



transport

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To : The Chairman: South African Ports Regulator

From : The National Port Consultative Committee

Subject : Proposals to Transnet National Ports Authority's Alteration of Tariffs for 2019/20 – 2021/22

Table of Contents

1. PURPOSE	1
2. BACKGROUND	1
3. NPCC TARIFF RESPONSE DISCUSSION	1
4. Pricing Strategy	9
5. Capex Approval:	11
6. Ports Authority Business and Oversight:	11
6.1 Key Capital Investment programme:	11
6.2 Capital infrastructure cost:	12
6.3 Strategic Capital investment objectives	13
6.4 Operations Phakisa Projects:	14
6.5 Real Estate:	14
6.6. Human Capital Management;	14
6.7 Nine Commercial Ports:	14
6.8 Waterfront Developments:	14
6.9 Authority's Volume Projection:	15
6.10 Exclusivity of concessions:	15
6.11 Operating expenditure:	15
6.12 Weighted average Tariff Adjustment of 4.2%:	15
6.13 Cargo Dues:	16
6.13.1 Cargo Dues Double billing between NERSA and the Ports Authority	16
6.13.2 Cargo Dues for Petroleum Products – Transhipments	16
6.14 Tariff Book Clarification	16
6.16 Dredging on the African Continent vs. Dredging in SA:	17
6.17 Consultation with the PCCs and NPCC	17
7. NPCC Recommends the following.	17

PROPOSALS TO TRANSNET NATIONAL PORTS AUTHORITY'S ALTERATION OF TARIFFS FOR 2019/20 – 2021/22

1. PURPOSE

The purpose of this memorandum is to submit proposals and recommendations in response to the Amendment of the Ports Authority's Tariff Application as submitted by the National Ports Authority to the Ports Regulator of South Africa (PRSA) for the 2019/20 – 2021/22 financial year from the National Ports Consultative Committee (NPCC).

2. BACKGROUND

Section 82(1) of the National Ports Act, Act 12 of 2005, empowers the Minister of Transport in the appointment of the National Ports Consultative Committee (NPCC). The function of the NPCC, amongst others, is to consider the National Ports Authority's (NPA) tariff applications, to comment on those, and to propose meaningful alterations where it is felt necessary to do so.

The Ports Regulator of South Africa's issued a Press Statement regards the "Amendment to the Tariff Application by the National Ports Authority Tariff Year 2019/20 – 2021/22" received 11 September 2018. The press statement invited port users and interested parties to comment and submit proposals on the Amendment as received and published. As part of the NPCC processes it was resolved that an ad-hoc NPCC meeting be convened to discuss the NPA tariff application and to formulate and record an official submission to the Ports Regulator of South Africa (PRSA).

The current tariff application is the 8th submitted to be considered by the PRSA since the institution of the NPCC.

3. NPCC TARIFF RESPONSE DISCUSSION

The subject meeting was held Wednesday to Thursday 3rd and 4th October 2018 supported by NPCC Representatives. Main aim of the discussion was the Amendment to the NPA's Tariff Application in relation to the NPCC's official response to the NPA's 2019/20 – 2021/22 Tariff Application. Focal point of the NPCC discussion being the PRSA Valuation of the Regulated Asset base Methodology, the Ports Authority's non-compliance to same and the continuous anecdotal evidence of long standing challenges due to the Authority not being corporatized and therefore not being able to execute its mandate as an independent Ports Authority. This focal point is consistent with the Ports Act Chapter 2 (3 & 4) Establishment and incorporation of the Authority. The Authority's current form is not conducive to it being independent and able to make decisions as expected of an independent Ports Authority, similar like an ACSA in the Aviation industry. The meeting once again acknowledged and commends the granular level of transparency in which this Amendment is being handled by Ports Regulator. The level of transparency with the Ports Authority not having its independent financials remain a challenge. To this end the meeting resolved that the response addresses the following key issues:

- Compliance with the National Ports Act, Port Regulations, Directives and the issues raised by the PRSA in the 2017/18 – 2019/20 Record of Decision.
- Content and Completeness: Consideration given in respect of the provision of sufficient information in the tariff application, or not.
- Methodologically Consistent: Consistency in applying the Methodology.
- Pricing Methodology: Comment on TNPA's application of the Pricing Methodology.
- Level of Content Detail: To comment on the level of content provided in the Application
- To analyse and comment on the draft Tariff Book
- Recommendations: Propose Recommendations deemed necessary.

3.1 Compliance with the Act, Regulations, Directives and the Record of decision for 2018/2019.

3.1.1 Section 72(2) of the National Ports Act, indicates that the Authority must, prior to any substantial alteration of tariffs, consult with the NPCC. The Ports Authority has never prior to the current financial year consulted with the NPCC on its Tariff Application. Noting this misalignment, NPCC requested that the Ports Authority presents its Tariff Application the NPCC at the meeting scheduled 5 October 2018 in the Port of Saldanha. Important to note that the Authority did not present its Tariff Application to the NPCC. This constitutes an area of non-compliance.

Directive 22(3):

(a) the manner in which the tariffs have been calculated, and the model used by the Authority for determining and calculating tariffs;

The NPCC noted that the Ports Authority calculated its tariffs based on the previous methodology and not the Valuation methodology as was published by the PRSA March 2018 as was directed. This constitutes non-compliance.

(b) All operating and capital costs, expenses and revenues, incurred or generated from the port service or port facility, as well as the value of the capital stock;

Operating Expenditure remains a challenge as a further level of granularity is required. The Capex budget has several aspects which are questionable and which lack detail. These include the original Operations Phakisa projects as discussed at the Lab linked to its three foot plans and schedule; Capex is discussed at each of the PCCs per port. Important to note that Capex presented and capex allowed by the PRSA and Capex approved by the TNPA are not consistent across the port system and lacks both detail and oversight.

c. Directives 23(1) (c) the amounts to be invested and the revenues to be utilised in port development, safety, security and environmental protection;

The NPCC is mindful that Port development initiatives are directly impacted by the Transnet approval processes. Divisional compliance processes within Transnet year on year reflects prioritisation of Transnet interests and timeframes with the Ports Authority underspending significantly on Capex and investment in critical skills. This negates the broader South African economic priorities in respect of the Ports Authority deliverables as articulated in the Ports Act of 2005 and approved by the PRSA. It is therefore difficult to conclude whether all the required areas have been addressed satisfactorily.

(i) the manner in which the tariffs will affect the cost of doing business in the ports;

Significant work has been done in this area. Further work is to be done to reduce the level of ambiguity and double charges for example partially in cargo dues between the tariff allowed by NERSA for the recovery of oil and gas infrastructure investment. Also, the ambiguity between the Port Dues and Cargo dues in respect of the duplication of services rendered in these charges and how this is explained in the tariff book.

(ii) the proposed profit margin or rate of return, together with a motivation to show why this margin or return is commensurate with risk;

The Authority's Application does not differentiate between what it considers to be its investment risks impacting on its revenues and that of Transnet. The NPCC is aware that as a division within Transnet the does not borrow funds on the open market neither is it required to do so as the Revenue Requirement model provides that all funds by reinvested into the Authority. Notwithstanding this provision it is not clear how this is dealt with between the Authority and Transnet. Furthermore noting the Authority's risk profile.

(iii) The manner in which the factors set out in Directive 23 apply to the proposed tariffs.

Directive 22 (4): The Regulator may call on the Authority to provide any additional information which the Regulator required to consider the submission made in terms of sub directive 1 or 2 or to approve the proposed tariff.

The Ports Authority has consistently delayed providing comprehensive information. This is both true for the PCCs and the Port Performance Roadshows which allows for a wider platform for consultation with the Ports Authority.

Directive 22 (6): The Authority shall maintain such financial and accounting systems as are necessary for the Regulator to verify the pricing principles and models used by the Authority to determine and calculate its tariffs.

The Authority's audited statements, like ACSA, should be available to the SA public to scrutinise. This should allow for the PCCs and NPCC to have a better understanding regards the Authority's financial, governance and financial management.

Directive 23 (1): In considering the proposed tariffs in terms of Directive 22, the Regulator must have regard to whether the proposed tariffs reflect and balance the following considerations: -

(a) A systematic tariff methodology that is applicable on a consistent and comparable basis;

The NPCC has noted that the Authority non-compliance with the Tariff Valuation Methodology as was published by the PRSA March 2018.

(b) Fairness;

Significant strides have been made by the PRSA to ensure fairness within the Authority's tariff processes. Whilst this is noted much more work is to be done ensure transparency and fairness.

(c) The avoidance of discrimination, save where discrimination is in the public interest;

This is supported by the NPCC. Difficult to monitor the Authority's application of same.

(d) Simplicity and Transparency;

There is a need to further simplify tariffs and enhance a greater level of transparency. This noting the Authority being a division of Transnet and by default being linked to the challenges within the Transnet Group.

(e) Predictability and stability;

Significant work has been done noting that forecasts, actual volumes and industry feedback indicate a lack of industry consultation.

(f) the avoidance of cross-subsidisation save where cross subsidisation is in the public interest; The Tariff Strategy has set out the manner in which cross subsidization will be addressed.

The NPCC supports cross subsidization within the Port system. However, it is difficult to monitor the degree to which the Authority may or may not be subsidizing Transnet Group or other Transnet divisions. This is an area which the PRSA must investigate.

(g) The promotion of access to ports and efficient and effective management and operations in ports.

The NPCC has several concerns in this regard. These concerns include:

The Authority's lack of oversight exercising its role as an independent Authority which include S56, 57 and 79 respectively as articulated in the Ports Act of 2005.

- Its delegation of Authority Framework linked to the Transnet Delegation of Authority Framework which is inconsistent with the Ports Act. This has a direct impact on decision making, Capex spend and efficiencies within the port system
- Being a division within Transnet, the Authority is not able to exercise its oversight role in general. Its capacity to exercise its oversight role, is further compromised resulting in it not having the authority over terminal

operators negatively impacting port efficiencies, a deliverables amongst other as set out in the Ports Act of 2005.

- The Authority's year-on-year lack of capex spend is a further challenge linked to its capacity to manage the port system adequately. This has a direct impact on economic development and missed economic opportunities.

3.1.2 NPCC's recommendations

- a. The Authority's non-compliance with the PRSA Valuation methodology and its delay in providing the requested detailed information to support its reasons which were cited as sustainability of the Authority hence its request to defer implementation of the valuation methodology to 2020/21.
 - i. This spirit in which this non-compliance was advocated by the Ports Authority undermines both the Ports Act, the PRSA and the instruments created to ensure an enabling SA economy.
 - ii. The NPCC supports that the PRSA finds a middle ground that will involve commencing the corporatisation of the Ports Authority 1 April 2019 whilst creating an interim buffer using the ETIMC.
- b. The RAB Asset Valuation Methodology has a direct impact on the Revenue Requirement model. It is therefore important that the valuation methodology be implemented as a priority starting 1 April 2019 noting that the ETIMC lever could be used whilst corporatizing the Authority.

3.2 Contents and Completeness

The NPCC maintains the following position:

The Authority is mandated to provide equal opportunities to all port users without favour or prejudice.

NPCC's Recommendations:

The NPCC maintains its recommendation that the PRSA investigates all land rentals. In doing so appoint an independent valuator to accurately benchmark land use and evaluate market related rentals.

3.3 Methodological Consistency

3.3.1 It is again acknowledged that significant strides were made by the PRSA. The PRSA published its Regulated Asset Base Valuation Methodology March 2018 which became applicable 1 April 2019. The submission published 1 August 2018 ignored the published RAB Valuation Methodology. Revenue Requirement Approach similarly does not consider the RAB Valuation Methodology as prescribed by the PRSA. Methodology for the valuation of the Authority's RAB states” **Given the significant Revenue reduction, together with the commitments of the Authority, the financial sustainability of the Authority would be at risk**”. The Ports Authority is not a borrowing entity being a division of Transnet. The Authority is to articulate its key financial ratios from a risk perspective in line with its credit metrics; In doing so the Authority is to assist with clarifying its risk factors;

3.3.2

- a. It is noted that the Revenue Requirement Model is therefore not compliant with the Tariff Methodology.

3.3.3 The NPCC Recommendation:

Implementation of the RAB Valuation Methodology linked to the implementation of the corporatisation of the Ports Authority.

4. Pricing Strategy

Intention of the Tariff Strategy to ensure sustainable system wide pricing. Objectives of the pricing strategy as articulated by the PRSA is supported. The progressive move to cost reflective tariff structures as guided by the PRSA together with the development of an efficient pricing system is supported.

4.1 Marine Service Tariff Structure

The 2018/2019 Tariff Application makes reference to the proposed Marine Service Tariff Structure based on cost recovery, and user pay principles scheduled for implementation in 2019/2020. Clarification is sought regards the Authority's early warning and related implications for Port users in this segment.

It is well documented that due to Global downturn of the economy coupled with poor terminal efficiencies, the current bunker prices, the Shipping Lines can no longer accept proposed Marine Tariff increase for noticeable drop/ lack of service and infrastructure delaying the turn around of vessels. All these berthing/operational delays which are on the increase adds additional costs to the Shipping Lines Line having vessels to increase speed burning up more bunkers, bypassing ports with additional transhipments all resulting in overall escalation of vessel costs which Lines are unable to sustain or absorb.

If one looks at the port of Ngqura which has been marketed as a Transhipment Hub port servicing sub-Saharan Africa:

1. An average of 60 percent of the container volumes is derived from transhipments.
2. Important to note that it is the Shipping Line which dictates/nominates which transhipment port is used to tranship all their international full/empty transhipment containers. The main drivers of course is Terminal Efficiency and Cost Effectiveness in their decision making.
3. Real threat is losing these volumes to either our neighbouring African countries who are constantly upgrading and investing in their port infrastructures to attract

these volumes and have also lost to other hub ports due to poor terminal efficiencies and costings. We therefore cannot be complacent and have to improve overall port performances in accordance with global standards to maintain as this could result in huge revenue losses.

4. Operations Phakisa – Budget to be indicated separately; Three feet plans to be reviewed;
5. TNPA needs to ensure that TPT complies with its S56 agreements and ramping up installed capacity with additional gangs in an effort to improve terminal performance.
6. Vessel Surging: This is a major concern and whilst Capex has been approved rolling out the Moormaster/Shore Tension installation to the other berths must be prioritised to minimise operational delays.
7. Deepening of the Durban berths: Noted that berth outages in Durban will start with berth 203 - 205 in October 2018 to be concluded 2025. This much needed capacity creation plan is going to put additional pressure on other ports and in particular Ngqura. The NPCC await the Auhtirty's berth deepening proposed plan deviating cargoes ensuring that SA does not lose any cargo. This plan is still to be shared with the Shipping Lines too. Some shipping lines will have to move from DCT to Pier 1 which is not ideal as some vessels will battle to berth at Pier 1 due to vessels sizes
8. Clarity is to be provided as to how the TNPA prioritises berth vessels. Greater degree of transparency and how berthing communication is shared with Container Shipping lines. Concern was expressed that this may result in the Authority berthing Breakbulk or Bulk vessels in Durban in particular ahead of container vessels.
9. The cost of doing business in South Africa and in particular calling at Durban, Port Elizabeth or Ngqura and Cape Town is becoming extremely expensive for shipping lines. It is our view that TNPA should be incentivising these lines with lower berthing tariffs when all 3 major ports in South Africa are called at.

10. Deepening of 203, 204 and 205 with current draft restrictions – recommendation – port dues not based on GRT but capped on vessel allowed to load considering draft restrictions; this to be in force until such time that the deepening project in the Port of Durban has been completed as this will have a direct material negative impact on the Shipping lines and their parcel sizes;

5. Capex Approval:

Pre-approval of Capex which would be aligned with the decision making within the Authority and the Group whilst the Authority is being corporatized;

An update on clauses in the Tariff Book

6. Ports Authority Business and Oversight:

6.1 Key Capital Investment programme:

NPCC consultation Roadshow with regards to the Ports Authority's Port Development Framework Plans and Capex Programme.

Port	Date	Venue	RSVP by
Mossel Bay	09:00 Wed 09 May 2018	Kitchen Hall, Old Power Station Building, Mossel Bay	07 May 2018
Saldanha	09:00 Thurs 10 May 2018	Siyabonga Hall, Port of Saldanha	07 May 2018
Cape Town	09:00 Fri 11 May 2018	Cape Town Lodge Hotel, 101 Buitengracht Street, Cape Town	07 May 2018
Richards Bay	09:00 Mon 14 May 2018	Elwazeni Room, Bayvue Centre, Port of Richards Bay	11 May 2018
Durban	09:00 Tues 15 May 2018	Coastlands Umhlanga Hotel, 329 Umhlanga Rocks Drive, Umhlanga Ridge	11 May 2018
East London	09:00 Thurs 17 May 2018	East London Golf Club, 22 Gleneagles Road, Bunkers Hill, East London	11 May 2018
Port Elizabeth & Ngqura	09:00 Mon 21 May 2018	Elwandle Boardroom, TNPA Admin Building, Port of Ngqura	17 May 2018

Main aim was to technically consult with Port Users regards the Port Development Framework Plans and how this influences Capex provision and impacts efficiencies. The

engagement platform further facilitated consultation and discussion regards the 6 year Capex plan horizon per port and how efficiencies dovetails with this process informing the tariff process.

6.1.1 Capital investment applied for:

Applicable to the current financial year and which has not been spend together with previous year lack of capex spend is of material concern. This trend is an area which we require the PRSA and Minister of Transport to address as it has a direct impact on capacity creation, maintenance and therefore the economy of South Africa.

6.1.2 Capital Investment Programme Summary:

The Investment programme section 6.3 on page 17 of 60 notes projects listed as undefined and ambiguous and incomplete considering submissions as discussed at the respective PCC meetings; NPCC recommends that clarity be provided regards projects per port, at what approval stage and FEL stage each one are and the respective timeframes linked to each. (Reference to Page 17 of the Authority's Tariff Application) – Port of east London extends breakwater and deepens and widening entrance;

6.1.3 Strategic Capital Objectives:

The Authority to explain the context “To preserve the current revenue streams without obtaining additional volumes’. Page 18 of 60 Table 5.

6.2 Capital infrastructure cost:

The cost of building berths in SA appear to be uncompetitive and excessive compared to international capital developments constructed by SA companies. SA companies constructing infrastructure costs per running meter can be said to be approximately four to- ten times as much in similar environmental conditions e.g. depths of water, wave action etc.

**SUMMARY of MANAGEMENT RATIOS DISCUSSED
AT OPERATION PHAKISA (2014)**

Project	Structure	Length(m)	Escalated Cost 2014 (million)	Ratio (million/running meter)
Bahrain (New Container Deep Terminal)	Deck on pile	2100	R2028	R0.966
Bahrain *	Deck on Pile	2100	R522	R0.249
MPT Terminal (Saldanha)	Counterfort	660	R260	R0.393
Sonils Angola (Luanda)	Counterfort	408	R420	R1.029
SAOGA Report	Caisson	500	R1000	R2.000
Pier 2 (203 – 205) (Dbn)	Caisson	1200	R5600	R4.666
Pier 1 (Durban)	Caisson	1200	R4876	R4.063
Saldanha Berth 205 **	Deck on pile	380	R4000	R10.53

* Without dredging and causeway (25 million m³)

** TNPA Estimate

This has a direct impact on the Authority’s capex pricing and provision. We request that the PRSA investigates these contracts, note the administrative fees from Transnet and the overall viability of such contracts being awarded and how this compares internationally. The PRSA oversight investigation must include TNPA projects awarded to in-house Transnet services. Further including bids rendered not competitive due to this in-house arrangement; In doing so consider the award of all TNPA Capex Projects and how this may compare with the same work which could have followed an open and transparent bidding process. This would further have allowed to localise capex spend and consider pricing and quality competitiveness on the open market.

6.3 Strategic Capital investment objectives

Table 5 page 18 of 60: Clarity to be provided regards maximising ROI by obtaining additional volumes vs. preserving current revenue streams without obtaining additional volumes; Previously JOCs were established to assist with improving Operational efficiencies. This ambiguity to be explained.

6.4 Operations Phakisa Projects:

Three-Foot-Plans to be revisited as was agreed at the Lab including the Amendments made by the Ports Authority without consulting with all stakeholders. The outcomes of the Ops Phakisa Meeting held May 2018 at the Hilton Hotel in Durban to be provided to all. Projects articulated in the Application considered to be undefined and non-specific; The Authority to provide details, timelines and budgets linked to pre - approval processes;

6.5 Real Estate:

Discrepancies in Lease agreements as highlighted by port users across the port system; PRSA to investigate and monitor the Ports Authority exercising its oversight; Rentals linked to Ship Repair considered to be excessive. The proverbial playing field to be equalised; Long term Leases to be enabling and competitive within the sector; Must be cross subsidised within the broader system which the Act allows.

6.6. Human Capital Management;

Currently as stated in Table 5 page 17 of 60 as optimising Human resources; TNPA to consider Human Capital Investment in all critical areas as a key objective to deliver on its mandate.

6.7 Nine Commercial Ports:

Ports Authority to give consideration that it has nine commercial ports and not eight as indicated on page 20 of 60 Table 6: Real Estate Salient features; The Authority to clarify how it has provided in the tariff application for the ninth port the cost reflection of same if any.

6.8 Waterfront Developments:

Table 7 page 21 of 60. Concession Programme: Complementarity recipe of a commercial port alongside Waterfronts encouraged. However, it is important that Port

users not be required to fund such a model. Due consideration must be given in respect of the Authority's perspective in respect of port land, quays and water space for non-port related activities. Time horizon important that same space would not been needed later for port activities. Local regional Municipalities to be responsible for funding such concepts and models. PRSA to review the balancing act logic between available land in ports with minimal or declining economic activity and available land capacity in relation to Short, medium and long term economic developments.

6.9 Authority's Volume Projection:

Table 8 Page 23 of 60. Authority's Volume projection. Concern was expressed that there was minimal consultation in preparing volume projections. Need for greater collaboration between the Ports Authority, Shipping Lines, cargo owners and Terminal Operators to have reliable volume projections.

6.10 Exclusivity of concessions:

PRSA to have oversight of the exclusive use of berths granted to some concessionaires. Berths are common user facilities and should be available to all port users.

6.11 Operating expenditure:

Need for consultation with the NPCC with regards to Opex elements where little evidence of spend is provided. Noting poor performance in some of the ports, this is specifically relevant where it influences material tariff changes.

6.12 Weighted average Tariff Adjustment of 4.2%:

NPCC wish to draw the PRSA's attention to the disconnect between tariffs and efficiencies. Efficiencies have not improved resulting in unnecessary costs for shipping lines and cargo owners calling SA ports. Current logistics routes, the cost of doing business in SA, economic inflation and cost to consumers are key variables informing SA's competitiveness.

6.13 Cargo Dues:

6.13.1 Cargo Dues Double billing between NERSA and the Ports Authority

Double billing of utilisation of quay side space between NERSA approved tariffs to recover investment and the Ports Authority tariffs – Cargo dues; a portion of investment is still apportioned to cargo crossing the quay side; Same charge contention that a portion of cargo dues billed twice in that the cargo owner already pays the tariff set by the Energy Regulator; PRSA to explain and advise how this will be handled between the Authority and the NERSA. Furthermore how this double billing will be corrected.

6.13.2 Cargo Dues for Petroleum Products – Transhipments

Transhipment of liquid bulk cargoes is allowed for a period of two months where after the full cargo dues fee become applicable. The port cannot be turned into a storage area by increasing dwell times excessively. Noting this crude oil and heavy fuel oil tend to be in storage for lengthier periods. It is further recommended that storage dwell time be considered consistent with the NERSA allocation mechanism process which allows for a three month rolling nomination. Scheduling to consider prioritization of investment. Similar concerns were expressed in the Port of Ngqura. Noting this market pricing and developments must serve to inform incentives and punitive measures. Proposed that the Authority has the flexibility to use dwell times both as an incentive and punitive measure subject to capacity availability;

6.14 Tariff Book Clarification

Annexure A: The Authority's tariff book page 43 of 60. Clarification and differentiation to be explained in simple and clear terms as to the interrelatedness and apportionment between cargo dues, port dues and berth dues and where the PRSA draws the line. Explaining the grey areas should negate double billing in the future.

6.16 Dredging on the African Continent vs. Dredging in SA:

Concerns express that the Authority continue to prioritise dredging in other parts of the African continent at the expense of the South African Port system resulting in delays dredging SA ports. This resulting in vessel not being able to come in fully laden etc. This directing impacting parcel sizes and efficiencies.

6.17 Consultation with the PCCs and NPCC

The National Ports Act 2005 Chapter 11 – 81. (3) States that:

“The Authority must consult the Ports Consultative Committee regarding-

(a) any major scheme relating to the expansion or development of a particular port
Experience at the PCCs is that very scant information is provided by the Authority and does not allow for responsible decisions to be made on capital expenditure. The Authority must provide reasonable information to make informed and educated decisions on developments and capital expenditures that will benefit South Africa and its stakeholders.

The Ports Act Chapter 8 Section 72 (2) requires that the Ports Authority must, prior to any substantial alteration of a tariff consult with the National Ports Consultative Committee. This is further supported by the Port Regulations of 2007.

7. NPCC Observations and Recommendations:

It is recommended that the PRSA considers Observations and recommendations made throughout this submission including:

7.1 Valuation of the Regulated Asset Base

NPCC supports the Regulated Asset Base Valuation Methodology which forms the basis for the Revenue Requirement Model. To date the Authority has not furnished the PRSA with any material information supporting its motivation that the implementation of the Valuation methodology threatens the sustainability of the Authority. Noted that the

implementation constitutes an inflated revenue loss on TNPA's side. Notwithstanding this, the NPCC supports that the appeal from Transnet Group be given consideration. In doing so that the PRSA uses the ETIMC to cover a portion of the Valuation Methodology, decreases the RAB by R1bn and defer the remaining portion to the 2020/2021 financial year. The NPCC proposes that this be done on the basis of action being put in place together with the Department of Transport and the Department of Public Enterprises to begin the process of corporatizing the Ports Authority. This proposal takes into account the Authority's inability, in its current form, to act as an independent Authority.

7.2 TNPA Oversight

Anecdotal evidence suggests that the Authority has not acted within the prescripts of the Ports Act and Port Regulations in respect of exercising its oversight role. In its capacity as a division within Transnet it is rendered powerless in ensuring that all port users including Transnet divisions are held accountable through the various agreements legislated instruments. Its lack of Capex spend, long decision processes, which has been on the NPCC Agenda, amongst other, for the last eight years bears testimony to this. There has been many good intentions on the Authority's side but little progress due to the Authority's current constraints in its current form. Commitments made at the recent NPCC meeting as was done in prior years are noted.

7.3 Real Estate:

The NPCC proposes that the PRSA investigates current agreements and all legal instruments as set out in the Act, Regulations and details in directives and which the Authority is required to both be complaint with and ensure compliance with port users. In doing so consider compliance, fairness and competitiveness within those agreements and the measures required to follow through on areas of non-compliance. NPCC notes that the criteria used by the Authority is not consistent throughout the port system which enforced is not consistent either. The current Delegation of Authority (DOA) has been a discussion point for at least eight years and has not come to a head. The Authority's ambitious plans to upgrade it DOA is noted. However, it is almost too late. It is

important that leases be sufficiently long termed to enable economic activity and allow for recouping investment. DOA must contribute to an enabling environment. This is but one example.

7.4 Efficiencies linked to WEGO

The NPCC supports that the PRSA implements WEGO as it relates to efficiencies and that the PCCs KPI subcommittees form part of this process.

7.5 Full Implementation of the Act: Corporatisation

The many challenges linked to the Ports Authority in its current form necessitates that the Authority become compliant with the Ports Act of 2005 and Regulations of 2007. Current long standing challenges have a direct bearing on the effectiveness and management of the Port system negatively impacting the competitiveness of the South African economy.

Ports Act Chapter 2; Section 3 (1) (2) (3) (4) has been long delayed and therefore in breach of the Act. The NPCC recommends that the current challenges which have continued with soft periodic Band-Aid interventions be addressed. The NPCC recommends that the processes to convert the Authority and in so doing realise the value to the broader SA economy and not to Transnet only, commence as a priority. It is proposed that various scenarios be modelled to look at an end state Transnet without the Ports Authority and what support it may require to operate fully. The NPCC recommends that the contemplation of the Ports Authority corporatisation end state in relation to its value creation to the SA economy be prioritised and ensure that it is fully corporatized with its own Board reporting separately to the Department of Public Enterprises as an independent Ports Authority SA (Pty) Ltd as set out in the Act of 2005 Chapter 2 Section 3 and 4.

Noting the complexity and overall breach of the act, the NPCC recommends that this process be inked to timelines.

7.6 Final Tariff Recommendation

It is noted that it is difficult to argue that an increase be allowed when sub-standard services are provided in some of the ports. Noted that there are operational expenditure which must be recovered together with the marginal Capex spend in comparison to what was allowed by the PRSA. The Authority's lack of Capex spend and lack of maintenance has and continues to have dire consequences for the SA economy negatively impacting the competitiveness of SA. This whilst many African ports are fast investing in port development and making relevant decisions.

7.1 Marine Tariffs:

Kindly note the recommendations under 4.1.

PRSA to consider current challenges in its review.

Cargo Dues:

Liquid bulk Fuel and Chemical - proposing an absolute minimal percent increase due to the fact that there has very little maintenance and no additional infrastructure investment;

Rental increases: Marginal Increase to be considered whilst the PRSA investigation is underway and whilst inconsistencies and lack of transparency is being addressed;

Overall increase propose to be minimal if any increase at all noting the many challenges highlighted throughout this submission in response to the Ports Authority's Application.

Submitted for the Chairman's consideration.