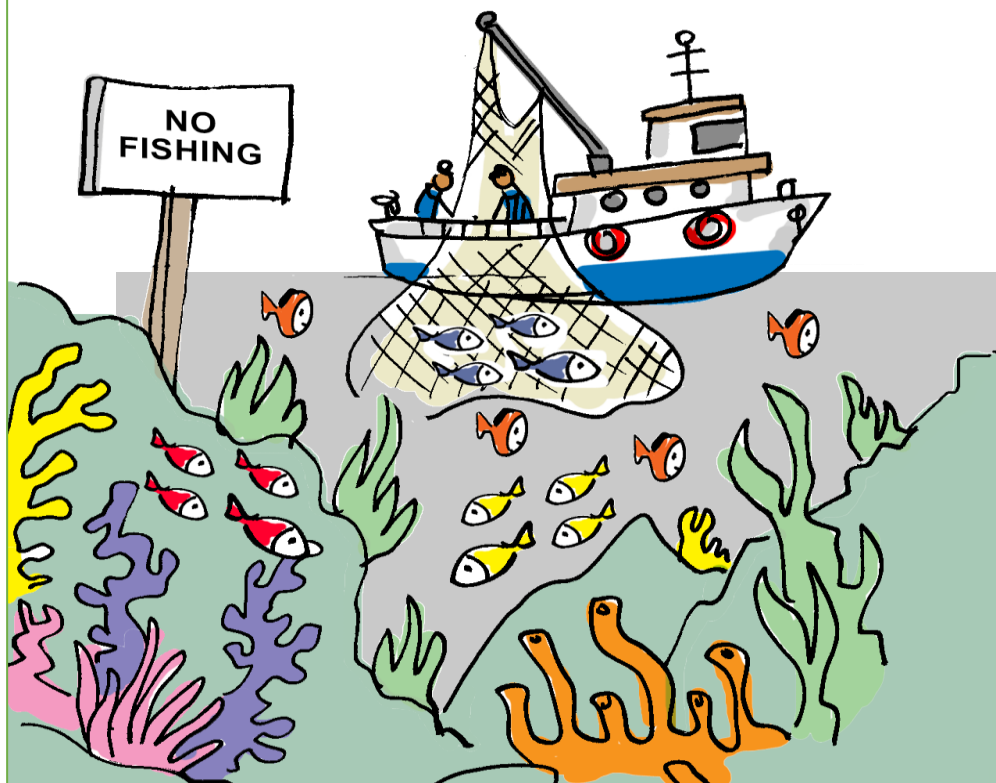


This will support the existing Security Cluster Programme so that Security Assessments and Management Plans can be developed.

Illegal activities at sea are reduced through a coordinated enforcement initiative optimising existing resources from all relevant stakeholders

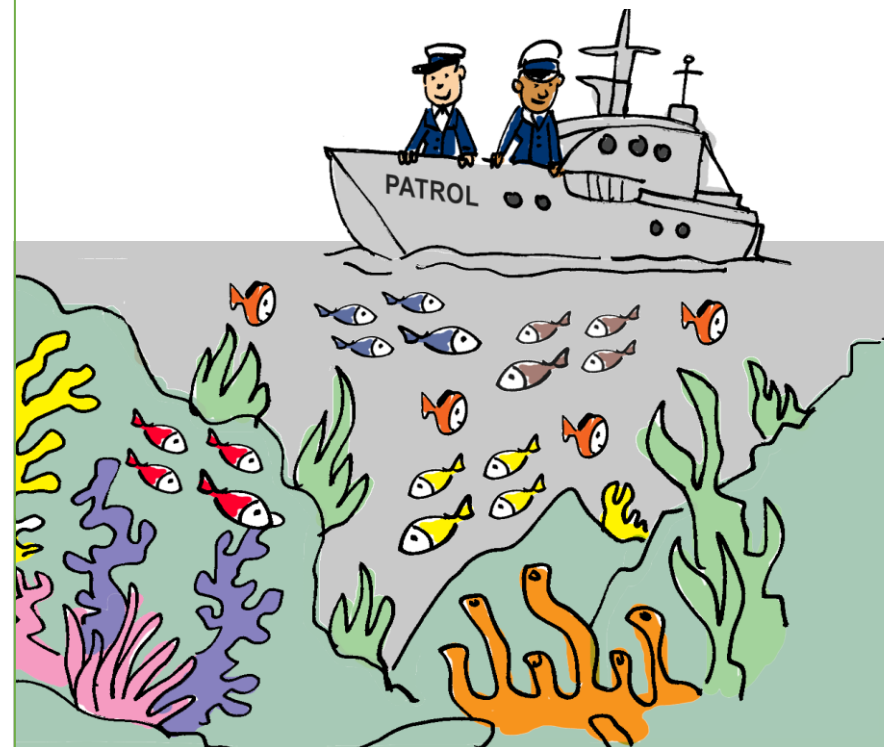
Before

Limited coverage by enforcement agencies due to uncoordinated schedules and functions



After

A **Coordinated Enforcement Programme** reduced illegal ocean activities by optimising existing resources when monitoring ocean activities



Phakisa operations as well as joint operations outside of Phakisa – e.g.CWD, seal feeding

# 3 ft PLAN

<b>1</b>	<b>Interim Committee on enhanced and coordinated enforcement programme in the Western and Southern region of South Africa</b>		
	<b>1,1</b>	<b>Statement of Intent</b>	
	1.1.1	Draft Statement of Intent sent to key stakeholders for comments. (refer to Initiative 5 slide - TWG on Compliance and Enforcement for stakeholders; draft Statement attached)	DAFF (DEA to advise on responsibility)
	1.1.2	Stakeholders to send back input	DAFF
	1.1.3	Consolidate inputs into a revised draft and send it back	DAFF
	1.1.4	Send back revised draft to stakeholders for consideration and signing	DAFF
	1.1.5	Signing of Statement of Intent by all stakeholders	DAFF
	<b>1.2</b>	<b>SOPs</b>	
	1.2.1	Draft key Standard Operating Procedures (SOPs) for enhanced enforcement programme (to all affected stakeholders, see Initiative 5 slide; draft SOP attached)	DAFF
	1.2.2	Send out to stakeholders for input	DAFF
	1.2.3	Stakeholders to send back input	DAFF
	1.2.4	Consolidate inputs into a revised draft SOPs	DAFF
	1.2.5	Send back revised SOPs to stakeholders for consideration and approval	DAFF
	1.2.6	Interim Structure for coordinating Departments to prepare final SOPs	DAFF
	<b>1.3</b>	<b>Appointment of Interim Committee</b>	
	1.3.1	Key Stakeholders to identify members of the Interim Committee (draft TOR for Interim Structure attached)	DAFF
	1.3.2	Send out invites to identified member Departments to nominate representatives	DAFF
	1.3.3	Receive nominees from Departments	DAFF
	1.3.4	Confirm members of the Interim Committee	DAFF
	<b>1.4</b>	<b>First Meeting - Focus on SOPs and TORs</b>	
	1.4.1	DAFF to send out notice for the first meeting of the Interim Committee (stakeholders invited as per of Statement of Intent) - 1 week advance notice	DAFF
	1.4.2	Circulate SOPs, TORs or the Interim Committee and Permanent Structure and the 3-Foot Plan for the Interim Committee - 1 weeks advance notice	DAFF
	1.4.3	First meeting to be convened. Goal of first meeting: SOP to be finalized and agree on meetings schedule, approve and adopt the 3-Foot Plan, including the Pilot Project	DAFF
	1.4.4	Pilot Project to start	

# 3 ft PLAN

<b>1.5</b>	<b>Second Meeting - Focus on MOU and progress of the Pilot Project</b>	
1.5.1	DAFF to call the second meeting of the Interim Committee. DAFF to circulate the draft MOU, Minutes of the first meeting and feedback from the Pilot Project - 1 week advance notice	DAFF
1.5.2	Goal of meeting: Committee to seek approval from their Principals and consider inputs on the draft MOU. Deadline: 1 week	DAFF
<b>1.6</b>	<b>Third Meeting - Focus on Finalisation of the MOU and progress on the Pilot Project</b>	
1.6.1	DAFF to call the third meeting of the Interim Committee. DAFF to circulate the draft progress report prior to the meeting - 1 week advance notice	DAFF
1.6.2	Workshop for permanent structure's 3-Foot Plan	
1.6.3	Committee to assess progress made thus far, prepare Exit Report (hand-over) and submission of signed MOUs	DAFF
<b>1,7</b>	<b>Enforcement Pilot Project</b>	
1.7.1	Draft and Sign off the Pilot Project Mandate - DAFF to table the Pilot Project Mandate to the committee (The pilot project will allow access to AIS, LRIT, Environment pollution information and expertise, DST systems, infrastructure, DEA human capacity and SANDF vessels/aircraft to assist when required. The project will derive the following benefits enhanced enforcement, marine domain awareness, information sharing for enforcement effectiveness. Procurement of IT specialist for systems interface & annual maintainance thereof.	DAFF
1.7.2	Confirm the Lead - DAFF to confirm the role of the Lead with overall responsibility to communicate the benefits of the projects and offer oversight communication to all stakeholders during the Interim committee duration.	DAFF
1.7.3	Draft and Finalise the Project Brief -The pilot will be conducted in the West and Southern regions of South Africa. The pilot operation scope will cover from the territorial waters to the Economic Exclusive Zone. DAFF will provide the vesselss, vessels schedule for the vessels, VMS access and inspectors. SAMSA to provide AIS, LRIT, Surveyors, Pollution Systems oversight. DEA to provide vessels, berthing space, marine environment inspectors, pollution experts. DST to provide other system infrastructure. All departments will self fund fund the provision of these services. The major benefits will be coordinated enforcement, increase ocean visibility, overall awareness and response on the maritime domain. SANDF to maintain its operational capacity to assist in the enforcement environment, by providing aircraft, vessels, RHIB's and information from its Coastal and Synthetic Radar Systems.	DAFF

# 3 ft PLAN

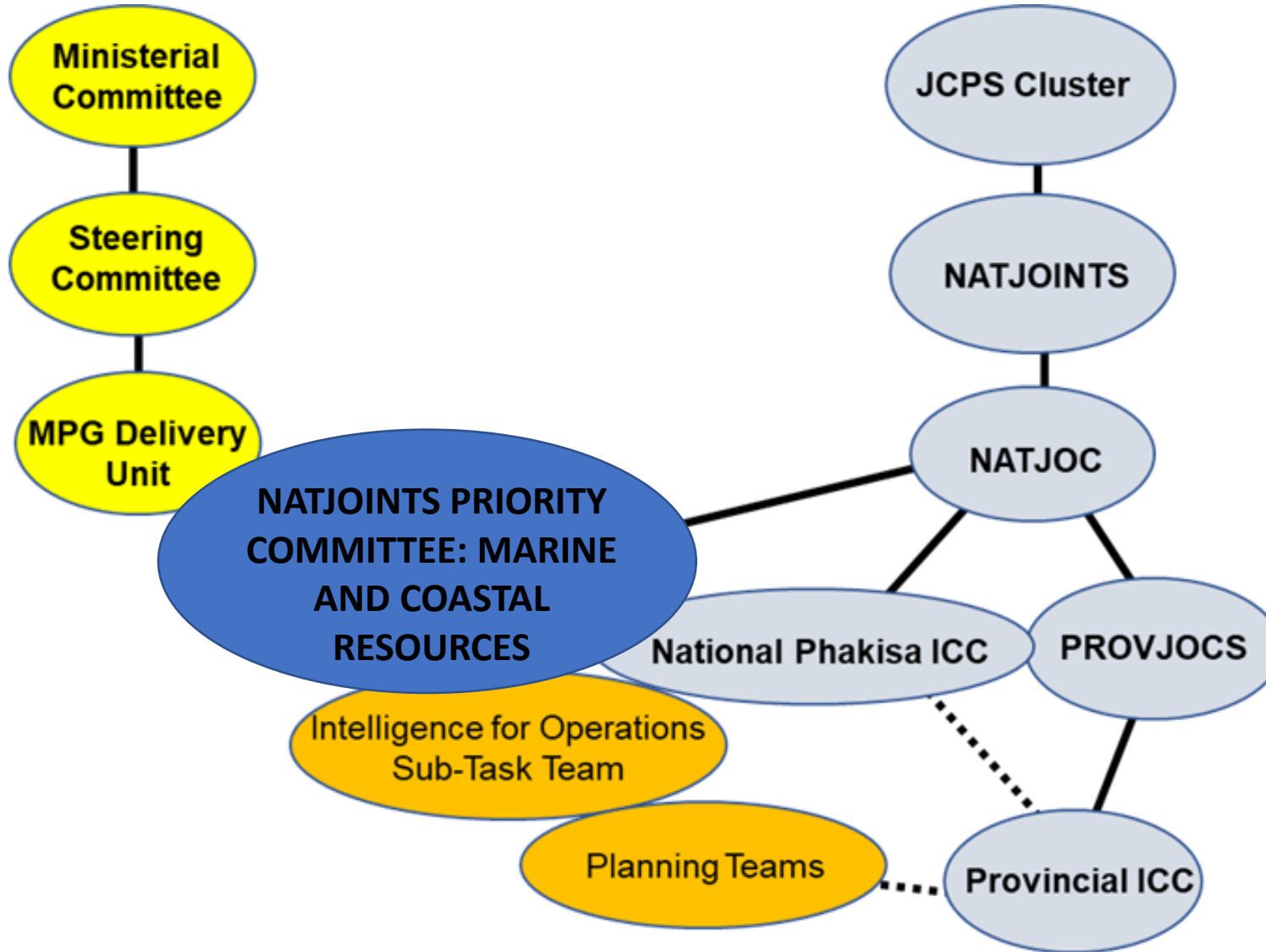
1.7.4	Confirm the Project Manager - DAFF to appoint Project Manager. Project Manager will assist in the coordination of the work, communicate project issues, risks and assist with managing any change control within the scope of the project.	DAFF
1.7.5	Capture and review Lessons Learnt - DAFF to lead in reviewing lessons learnt from the current arrangements such as MRCC, DAFF-DEA agreement. The lessons will be used by the Project Manager in the support management of the pilot project	DAFF
1.7.6	Appoint Project Management Team (Internal Secretariat Support) - Project Manager to appoint a project support team (if deemed necessary). The team to confirm availability and accept the roles and responsibilities. Project support to give administration support such as communication, capturing issues and risks .	DAFF
1.7.7	Authority to Initiate Project - Project Manager to get confirmation from the stakeholders to kick start the project (Project commenced on 13 July 2015)	Project Manager
1.7.8	Prepare the project documents -Project Manager to create a risk, communication and issues logs. Project manager to provide appropriate levels of controls. The logs/plans will discussed in the Interim committee meetings	Project Manager
1.7.9	Manage Product delivery, stakeholders - Project Manager to communicate risks, issues, controls with stakeholders through emails and document such for reporting to the Interim Structure meetings. The Project Manager will also report any key constraints (resources, etc.) issues in achieving set out milestones.	DAFF
1.7.10	Monitor and Control Progress - Project Manager to monitor work in progress against project milestones and report variances and reasons to the Interim committee through agreed communication channels(e-mail and meetings). Project Manager will prepare the exit report and the Lead will sign off	DAFF
1.7.11	Authorize the Next Stage - Interim Committee review and approve the project Exit Report (see draft attached). Interim committee will sign off on the Project Close off.	DAFF
1.7.12	Authorize Project Closure - Interim committee agree on the procedure of handing over the Pilot Project Exit Report to the Technical Reference Working Group Permanent Structure. The handover period and activities are agreed and communicated to all stakeholders by May 2015. December 2015	DAFF
<b>1,8</b>	<b>Fourth Meeting - De-briefing of the Technical Working Group (March 2016)</b>	
1.8.1	DAFF to call the final meeting of the Interim Committee. DAFF to circulate the Pilot Project Exit report and the endorsed MOU prior to the meeting - 2 weeks advance notice. The Interim Structure will de-brief the Technical Working Group and hand-over the Exit Report and the MOU.	DAFF

<b>2</b>	<b>Establish a Compliance &amp; Enforcement Working Group that will monitor compliance and enforcement in the Ocean space as part of the broader Governance structure.</b>		
2,1	Identify Departments, Entities or Directorates who will serve on the Permanent Structure attached)	Compliance and Enforcement Working Group (draft TORs for	DAFF
2,2	DAFF to approve draft Terms of Reference for the Compliance and Working Group and consult with identified stakeholders		DAFF
2,3	Prepare and issue invitations to identified members to serve on the	Compliance and Enforcement Working Group	DAFF
2,4	Invited Members to respond and confirm their acceptance of their nominations to serve on the Committee		DAFF
2,5	The Oceans Inter-Ministerial Committee's Secretariat issue letters to confirm appointment of the Compliance and Enforcement Working Group members		DAFF
2,6	Convene the first meeting of the Compliance and Enforcement Working Group		DAFF
2,7	Adopt Terms of Reference for the Compliance and Enforcement Working Group (draft TORs for Permanent Structure attached)		DAFF
2,8	Evaluate and review progress		DAFF
<b>3</b>	<b>Undertake a collaborative study to assess the gaps in compliance, enforcement and current capabilities</b>		
3,1	Develop Terms of Reference for the Study to undertake a collaborative initiatives and work plan		DAFF
3,2	Prepare introductory circular to Government Depts and key stakeholders setting out reasons for the study and development of the work-plan and request information on existing capabilities		
3,3	Receive inputs from Departments and stakeholders		DAFF
3,4	Study to be completed: 1) Identify all relevant Conventions, Acts and Policies governing activities taking place in the marine environment as well as Permit Conditions relating to activities to be monitored, 2) Undertake collaborative study by the Task Team established under the C&E Working Group, 3) Identify all spatial areas and activities that require monitoring, 4) Unpacking the findings of the capacity audit study to inform the optimization of coordination and planning.		
3,5	Analyse information inputs from the Study with regards to trends, assets, modus operandi, and resources. Prepare comprehensive stakeholder map of all Departments, and stakeholders indicating enforcement capacities and identified gaps.		DAFF
<b>4</b>	<b>Develop a work-plan &amp; coordinate the optimization of inter-departmental compliance and enforcement functions.</b>		
4,1	Convene meeting of Compliance and Enforcement Working Group to discuss comprehensive schedules and formulate a Work-Plan for revised law enforcement and sharing of platforms.		DAFF
4,2	Circulate draft Work Plan and request inputs from Depts and stakeholders		DAFF
4,3	Revise the Draft Work - Plan based on received inputs		DAFF
4,4	Work-Plan completed		DAFF
4,5	Implementation of Work-Plan: 1) Identify and compile a report on common infringements and sanctions (processing of set schedules via dispatching to execution), 2) Recommend to the Oceans Inter Ministerial Committee / Secretariat on possible or appropriate changes and amendments to various legislated roles, responsibilities and functions of different role players and capability needs for integrated enforcement, 3) Provisions of Acts that require amendment/changes are delegated to relevant authorities for consideration		
4,7	Bi-Annually review of Work-Plans		DAFF

# GOVERNANCE STRUCTURES

- Department of Environment, Forestry and Fisheries designated as Lead Department supported by the National Joint Operational Intelligence Structure – NATJOINTS instruction
- PROVJOINTS appointed Provincial Coordinators – plan, co-ordinate and execute operations in the Western Cape (WC), Eastern Cape (EC), Northern Cape (NC) and Kwa-Zulu Natal (KZN)
- Proactive or Reactive operations executed to ensure compliance and enforcement of the respective risk and threats identified under the Operational Concept.







# NATJOINTS Priority Committee

- The plan is preventative as well as reactive, aimed at the organised nature of marine related crimes in the Country.
- Law enforcement agencies and other relevant stakeholders address the threat by stamping the authority of the state utilizing:

## 5 Pillar Plan

- **Pillar 1: Intelligence** gathering, analysis & coordination approach,
- **Pillar 2: Pro-active and compliance enforcement** approach,
- **Pillar 3: Combat and focussed tactical intervention** approach,
- **Pillar 4: Reactive through detection, investigation and prosecution** approach,
- **Pillar 5 Communication and liaison** approach.

# MIGRATION TO PRIORITY COMMITTEE

- Due to the positive impact on maritime crime and non-compliance incidents, Phakisa 5 was constituted as the Marine and Ocean Crime Priority Committee of the NATJOINTS in the 2020 to 2021 Financial Year.
- The Priority Committee, continues to provide a joint multi-dimensional approach towards integrated maritime enforcement and the enforcement of and adherence to, South African maritime legislative and regulatory frameworks in the small ports, sea borderline, territorial waters and maritime zones. The operational approach is developed around the 5 Pillar Plan
- Pillar 1: Intelligence gathering, analysis & coordination approach,
- Pillar 2: Pro-active and compliance and enforcement approach,
- Pillar 3: Combat and focussed tactical intervention approach,
- Pillar 4: Reactive through detection, investigation and prosecution approach,
- Pillar 5: Communication and liaison approach

# OPERATIONAL OVERVIEW

- Multi-disciplinary operations are conducted in the NC, WC, EC and KZN Provinces within the coastal region, inshore, territorial waters and Exclusive Economic Zone with notable successes.
- Although confiscations have been notable, success is not only based on financial value of confiscations but on acting as a deterrent to illicit activity, keeping the resource in water, maintaining the bio-diversity of the habitat and promoting the influence of Government along the seaboard.
- Small Teams of Enforcement and Compliance Officials are deployed within “Hotspot” areas or specific intelligence identified interventions.
- Successful participation in International Operations such as INTERPOL 30 Days at Sea Operations

# OPERATIONAL OVERVIEW

- The deployment of the SANDF under the auspices of Operation Corona or as part of force preparation (in support of Phakisa) in the coastal region, contributes to the deterrent factor and positively impacts on poaching activity in the area of deployment.
- The development of the OCIMS Integrated Vessel Tracking continues to support the operational approach and provides early warning of possible infringements inclusive of:
  - Possible transgressions in Marine Protected Areas
  - Possible transshipment of illicit/narcotics cargo off the South African coast (few successes)
  - Possible illegal, unidentified, unreported (IUU) fishing/associated activities
  - Tracking of Recreational Craft

# RISK IDENTIFICATION

Risks	Ranking
Fishing and IUU (Off-shore)	1
Poaching – marine species	2
Effluent discharge	3
Industrial waste discharge	4
Sand mining – coastal environments	5
Marine Protected Area breaches	6
Illegal developments in the coastal zone	7
Shipping and platform pollution (including oil, ballast and bilge water)	8

# SUCCESS FACTORS

- Approval by Highest Authority
- Recognising the benefits of operating within the existing Security Cluster Structures
- Multi-disciplinary nature – integrated teams / mandates
- Leadership with Efficient Command and Control Structures
- Expanding of the National Instruction to include the broader spectrum of all Maritime Legislative and Regulatory frameworks
- Three levels of programme management – takes care of strategic and operational aspects
- Adapting to the changing environment - addressing passive and aggressive threats in one operation
- Establishment of a Reactive capability reacting to real time intelligence identified, specifically after-hours
- Changing the traditional structure of the ICC to include departmental intelligence inputs
- Dedication, enthusiasm and co-ownership of the programme - NO “I” BUT “WE”



# CHALLENGES

- Financial and capacity constraints – competing with numerous other threats and risks
- Operations informed by intelligence / information – ensuring impact of interventions (different in the 4 provinces)
- Limited offshore patrol capability
- Air support during operations
- Sustainability and ensuring biggest impact to as we move forward



Confidential



# END



**Mzondeleli Dlulane**



**Director: Enforcement  
Oceans and Coast**



**Branch: Regulatory  
Compliance and  
Sector Monitoring**



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