

Ports Regulator of South Africa
S30(6) & S44 Report 2010 – 2011
(Incorporating the Annual Report in terms of the PFMA)

VISION

The Ports Regulator will be regarded nationally and internationally as a world class institution which sets the standards for economic regulation in maritime ports.

MISSION

The Mission of the Ports Regulator is to:

- exercise economic regulation of the South African ports system consistent with Government's strategic objectives;
- support the development of the ports industry and system;
- promote equity of access to ports and to facilities and services provided in ports; and,
- monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, 2005.

VALUES

The Ports Regulator adheres to the values of;

- The Constitution of the Republic of South Africa, with special reference to the creation of a democratic, non-racial, non-sexist, fair society in South Africa
- stakeholder focus
- fairness
- integrity
- transparency, accountability and responsibility
- honesty and trust
- respect for the trust placed in it for the proper use of taxpayer and stakeholder resources.

STRATEGIC OBJECTIVES

The strategic objectives of the Regulator are;

- Establishing all elements of the regulatory framework within its mandate
- Developing the capacity to deal with all the output requirements of the organisation
- Establishing its reputation as an organisation with integrity focussed on delivery
- Ensuring that all port sector participants comply with the National Ports Act
- Supporting the development of the port system and the port regulatory system architecture.

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1. Chairman's forward

The 2010/2011 financial year has seen the Regulator notching up several successes in the mandate areas of tribunals and economic regulation. These two areas were identified by the Regulator as critical functions that had the highest priority in the allocation of resources. These successes were achieved in spite of the challenges attendant to the Regulator being underfunded and not having permanent staff.

In the area of tribunals, the Regulator reached a historical milestone when the first ever tribunal sittings to hear complaints and appeals were held during this financial year. The convening of the tribunal sittings was the culmination of a comprehensive exercise that first required the establishment of a framework and the delineation of required processes from inception to hearings to regulatory decisions based on the hearings. The journey has been an exciting and rewarding one.

The completion of the Economic Review of private sector participation in ports operations has provided the Department of Transport with a context within which to define the entire process of introducing private sector participation in ports operations. The Regulator has also completed a tariff review of the NPA tariffs for the 2011/2012 tariff year and has concluded that process with rigorous participation by all sectors of the ports system. We consider this a great success and are proud of the fact that the regulatory decisions are open and transparent and were completed with the appropriate level of consultation with representatives of different interest groups. The Regulator has also expanded certain areas of its operations into the monitoring and benchmarking of the ports system, particularly with respect to tariffing and certain issues dealing with the performance of the ports system regarding aspects of infrastructure and operations.

I wish to commend the staff of the Regulator for accomplishing the above tasks, given the resourcing constraints they face and knowing that both areas of success will lead to more work in the future.

The achievements of the Regulator Members and staff this year appear so small relative to the path we still have to follow. It would be remiss of me to not raise the issue of the ability of the Regulator to remain sustainable under the current structure and resourcing. I must commend my fellow Regulator Members for their high level of commitment and participation in all the processes, but must caution that these high levels of participation and commitment may not be sustainable over the long term. That we were unaware of the great level of activity and commitment required at the commencement of our terms is an understatement. The enormity of the task might well have scared some of us into not accepting appointment. Once we had accepted our appointments and engaged in the process we became so committed to the success of the Regulator and the important role that it plays that it became unthinkable to not be a member of the Regulator. Having acknowledged the level of commitment and participation of all the Members and the commitment of the staff, most who are on temporary contracts, I would have to indicate that in the medium term, certain structural adjustments would be required to the National Ports Act to ease the operations of the Regulator and to ensure that outputs are achieved at a much lower personal cost to Regulator Members.



The enormity of the tasks still facing the Regulator requires Regulator members to commit at least 10% of their time across the financial year. That we are honoured to have been granted the opportunity goes without saying, but a structure that more appropriately considers the part-time nature of its Regulator Members should be considered. That we are achieving significant impact in the optimization of the entire ports system, is I think without doubt. If the country is to continue a process of raising efficiency of pricing and operations to ensure an adequate level and appropriate structure of economic growth, we would need to ensure that regulators, both within the ports system and other environments should be appropriately resourced and structured to ensure that the well being of the regulated components of the economy are not threatened by the inability of regulators to intervene in certain areas due to a lack of resources or deficiencies in the legislated structure and operations of such entities.

I wish to add my sincere thanks to the Department of Transport and national government for the support we have received as well as to all those stakeholders in the industry, both within the Transnet group and in the private sector. I furthermore wish to thank the management and staff of the Regulator secretariat, in particular the graduates on the internship programme that have made a considerable contribution to the Regulator.

The year ahead poses significant challenges, in particular the increased workload required of the Regulator, within the context of resource constraints and deficiencies in the institutional framework.

The priority activity areas remain unchanged in the current framework. The Regulator is unfortunately limited to two main areas of operation - the tribunal and economic regulation. In the event that augmented resources and the completion of the institutional framework requirements for the appointment of staff are in place, the Regulator can look forward to a great year of success. Should those elements not be in place, the Regulator can still look forward to a period of great success but it will be constrained in the number of areas that it is able to be successful.

A handwritten signature in black ink, appearing to read 'Serobe', with a stylized flourish above the first letter.

GLORIA TOMATOE SEROBE

Chairman

Ports Regulator of South Africa

2. Chief executive officer's report

The 2010/2011 financial year has presented the administration of the Regulator with a mixed year. It's been a mixed bag of successes as well as failures and challenges. The new expansions of the Regulator's activity into the areas of monitoring and benchmarking more specifically, the expanded level of activity in the tribunal function as well as the increasing complexity of the tariff process and its ancillary activities has severely taxed the Regulator's administration in the context of its inability to appoint staff and the level of resources allocated to the Regulator administration. This ongoing state of affairs with respect to underfunding and the inability of the Regulator administration to appoint staff, has made it practically impossible to achieve all the requirements that the organisation is expected to deliver under the legislation. The Regulator secretariat has expanded its capacity primarily by commencing an internship programme which created sufficient capability to commence the research aspects of the Regulator with respect to its monitoring and oversight obligations in the industry. Although a sub-optimal arrangement, the appointment of graduate interns has raised the level of capacity in the organisation sufficiently to expand.



However, the long term sustainability of the Regulator secretariat is in question. A range of corporate failures in particular a control failure with respect to statutory payments and filings, although resulting from unusual circumstances amongst the staff, is indicative of the risks faced by the Regulator in the exercise of the management of its administration. Should the Regulator not be adequately funded and the Regulator not be allowed to appoint permanent staff at appropriate levels, it is unlikely that the Regulator will be able to sustain its level of output much longer. In the context of such a mixed bag of successes and challenges, the Regulator has managed to garner a range of successes in the different mandate areas.

Although the concentration within the Regulator was primarily targeted at economic regulation (in particular tariff assessments) and in the area of hearing complaints and appeals, the activities in the monitoring mandate of the Regulator have commenced, although at a lower level than had been hoped at this stage of the development of the Regulator. The completion of the Economic Review of Private Sector Participation in Ports and its consultation amongst the industry, will hopefully set the ground work for a holistic framework of engagement between the Department of Transport and all port sector participants toward the final development of a framework for the management of private sector participation in port operations in the country. The Regulator, in addition, in this area of economic regulation has completed the annual tariff assessment and determination for the National Ports Authority tariff for the tariff year 2011/2012. The first sitting of the Regulator as a tribunal to hear complaints and appeals also represents a significant milestone in the development of the Regulator and the regulatory environment in the South Africa ports system. Although the regulatory framework has moved significantly in the recent period, some outstanding policy strategy and legislative issues are yet to be resolved prior to the Regulator entering the next phase of its development. These relate mainly to the jurisdiction, structure and operations of the Regulator, and the constraints and operations complexities that result therefrom.

I wish to thank the Members and staff of the Regulator for the successes that have been achieved over the recent past and the level of commitment and effort they have expended in achieving the successes of the Regulator.

A handwritten signature in black ink, appearing to be 'Riadh Khan', with a long horizontal stroke extending to the right.

Riad Khan
CEO
Ports Regulator of South Africa

3. Corporate report

The Ports Regulator is the South African national economic regulator for the ports industry. This organisation came into being on 4 August 2005 on the promulgation of the National Ports Act, 2005 (Act 12 of 2005). The establishment of the Regulator was a key component of the “White paper on National Commercial Ports Policy, 2002”. The Act and the policy establishes the institutional framework for the ports industry as well as articulating a range of mechanisms critical to the stable governance thereof from an economic perspective. This governance framework was further developed in the publication and coming into effect of regulations by the Minister of Transport in November 2007, and the Directives issued by the Ports Regulator coming into effect on 6 August 2009.

The Members of the Ports Regulator are:

- Mrs Gloria Tomatoe Serobe (Chairman)
- Mr Riad Khan (CEO ex officio)
- Dr Brian Gowans
- Mr Randall Howard
- Ms Pumzile Langeni
- Ms Tandiwe Njobe
- Ms Ella Ntshabele
- Mr Andrew Pike
- Mr Mawethu Vilana



3.1. PR Mandate

The PR Mandate has been articulated in a range of Government Policy, Strategy and implementation documents including legislative instruments. The Mandate of the Regulator is to:

- Exercise economic regulation of the ports system in line with Government’s strategic objectives;
- Promote equity of access to ports and to facilities and services provided in ports; and,
- Monitor the activities of the National Ports Authority to ensure it performs its functions under the National Ports Act.

This mandate has multi-variate implications for the PR strategy and operations. They are grouped into the following functional alignment that is articulated as its Key Result Areas (KRA):

- Establishment and maintenance of administration
- Economic regulation (Price, access, institutional structure, etc) of the port industry
- Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments
- Establishing and operating a tribunal to hear complaints and appeals under the National Ports Act
- Port industry development (planning, oversight, support to the state etc)

3.2. Key Activities & Outputs in the Mandate Areas of the Ports Regulator:

3.2.1. Establishment and Maintenance of Administration

The continued lack of approval for the staffing and human resource framework regime has greatly hampered the Regulator in its ability to appoint staff at the appropriate levels and with the appropriate competencies and has had dire impacts in certain areas. That this state of affairs is unsustainable is clear, but in the context of clear mandates that have to be complied with, the Regulator has endeavored to manage to the best of its ability in the suboptimal context in which it finds itself. Beside the constraint of underfunding, the most fundamental threat to the Regulator and its sustainability and efficient operation is a lack of approval for its staffing regime. In the absence of the ability to appoint permanent staff the Regulator has to contend with appointing staff on short term contracts. This reduces the pool of possible recruits that would be available to the Regulator. As the environment is very complex and the obligations of the Regulator are very diverse, the skills set and range required by the Regulator is extensive. Should the staffing regime framework not be approved in due course, the Regulator would increasingly face a spectre of significant corporate failure and the failure in delivering adequately on its mandate. Numerous interventions in this regard are still to bear fruit.

In the area of systems and controls the Regulator has increased the range of procedures and processes for better administrative control and governance in the context of the increasing complexity of functions that are required in the Regulator. Additional policies have been put into place by the Regulator to manage aspects of the administration that had previously not been governed by policy. Additional controls have also been instituted in various aspects of the business processes. The environment of reduced resources and the inability to appoint staff has resulted in certain process failures within the corporate management and administration of the Regulator which, although not resulting in any fraud or misappropriation of funds, does highlight the risks faced by running the Regulator within the current context. These process failures occurred in the area of filing compliances, creditors control and payment tracking. The prevention of these failures would be greatly aided by a final approved structure of staffing and a clear process mapping which will ensure that none of these failures recur. It must be noted that these process failures occurred as a result of a confluence of a range of factors including staffing incapacity due to illness and the lack of appropriate staffing depth to ensure that there was a backup capability for functions.

In the period under review, the Regulator underspent by an amount of R10 000.00 out of a total budget of R8.8 million. As can be noted from the financial statements, a portion of the spending resulted from interest and penalties for filing non-compliance.

The Regulator has instituted significant cost cutting measures to attempt to extend the available amount of resources to allow a greater level of output in accordance with the mandate. In some areas the cost cutting measures have placed significant pressure on staff and operations and resulted in a more complex management context that is unlikely to be resolved until a sufficient level of funding is appropriated to the Regulator and the Regulator's institutional framework for staffing has been approved. The impact of the cost cutting measures has been to free up funding for other areas particularly with respect to

the monitoring and benchmarking areas in the Regulator’s mandate and to fund some of the additional cost implications of the operations of the tribunal.

In the area of BBBEE in its supply chain, the Regulator has continued to perform beyond the threshold set in the MTEF and is optimistic that the trend shall continue in this regard. With respect to employment equity, the Regulator has retained a similar trajectory to previous years although the majority of staff are in actual fact on short term contract. The Regulator has been able to retain a significant gender balance and has ensured the continuation of the track record of having a suitably transformed staff. An area of weakness is the low level of females in senior management, although it should be taken into consideration that no senior managers have been appointed due to a lack of a human resource framework within which to appoint permanent or long term contract staff, the funding issues related to such appointments and no appointments have been made in this echelon for the last three years.

The Regulator has also progressed in implementing the recommendations of the Auditor General’s matters of emphasis. Taking into consideration all the matters raised by the AG, certain of the matters require the approval of the human resources framework to allow the implementation. To the extent possible under the circumstances the Regulator has endeavored to implement all the recommendations of the Auditor General. Those outstanding matters and recommendations shall be implemented as conditions allow.

BBBEE as a percentage of Procurement category:	2010/2011	2009/2010
Discretionary Expenditure	71.57%	87.10%
Total Expenditure	50.73%	46.67%

Employment Equity Statistics Category:	2010/2011	2009/2010
Black Male	35.71%	20%
Black Female	50.00%	70%
White Male	14.29%	10%
White Female	0%	0%
Total	100%	100%

2010/2011 Employment Equity Breakdown of Staff:					
Category	Black Female	Black Male	White Female	White Male	Category Total
Technical & Managerial	20%	60%	0%	20%	36%
Support & Interns	67%	22%	0%	11%	64%
Total	50%	36%	0%	14%	100%

3.2.2. Economic Regulation

The Regulator has performed the tariff assessment of the National Ports Authority (NPA) in accordance with the Act, regulations and directives. This tariff determination was the result of a rigorous process that was extensively consulted with industry. The level and nature of tariff assessment consultations have changed significantly with respect to the complexity and the range of issues of engagement. This second tariff assessment indicated a raised level of understanding of the Regulator's processes and the tariff framework. This nuanced understanding existing in various sectors of industry in the ports system is a result of an extensive range of engagements that have been held across the year between the Regulator's secretariat and stakeholders in the ports industry. These consultations and engagements ensured that appropriately articulated perspectives on the tariff outcomes and the processes were received by the Regulator in the run up to the determination. There were however certain challenges in the tariff assessment process in so far as certain of the ports sector participants were not able to submit their comments in time due to their internal processes or a lack of awareness as to the processes and timelines. The continuation of the extensive engagements which occur in the normal course of the Regulators' business throughout the year shall ensure that a greater awareness and participation in the process continues with subsequent tariff assessments. The range and breadth of submissions received by the Regulator have increased significantly and have resulted in the significant burden being placed on the already stretched resources within the Regulator. The lack of a depth of technical capability within the Regulator secretariat required that Members of the Regulator make excessive amount of time available for the base analysis functions for the tariff determination processes in the absence of such an internal capacity to support the Regulator Members. That this is unsustainable in the long term is clear. The responses to the tariff determination range from extremely positive to extremely negative. The negative comments ranged from opinions that suggested the Regulator tariff determination increase allowed was too high to other parties that were of the view that the increase allowed was too low. In general, the Regulator determination on the tariff was well received and was adequately implemented by the NPA. The increasing clarity and certainty in the tariff assessment methodology has been articulated in the records of decision which is built on the previous record of decision in nuancing and finessing certain aspects of the determination process and making them clear to industry participants and interested stakeholders. The outstanding area in the tariff process is a clear tariff methodology dealing with individual aspects of the tariff book. The NPA has commenced a process that they have termed "tariff normalization". This deals with inequities between individual tariff book line items. This tariff methodology setting out the factors and components of the determination of individual tariffs has been commenced by the NPA and is due to be engaged upon in the latter part of the 2011/2012 financial year or the early part of the 2012/2013 financial year. In making its determination, the Regulator has yet again needed to balance the interests of all port system participants and interested stakeholders and the needs of the economic development of the country to arrive at a coherent and cogent and appropriately considered tariff increase for the ports. The Regulator has also completed the Economic Review of Private Sector Participation in Ports, consulted this with all stakeholders and submitted the review to the Department of Transport and the Minister. This review was the result of an extensive process of research and consultation that resulted in a picture of the South African ports system articulating certain of the elements that would need to be addressed and considered in any framework for private sector participation. It also looked at the economic impact and contribution of the ports system to economic development and economic growth in the country but more specifically, the port

city impact. The review also provided considerations that should be taken into account in the development of the Framework for Private Sector Participation in Ports (FPSP). A review of global practice for certain selected countries was included as a benchmark against which to consider some of the initiatives. The review included a range of possibilities and structures without recommending any specific methodology, which could be used for increasing participation in cargo handling by private sector participants. The Regulator shall support the DOT and Ministry in its processes in finalizing the FPSP within the ports system as appropriate. The Regulator has submitted the Economic Review and therefore completed another of the components of its mandate as imposed by the legal framework.

3.2.3. Tribunal and Monitoring

In the area of tribunal and monitoring the Regulator has made significant advances in the financial year. The Regulator has had its first tribunal hearing sittings and has therefore entered a new era of its development. Although a significant achievement and the commencement of an exciting phase for the Regulator, this has further taxed the Regulator from both a resource perspective as well as from the perspective of the level of effort required of Regulator Members and administration. The Regulator, by the end of the 2010/2011 financial year had received 30 complaints and appeals lodgments. Of the 30, 24 were still current at the end of the 2010/2011 financial year. It is therefore expected that the level of activity required by members for sitting in the hearing of complaints and appeals shall accelerate significantly in the 2011/2012 financial year.

As the Regulator has now taken certain complaint and appeal matters through the process and almost to completion, the Regulator is now in a better position to review the procedural and process elements of the directives as they relate to the hearing of complaints and appeals. This review shall commence in the 2011/2012 financial year and shall respond to all the gaps in the processes as well as easing the processes and shortening the period from complaint lodging to completion and decision. It is hoped that the process of review of the National Ports Act occurs in parallel to enable the Regulator to request certain administrative and procedural amendments to ease the operational burdens and increase the efficiency of hearing of complaints and appeals under the National Ports Act. The complexity and legalistic manner of both the complainants and the respondents in the complaints and appeals processes have required a high resource and time commitment and may also have unnecessarily complicated certain matters that were capable of easy resolution. As the Regulator is concerned with access to its processes and access in the administration of its decision-making, the complexity introduced by the response patterns of parties in the hearing of complaints and appeals may in fact reduce the access of parties with lower resource availability to the Regulator's tribunal processes. The redrafting of the directives shall go some way to ameliorating this potential hurdle to equity of access to the Regulator.

The Regulator, in the period under review, continued the training of members in the processes and procedures and certain legal aspects relating to the complaints and appeals jurisdiction and execution of the Regulator's mandate to hear complaints and appeals. The nature and spread of complaints and appeals continues to evidence the fact that the Regulator has raised sufficient awareness amongst a range of communities across the country with respect to its services and functions, particularly in this mandate area. The Regulator continues to receive complaints and appeals via community based organizations that are not well resourced and cater to the needs of the poorest of the poor in our

society. These complaints and appeals range from issues dealing with multi-million rand claims to poor communities wishing to get access to fishing areas in a port. The Regulator shall continue to raise the level of awareness of its services and functions so as to ensure that not only the most sophisticated sections of our society have access to the services, but the Regulator's services are available to all. In addition to an amendment of the directives in the next financial year to cater for necessary changes to tribunal processes, the Regulator shall publish a tribunal manual that further raises the ease of access to the services of the Regulator.

In the area of monitoring, the Regulator has significantly expanded the assessment and review of the ports system against global standards. Under this aspect of the Regulator's mandate, the Regulator has completed two cycles of a port pricing tariff review for bulk and container vessels that were a first for South Africa. These twice yearly tariff comparator studies aid all participants in the tariff assessment process to engage with the appropriateness of tariff increases and impacts in the context of publicly discernible global standards. The impact of the studies are far reaching and are being quoted globally. Although this is a significant achievement for the Regulator, of concern is the sustainability of the process due to the costs and time related thereto. In the area of benchmarking and performance assessment of the ports system, the Regulator has also completed two studies, the initial one concentrating on establishing the baseline measures of certain performance parameters of the National Ports Authority and South African ports system. In certain measures global comparators were articulated to allow a context for current levels. The Regulator has also commenced the process of comparators of competing jurisdictions and port systems against the South African systems and, in particular in the year under review, performed a comparator between Australian and South African pricing and performance and efficiency. As the research is in the early stages, the Regulator is loath to make fundamental conclusions until a sufficient cycle of comparator assessments had been made both in the tariff comparator processes and the performance benchmarking processes. Emerging considerations that would require attention appear to be the high level of pricing in South African ports relative to the lower levels of performance apparent on the surface. However these trends must be appropriately analyzed over a reasonable period of time to establish definitive conclusions in either direction. The Regulator has also commenced the initial work on port capacity and utilization assessments with appropriate global comparators, although this work shall only be completed in the latter part of the 2012/2013 financial year. The work in tariff, benchmarking and tariff comparators for individual elements and performance and efficiency reviews are greatly hampered by the fact that the Regulator has not been able to appoint staff and further is hampered by the level of financial resource availability to the organisation.

In this particular area the participation of industry has been limited. Although the research and studies of the Regulator have been extensively quoted by industry participants in their engagements, the level of formal responses in terms of either criticism or support has been low. The numerous stakeholder engagements that the Regulator has had in this regard and requests for information as to the appropriate measures that would satisfy industry's need for information and assist in them in the process of making determinations as to port pricing and efficiency levels have not received definitive formal responses. The requests for information and participation have had limited responses from industry players.

3.2.4. General Activities in Support of the Objectives of the National Ports Act

Over the year in review the Regulator has had a significant demand for its participation in a range of activities and processes in support of the implementation of the Act or a range of activities targeted at explaining elements of the Act to persons from the port industry and engaging in non-legislated processes to facilitate the objectives of the Ports Act. A notable range of activities have revolved around the establishment and support to the Ports Consultative Committees in each of the ports in South Africa. These in turn have raised awareness amongst additional groups of port industry participants that have required the Regulator to engage them on specific concerns or problems they may have and on the possible legal instruments that present solutions or processes for resolving their concerns. These informal engagements, though very necessary, are a further strain on the Regulators limited capacity. What these processes have articulated is a further need for explanation of the operations of the Ports Act to industry participants and the need for a continuous and sustained high level engagement with every single Ports Consultative Committee meeting and ensuring the distribution of such information and messaging through the port participants in each port rather than just to the representatives of the Ports Consultative Committee. The Regulator has also engaged in a range of transport and maritime specific activities generally relating to policy development and planning and integrated planning across the SOE's in the DOT.

As the Ports Act is relatively new and is in the process of being implemented, a range of misunderstandings exist as to the operations of the Ports Act, the appropriate exercise of the powers and institutional powers granted in the Act and the extent of jurisdiction of the Regulator and other role players. A significant amount of queries have been fielded by the Regulator that deal with matters that are not capable of resolution under the existing regime. These concerns or impediments to the efficient operations of a port component or efficient operations of the ports system, will have to be dealt with in the review of the directives as well as the review of the National Ports Act to ensure that the interests of all port participants are adequately responded to in accordance with the objectives of the NPA. The development of appropriate instruments for the resolutions of certain of these concerns would have to be formalized in both these instruments. In the interim, the Regulator has attempted to resolve or facilitate these issues on an informal basis with the co-operation of the NPA.

The Regulator has also faced requests from numerous international regulators or requests for knowledge and information sharing from institutions. However, due to the capacity constraints on the organisation as well as the resource constraints, the Regulator was unable to adequately respond to all these requests. The Regulator was unable to respond to many of the requests for participation in international missions of the South African government due to resource and capacity constraints. The Regulator was however able to respond to requests for participation in domestic events or for the provision of advice or consideration to any party where it did not require significant extraction of the capacity of the Regulator or significant use of financial resources. This advisory function, although not formally legislated as a mandate for the Regulator falls under the general mandate to support industry development which is contained within the context of the Regulator's overall mandate. This does require more sustained attention when appropriate resourcing capacitation is in place.

4. Governance Structures:

4.1. The Human Resources and Remuneration Committee

Members of this committee are Ms T. Njobe (Chairman), Mr M. Vilana, and Mr. R. Howard.

Ms Tandiwe Njobe

Chairman

**Human Resources and Remuneration
Committee**



The function of this committee is to ensure management and governance of all the HR and Remuneration processes, procedures and activities inside of the organisation. It assesses policy and procedure and recommends these to the Regulator for final approval.

In the period under review, the committee had further developed outstanding policies and procedures, dealing with aspects of the human resource management function in the organisation. The Human Resources and Remuneration committee is awaiting the final approval of the HR regime to finalise all outstanding aspects of the Human Resources policies and processes. The internal management and process flows are awaiting the approval of the HR regime to be finalized.

4.2. The Regulatory Committee

Members of this committee are Mr A. Pike (Chairman), Ms P. Langeni, Dr B. Gowans and Mr M. Vilana.

Mr A. Pike
Chairman
Regulatory Committee



This committee is responsible for oversight of delivery of obligations of the Regulator arising from the National Ports Act and regulations issued thereunder. The key activities of this committee during the period under review were in the areas of economic regulation and the hearing of complaints and appeals. This committee performs oversight of all the regulatory elements and determination which are submitted to the Regulator for approval. They also perform a quality control function with respect to economic regulation and the hearing of complaints and appeals.

- Economic Regulation

Significant outputs of this committee included the Economic Review of Private Participation in Ports and the assessment of the NPA tariff for the 2011/2012 tariff year. With respect to the tariff determination process the committee was responsible for components of the base analysis for the tariff assessment and oversight and quality control of the inputs of the Regulator's secretariat into the Regulator's determination of the tariff. With respect to the Economic Review, the Regulatory committee was largely responsible for oversight and quality control of the research outputs and the finalisation of elements referred back to the Secretariat for addition work or research. The Regulatory committee also performs oversight and quality control over the outputs of the organisation in the areas of tariff review, performance and efficiency benchmarking and monitoring. The Regulatory committee is also responsible for significant levels of baseline research in the tribunal processes for consideration by the Regulator. This committee also provides oversight and quality control over the tribunal processes and procedures that are performed by the Secretariat.

4.3. The Risk Management Committee

Members of this committee are Dr B. Gowans (Chairman), Mr A. Pike, Mrs E. Ntshabele, Ms T. Njobe.

Dr B Gowans
Chairman
Risk Management Committee



This committee is responsible for the establishment and oversight of the Risk Management Function as required in terms of the Public Finance Management Act.

In the period under review the Risk Management committee further implemented all elements of the risk management framework and policies of the Ports Regulator.

4.4. The Audit Committee

Members of this Committee are Mrs E. Ntshabele (Chairman), Ms T. Njobe, Mr A. Pike and Dr B. Gowans.

Mrs E. Ntshabele
Chairman
Audi Committee



This committee is responsible for the governance and compliance regime of the organisation and ensures its operations within the established and accepted compliance standards.

4.5. Board Secretary

The Board Secretary is the key support of the Regulator, and is responsible for compliance and governance in all Regulator meetings and provides an advisory service to the Regulators with respect to such functions. During the period under review 5 meetings of the Regulator took place as well as 9 of the various committees of the Regulator.

Mr M I Fakie
Board Secretary



Regulator Member meeting attendance for the period 1 April 2010 to 31 March 2011					
Name	Regulator	Human Resources Committee	Regulatory Committee	Risk Committee	Audit Committee
Total number of meetings	5	0	5	0	4
Mrs G. Serobe	4				
Ms P. Langeni	2		5		
Ms T. Njobe	0				2
Mrs E. Ntshabele	3				3
Dr. B Gowans	5		5		4
Mr. A. Pike	4		5		4
Mr. M Vilana	4		5		
Mr. R. Howard	5				

Board members remuneration	
Name	Remuneration (2010/2011)
Mrs G. Serobe	R 29 938.00
Ms P. Langeni	R 58 326.73
Ms T. Njobe	R 20 766.00
Mrs E. Ntshabele	R 32 366.00
Dr. B Gowans	R 112 771.38
Mr. A. Pike	R 90 630.72
Mr. M Vilana (DoT official)	R 0.00
Mr. R. Howard	R 66 347.13

5. Achievements in the year under review

Key Result Area	Business Objective	Performance Indicator	Annual Target	Actual Output	Action Required
Economic regulation (Price, access, institutional structure, etc) of the port industry	Economic review of participation in the port environment	Economic Review Report submitted for comment	Draft Review published. Consultation complete Review	Draft Review published. Consultation complete	None
		Consulted. Economic Review with stakeholder comments submitted to Minister of Transport	Submitted to Minister	Submitted to the Minister.	None
	Establish all elements of the regulatory framework within its mandate	Tariff assessment methodology review	Tariff methodology consultation complete and tariff recommendations submitted to Minister	Process shifted to next Financial Year	Await revised tariff approach from NPA and publish
		Revised Directives to expand activities into remaining areas of mandate	Revised Directives published for comment	Awaiting completion of some tribunal matters to develop all directives changes.	Await completed Tribunals and revised Directives
	Support the development of the port system and the port regulatory system architecture	Port pricing and selected port KPI comparator review	Bulk port pricing study completed and consulted Container port pricing study completed and consulted Selected port KPI comparator completed and consulted	Review completed for 2 cycles Next cycle research commenced for publication August 2011.	None
		Port capacity and utilisation assessment	Review completed	Review commenced against benchmark ports.	None
		Establish competition jurisdiction boundary with	Negotiate and execute co-jurisdiction and co-operation	Memorandum of Understanding/ Agreement	Not commenced.

Key Result Area	Business Objective	Performance Indicator	Annual Target	Actual Output	Action Required
	Competition Commission	memorandum with Competition Commission.			
		Communicate agreement and implications to all stakeholders	Submit communiqué to all primary stakeholders	Not commenced.	Await completion of agreement.
	Benchmark tariffs against global competitors	Reviews complete	Two yearly reviews, 1 April and 1 September	Review completed for 2 cycles Next cycle research commenced for publication August 2011.	None
Sea ports services enhanced	Establish all elements of the regulatory framework within its mandate	Tariff baseline RAB methodology development	Valuation methodology consulted	DORC valuation methodology trended by inflation accepted for 2011/2012 tariff year.	None
Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments	Monitoring performance in accordance with state strategy and policy	Benchmarks defined , and ports agreed with industry Initial ports Database	Develop port benchmarks, and comparable ports and facilities universe. Port comparator database Consensus benchmarks , and jurisdictions agreed with stakeholders	Initial benchmark development commenced. Initial reviews against benchmarks completed. Database being expanded.	None
		Baseline benchmarks defined and current status established	Establish baseline measures. Current status defined	Baseline benchmarks developed.	Follow up partnerships.
		Develop detailed port performance measurement system with stakeholders	Initial port performance measurement system developed Key indicators and areas of emphasis developed	Port performance measurement system components being developed.	Acquire additional budget to fund system.
		Develop baseline performance	Baseline unaudited scan complete	Unaudited public information	Acquire additional Economist under

Key Result Area	Business Objective	Performance Indicator	Annual Target	Actual Output	Action Required
		measurement system scan		collection. Scan not completed.	augmented budget.
	Monitoring Regulatory Compliance in the ports industry, with the Ports Act, Regulations and Directives	Monitor regulatory compliance in major processes within the Ports Industry	Develop compliance scan methodology	Not commenced.	Acquire additional Attorney under augmented budget.
		Monitor regulatory compliance in major processes within the Ports Industry	50% of initial review completed	Not commenced.	Acquire additional Attorney under augmented budget.
		BBBEE status review of all Port users in terms of Section 56 and 57 of the National Ports Act, 2005	2009/2010 BBBEE review	BBBEE report on NPA activities received and assessment commenced.	Acquire seconded BBBEE Specialist from DoT to implement jointly with DoT.
		Monitor regulatory compliance in major processes within the Ports Industry	Port service provider tariff filing audit	Not commenced.	Acquire additional resources.
Establishing and operating a tribunal to hear complaints and appeals under the National Ports Act.	Establish all elements of the regulatory framework within its mandate	Amendments to Directives to articulate amended Tariff Regulatory Framework for 2012/2013 Tariff Year	Directives published for comment	Awaiting completion of some matters to define complete areas of intervention	Await completion of initial Tribunal matters.
	Establish Tribunal to hear complaints and appeals under the NPA Act	Develop proposed revisions to the Act, Regulations and Directives that amend and streamline the Tribunal processes	Revised Directives developed and submitted For consultation that cover amended tribunal processes, expanding legal instruments into other mandate areas not yet covered, correcting the	Awaiting completion of some matters to define complete areas of intervention	Await completion of initial Tribunal matters.

Key Result Area	Business Objective	Performance Indicator	Annual Target	Actual Output	Action Required
Establishment and maintenance of administration.	Establish Tribunal to hear complaints and appeals under the NPA Act Deliver high quality tribunal outcomes		Directives to respond to Ministerial Framework for participation		
		Revised Tribunal Manual published	Revised Tribunal Manual Developed and published	Tribunal Manual not yet revised	Awaiting finalization of revised Directives.
		No matters delayed due to unavailability of hearing panel	Tribunal to have at least 18 days availability in year	First two tribunal hearings held.	Continue Tribunal processes within timelines.
		Adequate training of hearing panel members	Deliver Tribunal training for Regulator Members	Phase 2 of the Training to be scheduled for the 1st Quarter of the new Financial Year.	Continue Tribunal training programme.
	Establish and maintain Regulator Secretariat to deal with the establishment requirements of the PR, and expand the technical staff to extend capacity into all areas of the Regulator's mandate	HRD strategy and skills plan developed and implementation commenced.	HRD strategy and skills plan developed and implemented	Awaiting HR framework approval.	Implementation of HR Framework when approved.
		Internship Programme increased and formalized training objectives established and met	Phase 2 – Internship Programme, 4 Interns appointed, and structured training programme commenced	Second year intern intake commenced, two interns appointed.	Continue Internship programme development.
		Implementation of additional Conditions of service not yet in place	Medical aid scheme or payments in place. Group life in place	Minister of Transport approved. Minister of Finance withholding approval at present.	Follow up with DoT to intervene with National Treasury.
		Staff performance management system(PMS) in place	All staff assessed in terms of the Performance management system	Staff not yet appointed. Minister of Transport approved.	Awaiting HR regime approval.

Key Result Area	Business Objective	Performance Indicator	Annual Target	Actual Output	Action Required
				Minister of Finance withholding approval at present. PMS to be finalized on approval of staff establishment.	
		HR administration system further formalized: <ul style="list-style-type: none"> • Job description • Hierarchy linkages • Integration of functions 	HR system finalized and implemented	Interim structure maintained. Minister of Transport approved. Minister of Finance withholding approval at present.	Awaiting HR regime approval.
	Finance Management System	Finalise financial delegations	Financial Delegations for full structure approved by Regulator	Financial delegations approved and operational.	None.
		Finance Management System	AG recommendations on 2008/09	Key control systems implemented.	None
		Master Systems Plan for information management and processing. System implemented. Agnostic Sub-components in statistical and database management that are capable of stand-alone operation acquired and implemented.	Systems architecture and user requirements for MTEF period identified Data management stand-alone package for benchmarking and port performance system acquired	Desktop system implemented.	Acquire additional resources.

6. Statement of estimated income and expenditure

Statement of Estimated Income and Expenditure	2011/12
Revenue	
Tax revenue	–
Non-tax revenue	–
Sale of goods and services other than capital assets	–
of which:	
Admin fees	–
Sales by market establishments	–
Other sales	–
Other non-tax revenue	–
Transfers received	9,361
Total revenue	9,361
Expenses	
Current expense	9,361
Compensation of employees	4,300
Goods and services	4,821
Depreciation	240
Interest, dividends and rent on land	–
Interest	–
Dividends	–
Rent on land	–
Transfers and subsidies	–
Total expenses	9,361
Surplus / (Deficit)	–

7. Programme for 2011/2012

Annexure A to Ports Regulator Performance Agreement 2011/2012

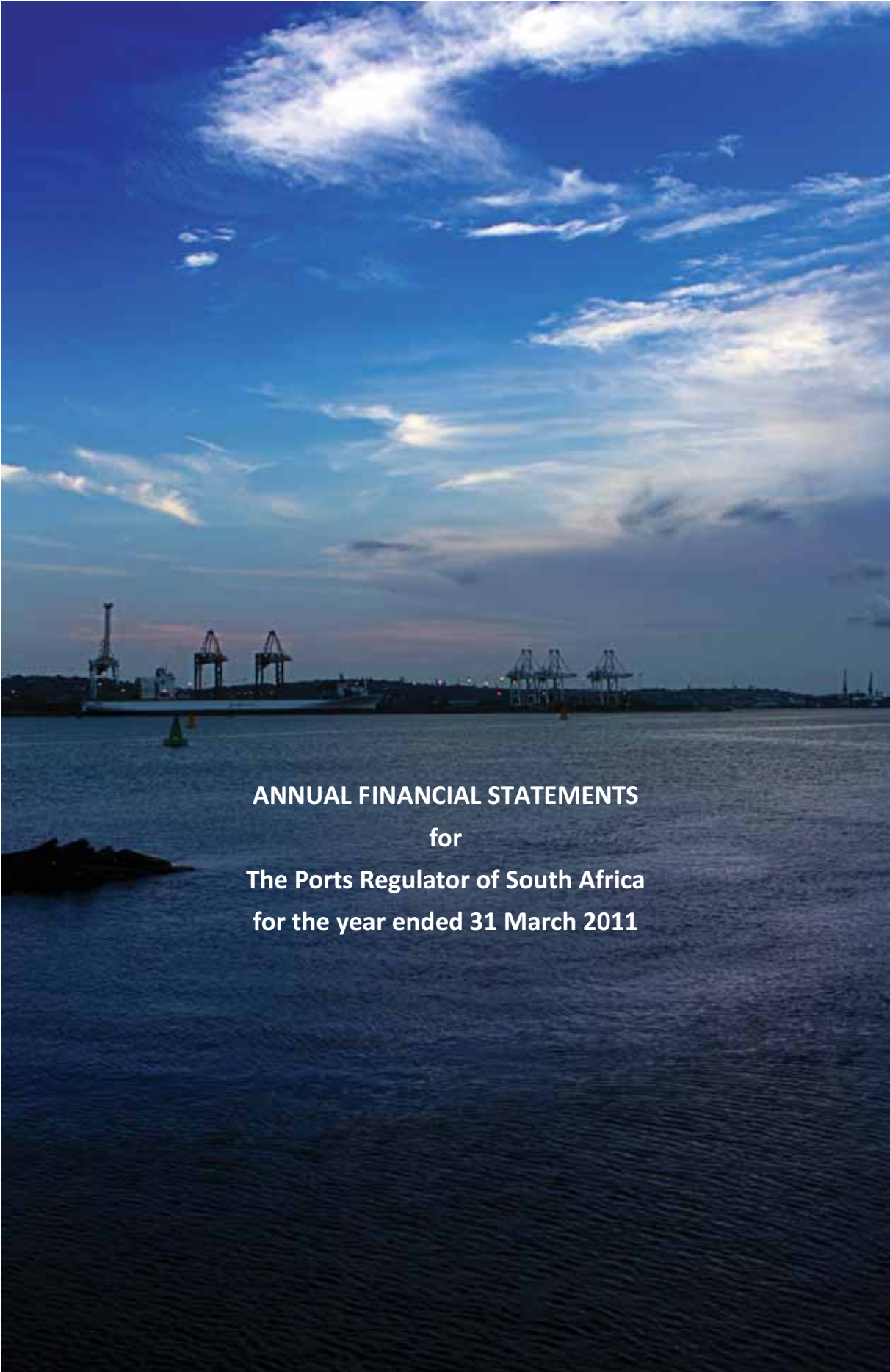
KRA	Objective	Strategies	2011/2012 Targets	Indicator
Establishment and maintenance of administration	Maintain and expand the Regulator Secretariat to deal with the expansion of the Regulator into all its mandates.	Human Resource acquisition, management, capacitation and benefits structure development and implementation	Expansion of technical staff complement to meet capacity requirements and reduce external resource utilisation.	Staff appointed in all funded and approved vacancies within approved staffing regime
			HRD strategy and skills plan developed and implementation commenced	Plan developed for each appointed staff member within 6 months of appointment(after 2 quarterly assessments completed).(Post approval of HR Regime)
			Internship Programme complexity increased and formalised in Economic Regulation branch.	HRD plan for all interns developed within 2 months of appointment.
			Implementation of additional Conditions of service not yet in place	Medical aid scheme service provider appointed. Group life service provider appointed.
			Staff performance management system(PMS) implemented	PMS implemented for staff members at all levels
		Master Systems Plan for information management and processing	Purchase scalable IT platform that is cost effective and appropriate for the Regulator and develop systems plan and architecture, that is aligned with DOT enterprise wide IT system and scalable to a Single Transport Regulator level	System purchased Agnostic Sub-components in statistical and database management that are capable of stand-alone operation acquired and implemented.
		Ensure Regulatory compliance of PRSA with all elements of PFMA	Develop gap response to Auditor General's comments and recommendations	Gap response implemented

KRA	Objective	Strategies	2011/2012 Targets	Indicator
			on 2010/11 financial statements	
		Member and Staff capacitation	Induction manual to be developed for new members and staff	Induction manual developed and initial training delivered
Economic regulation (Price, access, institutional structure, etc) of the port industry	Establish and implement all elements of the regulatory framework within its mandate	Tariff methodology development	Tariff approach developed Consultation complete	Tariff approach resolved for medium term
			Initial Tariff approach developed for specific treatment of leases and real estate and consulted in tariff application process	Specific real estate Tariff Approach resolved for short term
			Normalisation of specific tariffs process and standards of determination including individual tariff level setting considerations agreed/established	Normalisation process and standards established and commenced
		Perform annual NPA tariff assessments	Perform NPA 2012/2013 Tariff Assessment	Tariff determination completed
		Single Economic Regulator Tariff Methodology development	Commence engagement with DOT to develop integrated tariff methodology approach for Single Transport Economic Regulator beyond medium term ports economic regulatory approach	Engagement and consultation commenced
		Develop legal instruments to expand activities into remaining areas of mandate	Revise Directives to include procedures for monitoring and compliance filing by all port industry participants	Revised Directives published
			Revise directives to articulate application of Regulator powers and mandates in	Revised Directives published

KRA	Objective	Strategies	2011/2012 Targets	Indicator
			areas hitherto not covered by Directives	
		Further formalise regulatory certainty over the medium-term	Tariff baseline RAB methodology development for real estate and port assets	Valuation methodology for real estate and port assets consulted
		Benchmark coal, iron ore and container tariffs against global competitors	Twice yearly tariff review	April review completed September review completed
		Benchmark coal, iron ore and container tariffs against BRICSA countries	BRICSA Tariff comparator study	BRICSA Tariff study completed
	Support the development of the port system and the port regulatory system architecture	Support the port reform initiatives of Government	Support the development of the Ministerial Framework for Private Sector Participation in Ports	Support provided to DOT on development and consultation of the Ministerial Framework for Private Sector Participation in Ports
			Implement the Ministerial Framework for Private Sector Participation in Ports	Support and monitor the implementation of the Ministerial Framework for Private Sector Participation in Ports
			Support the National transport planning Committee initiatives	Support provided to the National transport planning Committee initiatives
			Support the further implementation of the Ports Act	Implement and monitor the components of the Ports Act as directed by the DOT
			Support the implementation of the Ministerial Agreement elements within the mandate of the Regulator	Ensure implementation of Ministerial Agreement elements in Regulator mandate.
		National freight logistics Strategy	Support the implementation of the National Freight	Implement all aspects of the implementation of

KRA	Objective	Strategies	2011/2012 Targets	Indicator
			Logistics Strategy	the NFLS as directed by the DOT that are within the mandate of the Regulator
		Ports Act	Develop changes to the Port Act that facilitate its implementation and the operations of the Regulator, under ports Act revision process of DOT	Support the development of a National Ports Amendment Bill
Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments	Monitoring performance in accordance with state strategy and policy	Benchmarking study to establish performance indicators of port environment(Economic and Social).	Twice yearly selected port kpi review with regional case studies	April and September Port performance review submitted to DOT and published
	Monitoring Regulatory Compliance in the ports industry, with the Ports Act, Regulations and Directives	Monitor regulatory compliance in major processes within the Ports Industry	Develop compliance scan methodology in consultation with industry to target concerns not yet capable of Tribunal submission	Methodology established
			Port service provider tariff filing compliance review	Tariff Filing Audit
	Monitor port system	Develop information filing requirements for port sector participants and implement instruments	Develop and consult revised directives for information filing and requirements for port sector participants	Directives consulted, concurred by Minister and published.
Establishing and operating a tribunal to hear complaints and appeals under the National Ports Act.	Establish Tribunal to hear complaints and appeals under the NPA Act	Develop proposed revisions to the Act, Regulations and Directives that increase the efficiency of the Tribunal and its procedures	Finalising the Directives for amended tribunal establishment processes and procedures	Revised Directives developed and submitted For Ministerial concurrence
			Revise the Tribunal procedure manuals to respond to challenges that had been experienced in initial tribunals.	Revised Tribunal Manual Developed
		Ensure high quality tribunal service	Tribunal training for existing Regulator Members on	Deliver training

KRA	Objective	Strategies	2011/2012 Targets	Indicator
			advanced aspects of tribunal procedure and decision making	
			Tribunal manual, training course and tutor support for new members and refresher for existing members	Develop training materials and deliver training
		Deliver adequate tribunal service availability to industry	Tribunal to have at least 18 days availability in year	Tribunal availability or days in sitting.



ANNUAL FINANCIAL STATEMENTS
for
The Ports Regulator of South Africa
for the year ended 31 March 2011

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REPORT OF THE ACCOUNTING AUTHORITY for the year ended 31 March 2011

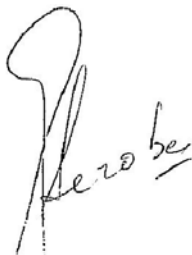
The Regulator members are responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The auditors are responsible for reporting on the fair presentation of the financial statements. The financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP) issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999 (Act No.1 of 1999)(PFMA).

The Regulator members are also responsible for the system of internal financial control. These are designed to provide reasonable, but not absolute, assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain accountability of the assets, and prevent and detect misstatements and loss. Nothing has come to the attention of the members to indicate any material breakdown in the functioning of these controls, procedures and systems during the year under review.

Remuneration paid to Regulator members and Executive member for the year ended 31 March 2011 is R2,211 million.

Approval

The financial statements for the year ended 31 March 2011 set out on pages 38 to 50 were approved by the members on the 31 May 2011 and signed on its behalf.



Gloria T Serobe
Chairperson



Ella S Ntshabele

**REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE PORTS
REGULATOR OF SOUTH AFRICA
REPORT ON THE FINANCIAL STATEMENTS**

Introduction

1. I have audited the accompanying financial statements of the Ports Regulator of South Africa, which comprise the statement of financial position as at 31 March 2011, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, as set out on pages 38 to 50

Accounting authority's responsibility for the financial statements

2. The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA), and for such internal control as management determines necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), section 4 of the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the PFMA, my responsibility is to express an opinion on the financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice No. 1111 of 2010, issued in Government Gazette No. 33872 of 15 December 2010*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Ports Regulator of South Africa as at 31 March 2011, and its financial performance and cash flows for the year then ended in accordance with the SA Standards of GRAP and the requirements of the PFMA.

Emphasis of matter

8. I draw attention to the matters below. My opinion is not modified in respect of these matters:
Fruitless and wasteful expenditure
9. As disclosed in note 21 to the financial statements interest and penalties of R123 973 were incurred as a result of late payment of taxes.

Funding of operations

10. As disclosed in note 26 to the financial statements the entity is currently experiencing significant challenges in obtaining adequate funding to fully deliver on its legislated mandate. These conditions, together with the inability of the entity to appoint permanent staff at appropriate levels, indicate the existence of an uncertainty that the entity will be able to sustain its level of output in the long term.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

11. In accordance with the PAA and in terms of *General Notice No. 1111 of 2010, issued in Government Gazette No. 33872 of 15 December 2010*, I include below my findings on the annual performance report as set out on pages 21 to 25 and material non-compliance with laws and regulations applicable to the public entity.

Predetermined objectives

12. There were no material findings on the annual performance report.

Compliance with laws and regulations

Strategic planning and performance management

13. The accounting authority did not ensure that the public entity has and maintains an effective, efficient and transparent system of internal control regarding performance management, which describes and represents how the entity's processes of performance planning, monitoring, measurement, review and reporting was conducted, organised and managed, as required by section 51(1)(a)(i) of the PFMA.

Audit committee

14. The audit committee did not review the entity's control system, operational risk areas, the adequacy, reliability and accuracy of financial information, any accounting and auditing concerns and compliance with legal and regularity provisions as per the requirements of Treasury Regulation (TR) 27.1.8(a), (c), (d) and (f).

Internal audit

15. The accounting authority did not ensure that the public entity has and maintains a system of internal audit under the control and direction of an audit committee, as required by section 51(1)(a)(ii) of the PFMA and TR 27.2.2.

Expenditure management

16. The accounting authority did not take effective and appropriate steps to prevent fruitless and wasteful expenditure, as per the requirements of section 51(1)(b)(ii) of the PFMA.

INTERNAL CONTROL

17. In accordance with the PAA and in terms of *General Notice No. 1111 of 2010, issued in Government Gazette No. 33872 of 15 December 2010*, I considered internal control relevant to my audit, but not for the purpose of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the significant deficiencies that resulted in the findings on compliance with laws and regulations included in this report.

Leadership

18. The accounting authority did not take satisfactory steps to ensure that the entity has adequate and sufficiently skilled resources to appropriately manage the entity's performance management processes. Action plans have not been developed and monitored to address internal control deficiencies.

Financial and performance management

19. The design and implementation of the entity's internal control systems were inadequate in preventing fruitless and wasteful expenditure.

Governance

20. The entity did not have a functioning internal audit unit throughout the year to identify internal control deficiencies and recommend corrective action. The audit committee was not fully effective in evaluating and monitoring risks and providing oversight over the effectiveness of the internal control environment, including performance reporting and compliance with laws and regulations.

Auditor - General

Pietermaritzburg

29 July 2011



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

STATEMENT OF FINANCIAL PERFORMANCE
for the year ended 31 March 2011

REVENUE

	Notes	2011 R'000	2010 R'000
<i>Non-exchange revenue</i>			
Transfers and subsidies	2	8 832	10 707
<i>Exchange revenue</i>			
Sale of goods and rendering of services	3	198 20	79 28
Interest, dividends and rent on land		178	51
TOTAL REVENUE		9 030	10 786
EXPENDITURE			
Administration expenses	4	1 094	1 010
Staff costs	5	3 655	3 000
Audit fees		250	351
Gifts		3	14
Other operating expenses	6	4 018	6 038
TOTAL EXPENDITURE		9 020	10 413
(DEFICIT) /SURPLUS FOR THE YEAR		10	373

STATEMENT OF FINANCIAL POSITION
at 31 March 2011

ASSETS

	Notes	2011 R'000	2010 R'000
Non-current assets		1 075	1 569
Property, plant and equipment	7	1 047	1 509
Intangible asset	8	26	58
Loans and receivables	9	2	2
Current assets		5 322	5 040
Loans and receivables	9	-	3
Inventory	10	74	65
Trade and other receivables	11	85	-
Cash and cash equivalents	12	5 163	4 972
TOTAL ASSETS		<u>6 397</u>	<u>6 609</u>
LIABILITIES			
Current liabilities		4 033	4 255
Bank – credit card account	12	46	38
Trade and other payables	13	3 822	4 016
Provisions	15	165	201
TOTAL LIABILITIES		<u>4 033</u>	<u>4 255</u>
NET ASSETS			
CAPITAL AND RESERVES			
Accumulated surplus		2 364	2 354
TOTAL NET ASSETS		<u>2 364</u>	<u>2 354</u>
TOTAL NET ASSETS AND LIABILITIES		<u>6 397</u>	<u>6 609</u>

STATEMENT OF CHANGES IN NET ASSETS
for the year ended 31 March 2011

	R'000 Accumulated Surplus
Opening balance at 1 April 2009	1 981
Surplus for the year	<u>373</u>
Balance as at 31 March 2010	2 354
Surplus for the year	10
Closing balance as at 31 March 2011	<u><u>2 364</u></u>

CASH FLOW STATEMENT
for the year ended 31 March 2011

	Notes	2011 R'000	2010 R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		8 855	13 586
Transfers received		8 832	13 558
Other income		23	28
Payments		(8 714)	(8 510)
Employee cost		(3 325)	(3 000)
Suppliers and other payments		(5 389)	(5 510)
		-	
Net cash flows from operations		141	5 076
Interest paid		(1)	(6)
Finance income		178	51
Net cash flow available from operating activities		318	5 121
CASH FLOWS FROM INVESTING ACTIVITIES			
Acquisition of :			
Property, plant and equipment	7	(135)	(123)
Intangible assets		-	(64)
Net cash flows from investing activities		(135)	(187)
Net increase in cash and cash equivalents		183	4 934
Cash and cash equivalents at beginning of the year		4 934	-
Cash and cash equivalents at end of year		5 117	4 934

NOTES TO THE ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2011

1 Accounting Policies

1.1 Basis of preparation

The annual financial statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention unless specified otherwise.

These annual financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999 (Act No.1 of 1999) (PFMA).

The principal accounting policies adopted in the preparation of these annual financial statements are set out below.

Assets, liabilities, revenues and expenses have not been offset except when offsetting is required or permitted by a Standard of GRAP.

The accounting policies applied are consistent with those used to present the previous year's financial statements, unless explicitly stated. The details of any changes in accounting policies are explained in the relevant policy.

The cash flow statement has been prepared in accordance with the direct method.

1.2 Presentation currency

All amounts have been presented in the currency of the South African Rand (R) which is also the functional currency of the Ports Regulator.

1.3 Rounding

Unless otherwise stated all financial figures have been rounded to the nearest one thousand Rand (R'000).

1.4 Property, plant and equipment

Plant and Equipment are stated at historical cost and adjusted after taking into account residual values, impairment of assets and depreciation

Depreciation is provided on all property, plant and equipment to write down the cost, less residual value where appropriate, on a straight line basis over their useful lives as follows :

Office furniture and fittings	- 8 years
Computer equipment	- 3 years
Motor vehicles	- 5 years
Intangible assets	- 2 years

1.4 Property, plant and equipment (continued)

The useful lives of property, plant and equipment and their residual values are reassessed at the end of each financial year. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount (i.e. impairment losses are recognised).

1.5 Intangible assets

An intangible asset is recognised when it is probable that the expected future economic benefits that are attributable to the asset will flow to the entity and when the cost of the asset can be measured reliably. Intangible assets are stated at cost less accumulated amortisation and adjusted for any impairment. Amortisation is calculated on a straight line basis over the useful life of the asset. The amortisation period is reviewed at each balance sheet date.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2011

1.6 Provisions

Provisions are recognised when:

- An entity has a present obligation as a result of a past event;
- it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- a reasonable estimate can be made of the obligation

1.7 Leases

Operating lease payments are recognised in the statement of financial performance on a straight – line basis over the term of the lease.

1.8 Inventory

Inventories comprise of library books and are stated at cost.

1.9 Financial instruments

Financial instruments are initially recognised at cost.

Trade and other receivables

Trade and other receivables are categorised as financial assets: loans and receivables and are initially recognised at fair value and subsequently carried at amortised cost. Amortised cost refers to the initial carrying amount, plus interest, less repayments and impairments. Amounts that are receivable within 12 months from the reporting date are classified as current.

Trade and other payables

Financial liabilities consist of trade payables and borrowings. They are categorised as financial liabilities held at amortised cost, are initially recognised at fair value and subsequently measured at amortised cost which is the initial carrying amount, less repayments, plus interest.

Cash and cash equivalents

Cash includes cash with banks. Cash equivalents are short-term highly liquid investments, readily convertible into known amounts of cash, which are held with registered banking institutions.

1.10 Fruitless and wasteful expenditure

Fruitless and wasteful expenditure is expenditure that was made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure is accounted for as expenditure in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

1.11 Revenue recognition

Revenue arising from transfers received from the Department of Transport is recognised as income over the periods necessary to match them with the related costs that they are intended to compensate. To the extent that the criteria or obligation are not met or complied with, a liability is recognised.

	2011 R'000	2010 R'000
2 Transfers received		
Department of Transport	<u>8 832</u>	<u>10 715</u>
3 Other income		
Complaint lodging fee	<u>20</u>	<u>28</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

	Notes	2011 R'000	2010 R'000
4 Administrative expenses			
Accounting fee		47	67
Regulator members' remuneration		411	335
Bank charges		17	5
Entertainment		-	15
Internal audit		63	45
Legal fees		284	326
Stationery and printing		104	136
Subscriptions		79	41
Training and staff development		-	5
Venues and facilities		89	35
		<u>1 094</u>	<u>1 010</u>
5 Staff costs			
Salaries and wages		3 522	3 000
Performance bonus/awards		122	-
Employer contributions		11	-
		<u>3 655</u>	<u>3 000</u>
6 Other operating expenses			
Advertising		69	186
Amortisation		33	28
Catering		6	-
Communication costs		121	113
Computer expenses		152	115
Consultants		1 002	1 802
Couriers and delivery charges		9	21
Contracted and temporary employees		9	703
Depreciation		597	592
Fruitless and wasteful expenditure	Note 21	124	6
Insurance		76	91
Maintenance and repairs		-	70
Motor vehicle expenses		3	3
Municipal services		43	33
Rental		904	800
Travel, subsistence and disbursements		347	561
Staff			
Travel, subsistence and disbursements		523	914
Regulator members			
		<u>4 018</u>	<u>6 038</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

7 Property, plant and equipment

2011	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer equipment	1 803	(1 475)	328
Office furniture and fittings	804	(214)	590
Motor vehicle	179	(50)	129
	<u>2 786</u>	<u>(1 739)</u>	<u>1 047</u>

2010	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer equipment	1 715	(969)	746
Office furniture and fittings	757	(146)	611
Motor vehicle	179	(27)	152
	<u>2 651</u>	<u>(1 142)</u>	<u>1 509</u>

Reconciliation of property, plant and equipment

	Opening carrying value R'000	Additions R'000	Disposals R'000	Depreciation R'000	Closing carrying value R'000
Computer equipment	746	88	-	(506)	328
Office furniture & fittings	611	47	-	(68)	590
Motor vehicle	152	-	-	(23)	129
	<u>1 509</u>	<u>135</u>	<u>-</u>	<u>(597)</u>	<u>1 047</u>

8 Intangible asset

2011	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>113</u>	<u>(87)</u>	<u>26</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

8. Intangible assets (continued)

2010	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>113</u>	<u>(55)</u>	<u>58</u>

**Reconciliation of Intangible assets
Computer software**

	Opening carrying value R'000	Disposal R'000	Additions R'000	Depreciation R'000	Closing carrying value R'000
Computer software	<u>58</u>	<u>-</u>	<u>-</u>	<u>(32)</u>	<u>26</u>

9 Loans and other receivables

	2011 R'000	2010 R'000
Non current		
Deposit	<u>2</u>	<u>2</u>
Current		
Other receivables	<u>-</u>	<u>3</u>

10 Inventory

Library books at cost	<u>74</u>	<u>65</u>
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11 Trade and other receivables

Prepaid expenditure	<u>85</u>	<u>-</u>
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12 Cash and cash equivalents

Bank balances		
Nedbank current account	3 584	671
Nedbank Investment account	<u>1 579</u>	<u>4 301</u>
	5 163	4 972
Nedbank credit card account	<u>(46)</u>	<u>(38)</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

13 Trade and other payables

	2011 R'000	2010 R'000
Accruals	643	1 443
Receiver of Revenue	606	-
Department of Transport *	2 573	2 573
- Amounts receivable at beginning of the year	2 573	(271)
- Transactions for the year	-	2 844
	<u>3 822</u>	<u>4 016</u>

* The balance due to the Department of Transport was repaid on 01 April 2011.

14 Operating lease commitments

The Ports Regulator entered into a three year operating lease agreement with Old Mutual Properties that commenced on 1 October 2010 for R82 730.89 per month including vat with an escalation clause of 10% annually.

Minimum lease payments due

- not later than one year	1 044	267
- later than one year and not later than five years	1 728	-
- later than five years	-	-
	<u>2 772</u>	<u>267</u>

15 Leave pay provision

Carrying amount at the beginning of the period	201	39
Additional provisions made in the current period	-	162
Amount utilised in the current period	(36)	-
Carrying amount at the end of period	<u>165</u>	<u>201</u>

Leave pay provision comprises the value of leave days owing to employees as at 31 March 2011.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

16 Cash generated from operations	2011 R'000	2010 R'000
Surplus for the year	10	373
Non cash/ working capital changes	308	4 748
Depreciation	597	592
Amortisation	32	28
Increase / (Decrease) in payables	(194)	3 753
(Decrease) / Increase in provisions	(36)	162
(Increase) / Decrease in receivables	(82)	278
Increase in inventory	(9)	(65)
Net cash flow from operating activities	318	5 121

17 Regulator Members' remuneration	No of individuals		
Members	7*	<u>411</u>	<u>335</u>

* There is a total of 8 Regulator Members. Mr Vilana, being a representative of the Department of Transport, is not remunerated.

18 Executive member's remuneration	No of individuals		
Chief executive officer	1	<u>1 800</u>	<u>1 800</u>

19 Contingent liabilities

There were no contingent liabilities as at 31 March 2011.

20 Reconciliation of budget surplus/deficit with Statement of Financial Performance

Net surplus per Statement of Financial Performance	10	373
Adjusted for		
Fair value adjustments	124	94
Increase/decrease in provisions	(36)	162
Increase/decrease in expenditure	46	(914)
Increase/decrease in revenue	(198)	2 817
Net surplus/deficit per approved budget	(54)	2 532

NOTES TO THE ANNUAL FINANCIAL STATEMENTS
for the year ended 31 March 2011

21 Unauthorised, irregular and fruitless and wasteful expenditure

	2011 R'000	2010 R'000
Fruitless and wasteful expenditure	<u>124</u>	<u>6</u>

Fruitless and wasteful expenditure refers to interest and penalties incurred in respect of late payment of creditors.

22 Taxation

No provision is made for taxation as the entity is exempt from taxation per Section 10(1) a of the Income tax Act.

23 Risk management

The entity has sufficient insurance cover and sufficient funds to service its financial liabilities.

24 Related party transactions

There were no related party transactions.

25 World Cup Expenditure

	Quantity	2011 R'000	2010 R'000
Tickets acquired	-		-
Distribution of tickets			-
Travel cost			-
Purchase of other world cup apparel Bafana Bafana Shirts (gift for the hosts of the Ports Regulator in Singapore, Malaysia and Australia)	14	-	8
Total world cup expenditure		<u>-</u>	<u>8</u>

NOTES TO THE ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2011

26 Funding of Operations

In terms of the accounting standard GRAP 1 paragraphs 27 to 30, the annual financial statements are prepared on a going concern basis.

The assumption is based on the budget allocation received for the 2011/12 year of R9.361m and budget estimates to be received for the 2012/13 year of R9.829m and 2013/14 year of R10.370m to enable the Ports Regulator to be considered as a going concern.

However, should the Regulatory regime be approved and in order for the Regulator to deliver on its mandate, the funding requirements are R30.979m for the 2012/2013 financial year, R26.529m for the 2013/2014 financial year and R24.496m for the 2014/2015 financial year.

The Regulator has submitted its Medium Term Expenditure Framework (2012/2013 to 2014/2015) to National Treasury based on the above requirements.

Financial year	Budget estimates	Funding required	Underfunding
2011/12	9.361 million	20.936 million	11.575 million
2012/13	9.829 million	30.979 million	21.150 million
2013/14	10.370 million	26.529 million	16.159 million

The ongoing state of affairs with respect to the underfunding and the inability of the Regulator administration to appoint staff have made it practically impossible to achieve all the requirements that the organization is expected to deliver under the legislation. The Regulator was able to consider the tariff application of National Ports Authority for the 2010/2011 and 2011/2012 tariff years as well as tribunal hearings. Further to this, research has also been conducted into areas of global price comparators as well as global benchmarking. However, the Regulator's ability to deliver on any other mandates, including monitoring of the port industry and industry development was not possible due to budgetary constraints. As a result, the long term sustainability of the Regulator secretariat is in question. Should the Regulator not be adequately funded and the Regulator not be allowed to appoint permanent staff at appropriate levels, it is unlikely that the Regulator will be able to sustain its level of output much longer or to ever deliver on all its mandates.

