



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 Foreword

In this first year of our new tenure, the Regulator has made significant strides in embedding a new Regulator tenure with a range of new and old Members. The new tenure is imbued with the same spirit and approach that was prevalent in the prior tenure. A significant amount of time and effort has been spent on developing a common approach and accelerating the pace of development of some of the Members that had not as yet been in a regulator prior to their appointment to the Ports Regulator.

The Members that had been appointed for the first time in the period under review have brought with them a range of new ideas and enthusiasm that helps those who have been around and have already run a marathon to be inspired by their enthusiasm and get a second wind. These new Members with their diverse technical skills, competencies and experiences have already added significant value in the very short period that they have been in the Regulator. The dynamics in the Regulator has continued to be characterised by vibrancy, intellectual engagement, co-operation and a commitment to our role as defined in the regulatory framework.



It would not be a complete and accurate Chairman's foreword if I did not acknowledge the sterling contribution of the Members who had completed their tenure during the period under review and were not re-appointed. While acknowledging and lauding the new Members, I have to remember and celebrate the Members that have completed their service to their country. They were the pioneers that supported me and the rest of the Regulator and Secretariat in delivering what has been reported on in previous years and for a portion of the period under review.

The first 5 years of the Regulator's existence would have been denuded of many of its successes without these Members. They persevered in trying circumstances to deliver the organisation that we have inherited in this second tenure. They helped us to establish and commence the operation of this organisation that we are so proud of today. I therefore wish to thank the Members that have ended their tenure in the period under review:

- Thandiwe Njobe
- Andrew Pike
- Brian Gowans
- Ella Ntshabele

In addition, I would like to remember and thank those Members who had left the Regulator prior to the year under review for their contributions to our achievements:

- Mawethu Vilana
- Doug Blackmur

In remembering the contributions of people who are no longer a part of our organisation I would like to make special mention of 2 employees of the Regulator. I would firstly like to remember Kobus Louw, who sadly passed away in the year under review. He made a significant contribution to the establishment and smooth running of the administration of the Regulator and will be sadly missed by all those who had the pleasure of working with him. I thank his family for lending him to us so that he could add so many smiles to our working lives, even in trying times. Our thoughts and good wishes are with his family. The second mention would be the first employee of the Regulator, Ebie Fakie, who played a significant role in the establishment of the physical presence of the Regulator and as a company secretary, until his retirement. We remember his contributions and wish him well and good health.

The period under review, although being a year wherein which there was a change of guard with respect to the tenure of Members, is a significant year in that the processes to define the medium-term tariff methodology was commenced. This process which represents a further entrenching of regulatory certainty to raise the level of predictability of the regulatory process and substantive outcomes, is a critical next step in the regulatory framework evolution. In this process we, after consultation with the port community, define the specifics of the tariff regulation regime to a level that allows all parties to take long term views on investment and planning. To increase the certainty or predictability of the cost structure and its elements to a level that will support the port infrastructure programme and the investment and planning decisions of the port users, is to raise the level of economic efficiency in the system by allowing port system stakeholders to reduce their risk in investment decisions and thereby more accurately invest within the outer levels of their risk profiles. This investment in marginal areas is only possible under a highly predictable regime with clear rules. This process, raises the procedural and substantive clarity on the regulatory perspectives that define the determinations related to this aspect of the Regulator's mandate.

Also in the year under review, the Regulator has embarked on a tariff restructuring process was based on previous research of the Regulator, that showed a very low correlation between port pricing and South African trade, industrialisation and economic development policy. This shift was also occasioned by a very low correlation between global averages and South African port costs. These were a mix of tariff incidences that were significantly above or below the global averages. As the current port tariff structure is neither aligned to global averages nor in accord with South African policy, a debate with stakeholders was initiated to engage on these matters and develop a response that is specifically targetted at compliance with the National Ports Act, national policy and strategy applicable, as well as global practice.

Both the processes above were defined by the NPA being allowed to present their perspective on the current and future structures and approaches to the Regulator for public consultation. These processes which end after the end of the year under review allowed port users and interested parties to engage on the proposals and submit their perspectives thereon. The Regulator will then determine the appropriate tariff methodology or structure and its implementation after having considered all submissions from all parties. This participative process ensures that the Regulator decisions are taken in the context of all views available and allows the determinations to be enriched by all perspectives.

Although there were many successes and challenges throughout the year, including the loss of senior staff due to ill-health, the Regulator has managed to stabilise the organisation and expand its capacity to deal with the greater level of complexity that the future requires of the regulatory regime, as well as expanding its activities to a greater extent into the other areas of its mandate such as monitoring and industry development.

I would like to thank the Minister, Regulator Members (past and present), the Department of Transport and the Secretariat for their support and commitment to the organisation in the period under review.



GLORIA TOMATOE SEROBE

Chairman

Ports Regulator of South Africa

2. Chief Executive Officer's Report

The year under review represents a mix of successes and failures that characterise the process of establishing a Regulator from scratch and moving it through the continuum toward increasing complexity. A clear change in the Regulator has been the rapid expansion of technical capacity that occurred in the year under review and is still in progress. This shift made it possible to raise the level of engagement with all areas of the Regulator's mandate while raising the complexity of the regulatory framework response to the successes of the recent past. As we move through the various stages of the regulatory framework development, the complexity level increases. We move from a narrowly defined element of a regulatory activity to its broadest articulation, while raising the level of engagement with the individual elements that comprise each of those broad areas. This move allows a greater level and quality of regulatory service, but introduces its own complications.



As the regulatory spread and complexity expands, it is critical that the stakeholders are brought along on that development path, as to move too far ahead of the immediate concerns of your stakeholders is to dabble in the areas of theoretical regulation, while leaving behind stranded groups of stakeholders that have failed to capitalise on the advantages that the regulatory framework and the actions of the Regulator have provided. As example, a reduction or discount structure for a particular activity that is regulated may not result in the correct parties receiving the intended benefit, as the benefit is appropriated by intermediaries. To avoid the unintended consequences of too rapid a regulatory development, a clear and continuous programme of communication and proselytising is required. The refrain of many stakeholders is to say, "the Regulator must just decide, we are busy and trust the Regulator to act correctly". The approach of the Regulator, on the other hand, is to require that all its development processes are driven in an accountable and transparent manner that allows all affected parties to engage and inform the Regulator of their views. It is therefore a function of the Secretariat to constantly inform stakeholders why they must be interested and involved in the regulatory development and what the impact on them is. In the initial stages of the Regulator, a large part of the resources of the Regulator was spent on advising all stakeholders as to the content of the powers and processes of the Regulator and its role in the ports system. Included in this was engaging the NPA, at that stage a more reluctant participant than currently is the case. A key response from stakeholders was to "watch" the Regulator to ensure it was not captured by the NPA. As the stakeholders have become convinced that the Regulator is not captured, they have become convinced that the Regulator will do what is correct, and have now abdicated their activism to their trust in the system. Likewise, the NPA has relaxed its initial legalistic approach based on a fear of regulatory capture by industry and has now started engaging with industry and the Regulator as a development partner. The shift in the environment has resulted from the quality of the Regulator's decisions as perceived by both the Regulated entity and its clients. In this context the role of the Regulator in sustaining active participation by all parties is paramount. As the easy gains of establishing a regulatory environment that is coherent and impartial is embedded, the difficult part of the regulatory development occurs. In this phase of the development a range of choices have to be made that result in winners and losers, at least in the short term, with everyone being better off in the long term. The involvement of all parties is even more critical when choices are made between alternatives that have a range of impacts on different parties in a system, at different levels of benefit and loss.

The high level successes of the Regulator were in the areas of economic development and monitoring, with expanded activity in industry development and compliance monitoring. The Regulator has commenced the medium-term tariff methodology determination process which is due to be completed in the new year. This in effect establishes the tariff methodology for the medium-term. An allied process, the Tariff Strategy determination, has as its outcome the finalisation of a tariff incidence framework that to a greater extent aligns with national policy and the National Ports Act than is currently the case. This re-alignment of tariff incidence is in response to research performed by the Regulator that identified a range of tariff anomalies that were incompatible with the requirements of the South African economy and

were in clear misalignment with global norms in this regard. The Regulator has published its Global Port Pricing Comparator Study (GPPCS) that benchmarks RSA port prices against global norms as well. The initial efficiency scan studies have also raised concerns that need a coherent and appropriate response. The GPPCS has been published to allow port users to take the results into consideration in their engagements with the Tariff Strategy. The monitoring function has also been expanded and the current traffic statistics audit is 75% complete and is expected to be completed early in the new year, sooner than planned. The further expansion of activity in industry development has allowed the Regulator to play a much more active role in the various processes that the DOT is undertaking, as well as providing a greater level of technical support in the DOT processes underlying its major maritime programmes in the areas of policy and strategy development.

The areas of failure have been largely in the area of expanding staffing. The Regulator, as it was hamstrung by the loss of the 2 most senior administrative personnel in the organisation, faced difficulties in recruiting suitable personnel for most of the posts that were vacant and funded. Most of the staff were secured in subsequent rounds of recruitment as in most cases the initial processes did not deliver suitable candidates. This resulted in the staff that were recruited commencing employment later in the year than had been anticipated. This has had negative consequences on staffing expenditure over the period under review. Now that most of the posts have been filled, skilling and capacity development can start accelerating. The remaining posts, that candidates have not been found for, are in the processes of being filled by secondary processes.

I wish to convey my sincere thanks to the departing Members that had contributed to the Regulator successes. The Secretariat wishes them well on their endeavours. The combined first and second tenure Members in the new regulator tenure have taken the baton seamlessly and the Regulator work has continued unabated. The advantage of having a mix of new and experienced Members is that none of the traction that was achieved in the first tenure has been dissipated and the learning curve for new Members is reduced due to peer support.

I must thank the Minister, the Chairman, Regulator Members, the DOT, various National and Provincial Departments for the spirited support they have provided to the Secretariat in its activities and processes



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. The 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 port governance architecture implementation envisioned in the “White paper on National Commercial Ports Policy, 2002”. The Act and the policy established 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. New members of the Ports Regulator were appointed effective 01 June 2012 after following due process as required by legislation, while some Regulator Members from the previous tenure were retained. The previous tenure expired on 31/03/2013.

The new tenure Members of the Ports Regulator are:

- Mrs Gloria Tomatoe Serobe (Chairman)
- Mr Riad Khan (CEO ex officio)
- Mr Aubrey Ngcobo
- Mr Randall Howard
- Ms Pumzile Langeni
- Ms Patricia Mazibuko
- Mr Andile Mahlalutye
- Mr Grove Steyn
- Ms Thato Tsautse



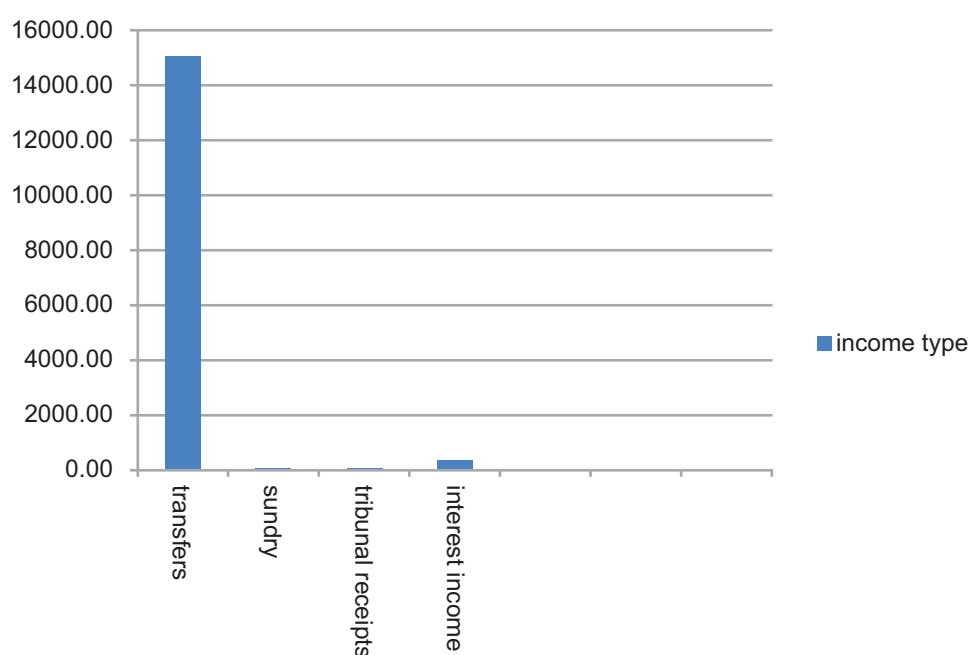
3.1. Key Activities & Outputs in the Mandate Areas of the Ports Regulator:

3.1.1. Administration

The Ports Regulator advanced on the implementation of the human resource regime after it was approved (as required by the National Ports Act) during the 2011/2012 financial year. The year 2012/2013 had a mix of failures and achievements in the administrative arena, although the successes have been great and the failures were limited

Financial Management

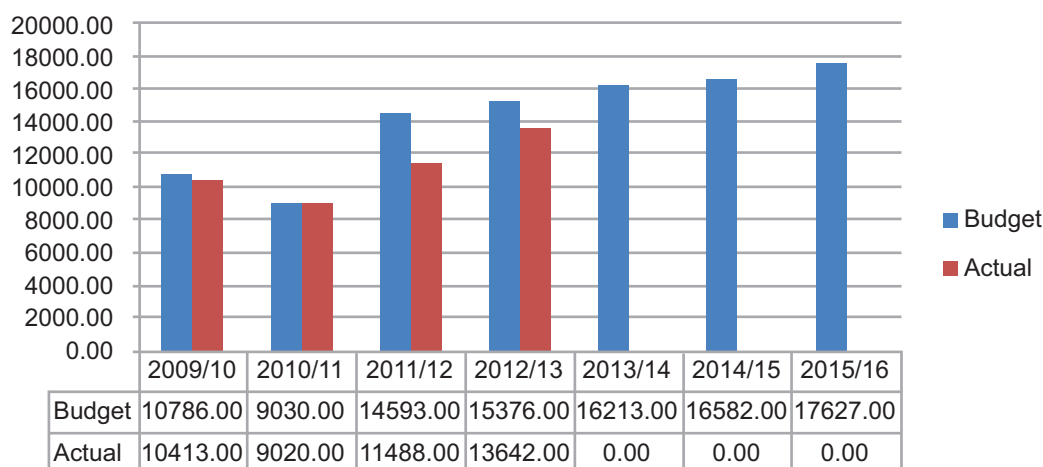
The Ports Regulator was allocated an additional amount of R 15 million which was spread over the MTEF period as from the 2012/2013 financial year which resulted in the allocation for the 2012/2013 financial year increasing to R 15,069 million. It must be noted that the major source of income of the Regulator is from transfers received from the Department of Transport (illustrated below).



This increase in allocation was aimed at assisting the Regulator to acquire more human capital and increase its resource base, based on expected increases in operations. In the past financial years, the Regulator has been operating on a surplus as a result of the fact that the budget was not spent, since some of the funded posts remained vacant. This trend continued up to the 2012/2013 financial year. It must be noted that as much as the Regulator could not employ all the required employees due to the difficulty of recruiting appropriately skilled staff, the budget itself was also a limiting factor as the budget has always been significantly lower than that required to fill the whole establishment. As the new staff have become embedded in the organisation and are starting to deliver a significantly better regulatory service, the need to expand the Regulator to move into areas of the mandate that have been slowed down has become possible. This move, however, has its own resource constraints. As these activities increase in scope and intensity, they invariably require greater amounts of personnel, data, services, support mechanisms and travel. This upward pressure on the resources of the Regulator has required that management retain very tight controls over operational expenditure, to ensure that the non-essential activities are extracted and the essential activities are delivered at the lowest possible cost without compromising on the quality and quantity of regulatory services. The Regulator has managed to implement good financial management controls in order to ensure efficient utilisation of these cash resources. The very specialised nature of the skills required for the delivery of the regulatory services that fall within the mandate of the Regulator has made it very difficult to recruit appropriate staff. As the skills base needs to spread across the maritime sector and economic regulation, as well as their allied disciplines of planning and strategy, it has been difficult to find appropriate staff. The Regulator has therefore built a small surplus from the unexpended portions of the human resources budget that would allow it

to deliver critical functions faster as the staff are recruited. A case in point would be the major asset valuation project that is to be funded from staff vacancies over the last 18 months.

Actual vs Budget



Human Resource Management

The 2012/2013 financial year was a difficult year in that the Regulator lost the human resource/IT/procurement/facilities management Specialist Mr. Kobus Louw. Mr Louw passed away after a long illness. This resulted in a huge loss to the Regulator in terms of institutional memory and capacity. The Regulator managed to fill the human resource component of his position two months after he passed away. Due to the range of skills and capabilities that Mr Louw possessed, it was not possible to find a candidate that could perform all the functions he had. This however occurred in the middle of the major recruitment drive that the Regulator had embarked on and significantly impacted on the rate of the process and its successes. The secretariat therefore appointed a replacement for the mission critical components of his function related human resources.

The staff benefits that were approved but could not be implemented in the previous financial year (2011/2012) were procured in the year under review for implementation as at the start of the new financial year. The Regulator also expanded its training and development activities for staff and Regulator Members. This was due to the increasing complexity of the regulatory activities, expansion of the scope of regulatory services delivered and the appointment of new Regulator Members and staff. This training was aimed at enhancing the abilities of the staff with respect to their day to day jobs in order to raise levels of operational efficiency and prepare the staff for their expanded roles, as well as positioning staff members to develop and progress through the organisation as their careers develop. The Regulator has managed to balance its employment equity status as at 31/03/2013. This was achieved through the diversification of the work force to include all work groups. This is done as required by the employment equity legislation and the employment equity report lodged with the Department of Labour. Although the Regulator has met most of its targets in this regard, the Regulator staff has a higher female complement than the norm.

2012/2013 Employment Equity Breakdown of Staff:

Category	Black Female	Black Male	White Female	White Male	Category Total
Technical and Managerial	20.00%	40.00%	0%	20.00%	29.00%
Support & Interns	96.00%	25.00%	8.33%	0.00%	71.00%
Total	61.00%	29.00%	5.00%	5.00%	100%

Employment Equity Statistics		
Category:	2012/2013	2011/2012
Black Male	29.00%	33.33%
Black Female	61.00%	60.00%
White Male	5.00%	6.67%
White Female	5.00%	0%
Total	100%	100%

Supply Chain Management

The Regulator had experienced poor responses in the past from the suppliers of goods and services in terms of the tenders that were advertised. The Regulator has continued to experience this and has also had low responses for requests to register on its supplier data base. This has resulted in a numerous tenders being rolled forward to the following financial year due to insufficient responses. Other problems experienced were that the responses that were actually received were either too low or too high in terms of budgeted contract value. In order to ensure that the Regulator get value for money, a decision was taken by management to roll forward the contracts in order to widen and/or increase the pool of service providers and suppliers of goods and services. This was done by inviting service providers and suppliers of goods and services to register on the supplier database of the Ports Regulator. This was also aimed at identifying those suppliers that will assist the Regulator in terms of BBBEE expenditure as budgeted on the ENE chapter and strategic plan. The Regulator has retained its performance on BBBEE procurement beyond the targets set.

BBBEE as a % of Procurement category:	2012/2013	2011/2012
Discretionary Expenditure	89.45%	90.18%
Total Expenditure	42.76%	37.45%

Governance and Compliance

The new Members of the Ports Regulator were appointed and took office in June 2012. They were tasked with implementing the strategies and maintaining and expanding the governance of the Ports Regulator in the new more complex processes that were to be required. In the past financial years, the Regulator has been struggling to achieve a desirable position as required by legislation to achieve a fully compliant governance regime in its processes. This was mainly influenced by limited resources by way of funding and human capital. The expansion of staff has reduced these areas of concern and has ensured multiple oversight and approvals that were not possible prior to the appointment of these additional staff.

3.1.2. Economic Regulation

The Economic Regulation Programme has expanded in both scope and complexity and has experienced significant advances in the year under review. There were areas of rapid development that have been further accelerated by the appointment of the new staff. The balance of skills that the new tenure Regulator brings to this area has also ensured that the processes and outcomes under this programme retains the high quality that had been prevalent in recent years, while expanding the scope and complexity of the regulatory activity.

The processes to establish a medium-term regulatory methodology was largely completed during the year under review. It was commenced by requesting NPA to submit their proposed tariff methodology. After the publication of the proposed methodology, a series of roadshows were held around the country to explain the NPA submission and allow stakeholders to engage on some of the elements prior to submitting their written submissions on the methodology proposed. Stakeholders were also allowed to submit written information requests that would provide them with the information necessary to engage meaningfully with the subject matter and submit appropriate submissions that would assist the Regulator in defining the methodology. This process will provide regulatory certainty for all port system participants over the medium term, thereby allowing them to plan and invest better and to take greater risk, as the regulatory trajectory over the medium term would be a constant rather than a variable in their decision-making processes. The determination in this regard shall be made in the New Year.

The research programme of the Regulator has provided significant technical outputs that underpin many of the decision making processes in the regulatory framework. The publication of the Global Port Pricing Comparator Study, as example, allowed port industry participants to better engage in the processes of the Regulator, particularly the tariff strategy process. This study which assesses internal and external coherence of South African port pricing for various port supply chains provides an acid test of the extent to which port pricing supports or agitates against the prevailing economic policy and the requirements of the productive components of the economy. This study that replicates and prices unitary activities in ports around the world, also provides a basis for assessing the appropriateness of tariff incidence in South African ports, both within individual supply chains and across different supply chains.

A process aligned to the Tariff Methodology, the Tariff Strategy was developed alongside the Tariff Methodology process. The Tariff Strategy concerns itself with tariff incidence. It looks at internal and external coherence of tariff incidence and answers important questions such as, which port user carries which portion of the tariff burden. The key principle that underpins this process is cost recovery and its related questions of cost allocations. The cost recovery principle, while well established, still suffers from many historical overhangs in the areas of cost allocation. The appropriate allocation of costs has a greater impact on application of cost recovery and port user business viability than is commonly thought. Policy decisions by the NPA as to cost allocation can in effect transfer subsidisation between users in contradiction to the actual utilisation of resources. These choices are not neutral and impact on the investment decisions of NPA as well. In an environment where costs are not appropriately allocated, investments that should be made are avoided as they do not appear to have revenue business cases that support them, when in fact, a more appropriate allocation of costs may in fact make such investments lucrative. The Tariff Strategy is therefore fundamental to the efficiency and effectiveness of the port system and arguably more important than the absolute tariff burden. The inappropriate allocation of costs must be corrected prior to any clear views being made as to subsidisation. In the application of the current cost allocation

approach, there are clamours for certain activities to be subsidised and not to be priced on a cost reflective basis, that may not require subsidisation should the costs be better allocated. Subsidisation, as articulated in the various policy and regulatory instruments, is an integral part of our economic development agenda, and is to be justified by the public interest. However, no clear approach to subsidisation or even its alter ego, punitive tariffing, can be implemented in the absence of a clear set of price signals built on appropriate cost allocation methodology. This process, that shall have its first phase completed in the next financial year, as well as its initial implementation plan, shall greatly contribute to clarifying investment and operational signals in the management and development of the port system.

The various other activities in this programme including planning optimisation assessments, port physical capital adequacy, port traffic audit, port operational efficiency studies, major asset valuation assessments, are ongoing with the in-year outputs having been achieved, largely underpin and add content to the elements of the above major processes. These will gradually define the outer parameters of the Tariff Strategy and Tariff Methodology in the short to medium term. The planning, efficiency and capital adequacy assessments feed back into these processes in terms of how to appropriately allocate costs to various users and meet the port throughput capacity needs over the long term.

3.1.3. Tribunal and Monitoring

In the year under review, the Regulator concluded various processes in regulatory development that shall be consulted in the subsequent financial year. Although the process was delayed to consider certain regulatory development processes that were underway in the DOT, the project shall be restarted in the subsequent year as the DOT processes have not as yet finalised their perspectives on critical elements impacting on the internal regulatory development outcomes. The Regulator has therefore decided to restart the process and await the emerging consensus from the DOT, whereupon the developed draft regulatory instruments shall be amended to reflect the DOT perspectives.

The compliance programme of the Regulator has completed its initial processes and the first phase compliance report that concentrated on the structural issues of the implementation of the National Ports Act is complete and ready for engagement. The compliance framework development was also completed in the year under review to manage the continuing monitoring and compliance that the Regulator is pursuing.

With respect to Tribunals, the activity in this component is on track. There are concerns about the pace of existing matters that are occasioned by delays from the participants. As this process has been in existence for a while, it is not due to a lack of understanding by the participants, but due to a range of avoidable and unavoidable delays. These delays range from scheduling problems that arise from the unavailability of participant representatives to changes in attorneys representing participants that invariably push out the processes. None of the delays were occasioned by an unavailability of Tribunal Panels.

This programme in co-operation with the economic regulation programme has monitored the compliance of the NPA with the Regulator's decision, where they have application to port pricing and economic regulatory decisions. Where the decisions have specific application to the planning, efficiency and capital expenditure decisions, this programme has monitored the compliance with Regulator decisions with the co-operation of the Industry Development division.

3.1.4. Industry Development

Under this programme various processes in support of regulatory development, stakeholder engagement, and technical support to the DOT have been effected in the year under review. This division has supported the policy and strategy development processes of the DOT, such as the Maritime Transport Policy development process and the Single Transport Regulator development and establishment plan. It has also engaged all maritime stakeholders through its roadshows and the quarterly Port Consultative Committees and National Port Consultative Committee meetings to support the development of national consensus across all stakeholders of nationally relevant strategic port issues and local issues in port planning and operational optimisation. These fora also form the Regulator's platform for securing consensus on the capex planning

that is approved in the tariff decision. In the year under review the numerous capital projects that underpinned the development of the port system that are to be funded out of the tariff decision for the 2013/4 tariff year were approved in these fora.

This programme has included the development of a range of efficiency initiatives to integrate the pricing and efficiency elements of port system management at a later stage. At present the establishment of efficiency committees at individual port level has met with mixed success, with most committees having been established, but only a few being operational and close to the conclusion of their baseline efficiency matrices. This is a critical component of the work of the Regulator that integrates with physical capital adequacy assessment that has as its initial defining processes the capacity utilisation of existing assets. These form the basis of the planning and effectiveness assessments that shall underpin future regulatory decision making in areas such as tariffs and capital expenditure funding. These assessments underpin the Regulator's management of the Excessive Tariff Increase Margin Credit, as to size and timing of the utilisation of the credit.

A critical component of this programme is the planning and alignment assessments that have been commenced in the year under review. These assess the actual content of the capex planning and the views of stakeholders on these processes, as well as assessing the alignment with activities outside of the immediate port environment. These would include examples such as when a range of capex activities in the port are mis-aligned with planned hinterland developments resulting in stranded assets in the port that cannot be utilised at the time commissioning is complete and then result in huge recoveries on assets that are not effectively utilised.

4. Governance Structures:

4.1. The Human Resources Committee

Members of this committee are Mr. Randal Howard (Chairman), Mr A. Ngcobo, and Ms P. Mazibuko.

Mr. Randal Howard
Chairman
Human Resources 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.

This committee has overseen and engaged on the staffing process with respect to senior employees of the Regulator. The current processes to review all HR Policies and Procedures have been commenced under the leadership of this committee, shall be concluded in the subsequent financial year. Internal processes are underway to align the current staff to the regime and recruit talent to fill up the vacant positions based on budget and availability of applicants. The Committee has also shifted its focus to look at recruiting personnel with technical competencies in their specific discipline that can be developed and enhanced for the specific needs and applications of the Regulator, as the search for personnel that have the sector, discipline and economic regulatory back ground, have not yielded the expected results due to the paucity of such personnel in the South African labour market. The committee has also overseen the commencement of the re-positioning of the Regulator's benefits structure to reflect to a greater degree the competition that the Regulator faces for human capital.



4.2. The Regulatory Committee

Members of this committee are Mr G. Steyn (Chairman), Ms P. Langeni, Ms T.Tsautse and Mr M. Fakir.

Mr G. Steyn
Chairman
Regulatory Committee

This committee is responsible for oversight of the delivery of obligations of the Regulator arising from the National Ports Act and regulations issued there under. All economic regulatory activities are routed through this committee and the related preparation for regulatory decision-making is managed by this committee. 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 regulatory 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 Global Port Pricing Comparator Study and the assessment of the NPA tariff for the 2013/2014 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 other economic regulatory projects, 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 additional 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, to ensure that the Secretariat is compliant with the regulatory processes and standards that are required.

4.3. The Audit Committee

Members of this Committee are Mr A. Ngcobo (Chairman), Ms T. Tsautse and Mr A. Mahlalutye.

Mr. A. Ngcobo
Chairman
Audit 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. This committee during its term of office managed to maintain acceptable level of progress in terms of governance and good internal control, however there are still some challenges that were not addressed due to challenges emanating from staffing and budget constraints.



4.4. Regulator Secretary

The Regulator 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 Regulator Members with respect to such functions. The Secretary was retired at the end of the period 2011/2012 due to ill-health. The Secretary has left the Regulator having made a significant contribution in terms of establishing the Regulator and being instrumental in the development of policies and procedures that guide business processes of the Regulator. The legal specialist, Ms Helen Dube, has ably performed the functions of Secretary during the period under review. The process of appointing an Executive Manager: Legal Executive, who would also perform secretarial services for the Regulator, was at an advanced stage and the commencement of her employment was scheduled for early in the subsequent year.

Acting Board Secretary



Regulator Member meeting attendance for the period 1 April 2012 to 31 March 2013

Name	Regulator	HR and Remuneration Committee	Regulatory Committee	Audit	Annual General Meeting
Total number of meetings	4	2	3	2	1
Mrs G. Serobe	4				1
Ms P. Langeni	3		2		
Ms P. Mazibuko	3	2			1
Ms T Tsautse	4		2	2	1
Mr. A Ngcobo	4	2		2	1
Mr. A. Mahlalutye	3			2	
Mr. G. Steyn	4		3		1
Mr. M Fakir	3		3		1
Mr. R. Howard	3	2			1

- Note that the table does not include tribunal activities or roadshows and other none formalised engagements that do not fall under the definition of a Regulator meeting under the regulatory framework.

Name	Remuneration (2012/2013)
Mrs G. Serobe	R 45 375.00
Ms P. Langeni	R 32 070.00
Ms P. Mazibuko	R 51 372.00
Ms T Tsautse	R 90 999.00
Mr. A Ngcobo	R 88 193.00
Mr. A. Mahlalutye	R 56 123.50
Mr. G. Steyn	R73 741.00
Mr. M Fakir (Government Employee)	R 0.00
Mr. R. Howard	R 57 446.30

5. Achievements in the year under review

KRA	Objective	Strategies	2012/2013 Targets	Indicator	Actual achievement
Establishment and maintenance of administration	Expansion of technical staff complement to meet capacity requirements and reduce external resource utilisation.	Human resource acquisition, management, capacitation and benefits structure development and implementation	2nd quarter 2012/13	Staff appointed in all funded and approved vacancies within approved staffing regime(current 15 regime 29)	Appointment process commenced, certain posts filled and all existing filled positions in permanent employ, head hunting processes for remaining posts. 3 posts remain vacant.
	Internship Programme complexity increased and formalised in Economic Regulation branch.	Human resource acquisition, management, capacitation and benefits structure development and implementation	continuous	HRD plan for all interns developed within 2 months of appointment.	Intern contracts finalized group development commenced. 50% in formal training programmes. Interns being streamed into area of interest. One intern streamed into port performance and shipping, and another into tariff structures, methodologies and corporate finance analysis.
	Staff performance management system (PMS) implemented	Human resource acquisition, management, capacitation and benefits structure development and implementation	1st quarter 2012/13	PMS on organizational level.	PMS on organisational level developed.
	Ensure skills and capacity development in alignment with Single Transport Economic Regulator perspectives of DOT	Single Transport Economic Regulator preparation.	3rd quarter 2012/13	Skills and capacity planning in line with DOT Single Transport Economic Regulator	No skills and capacity planning in line with STER as no clarity on structure, function and timelines as yet

KRA	Objective	Strategies	2012/2013 Targets	Indicator	Actual achievement
Economic regulation (Price, access, institutional structure, etc) of the port industry	Tariff methodology development	Establish elements of the regulatory framework within its mandate	2nd quarter 2012/13	Tariff approach resolved for 2013/2014	Tariff methodology delivered too late to allow engagement prior to tariff submission. Tariff determination was made in accordance with prior trajectory.
	Normalisation of specific tariffs process and standards of determination including individual tariff level setting considerations agreed/established	Establish elements of the regulatory framework within its mandate	3rd quarter 2012/13	Consulted tariff strategy and implementation plan	Tariff strategy delivered too late to allow engagement prior to tariff submission. Tariff determination for 2013/14 included addressing key tariff anomalies, although not finalized perspective.
	Perform NPA 2013/2014 Tariff Assessment	Perform annual NPA tariff assessment	3rd quarter 2012/13	Tariff determination completed for 2013/2014	Tariff determination completed. 0% tariff with reduction of certain tariff anomalies.
	Track and monitor the NPA capital expenditure planning for 2012/2013 through the PCC and NPCC processes and integrate into the tariff decision for 2013/2014 and establish capital medium and long term planning.	Implementation of the tariff methodology	3rd quarter 2012/13	Review the port capital expenditure plans for 2012/2013 and integrate into the tariff decision.	Adjustments made to tariff for mis-alignment in capital expenditure programme against forecasts and planning for tariff year 0, and 0-1.

KRA	Objective	Strategies	2012/2013 Targets	Indicator	Actual achievement
	Revise Directives to include procedures for monitoring and compliance filing by all port industry participants.	Develop legal instruments to expand activities into remaining areas of mandate.	4th quarter 2012/13	Revised directives published.	Draft directives developed.
	Tariff baseline RAB methodology development for real estate and port assets resulting from current and medium term capex programme	Further formalise regulatory certainty over the medium-term	3rd quarter 2012/13	Valuation methodology for real estate and port assets consulted.	Proposed methodology received too late to engage prior to 2013/14 tariff determination. Service provider procurement process commenced for engineering and other valuation assessment. Process to be completed in next financial year.
	Revise Directives to include procedures for monitoring and compliance filing by all port industry participants	Develop legal instruments to expand activities into remaining areas of mandate.	4th quarter 2012/13	Amendment completed, consulted and gazetted	Draft directives developed
	Tariff Strategy Assessment to benchmark regulatory, policy and strategy alignment	Benchmarking port tariffs	3rd Quarter 2012/13	Global Port Pricing Comparator Study for four commodities	GPPCS Completed in Fourth quarter
Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments	Develop compliance scan methodology in consultation with industry to target concerns not yet capable of tribunal submission	Monitor regulatory compliance in major processes within the Ports Industry.	4th quarter 2012/13	Methodology established.	Treasury approved rollover of funds for internal delivery. Revised internal delivery programme commenced, staff appointed. Additional management staff to be procured and contracted.

KRA	Objective	Strategies	2012/2013 Targets	Indicator	Actual achievement
	Monitor Strategy and Policy compliance in major processes within the ports industry	Benchmarking port efficiency and outputs	4th quarter 2012/13	Baseline joint port efficiency study with DoT – 50% completed Traffic audit 50% complete	Initial exploratory port efficiency study - 100% Traffic audit - 75% complete
	Perform regulatory compliance review of Port of Durban s56, s57 and leases	Monitor regulatory compliance in major processes within the Ports Industry.	4th quarter 2012/13	Review completed	Staff appointed, corporate level review completed.
	BBBEE status review of all s56 and s57, leases and port service providers port of Durban	Monitor regulatory compliance in major processes within the Ports Industry.	3rd quarter 2012/13	BBBEE Review completed	Staff appointed BBBEE compliance templates revised.
Establishing and operating a tribunal to hear complaints and appeals under the National Ports Act.	Develop and consult revised directives for information filing and requirements for port sector participants, and compliance reviews	Develop information filing requirements for port participants and implement instruments	4th quarter 2012/13	Amendment completed, consulted and gazetted	Filing requirements revisited, to respond to gaps in powers of Regulator
	Finalising the Directives for amended tribunal processes and procedures	Develop proposed revisions to the Act, Regulations and Directives that increase the efficiency of the Tribunal and its procedures	4th quarter 2012/13	Amendment completed, consulted and gazetted	Draft directives developed, awaiting internal Regulator processes to validate final draft for amended process resulting from the conclusion of initial tribunal matters.
	Tribunal manual, training course and tutor support for new Members and refresher for existing Members	Ensure high quality tribunal service	1st quarter 2012/13	Develop training materials and deliver training	Training delivered on basic tribunal management and decision making for new members.

KRA	Objective	Strategies	2012/2013 Targets	Indicator	Actual achievement
	Tribunal to have at least 18 days availability in year	Deliver adequate tribunal service availability to industry	4th quarter 2012/13	Tribunal availability or days in sitting.	No heard matters scheduled, matters on papers completed.
	Revise the Tribunal procedure manuals to respond to challenges that had been experienced in initial tribunals.	Develop proposed revisions to the Act, Regulations and Directives that increase the efficiency of the Tribunal and its procedures	3rd quarter 2012/13	Revised Tribunal Manual developed	Awaiting revised directives for amendment

6. Statement of estimated income and expenditure

Statement of Estimated Income and Expenditure	2013/14
Revenue	
Tax revenue	—
Non-tax revenue	—
Sale of goods and services other than capital assets	—
of which:	
<i>Admin fees</i>	—
<i>Sales by market establishments</i>	—
<i>Other sales</i>	—
<i>Other non-tax revenue</i>	313
Transfers received	15,900
Total revenue	16,213
Expenses	
Current expense	16,213
Compensation of employees	9,744
Goods and services	5,599
Depreciation	870
Interest, dividends and rent on land	—
Interest	—
Dividends	—
Rent on land	—
Transfers and subsidies	—
Total expenses	16,213
Surplus / (Deficit)	—

7. Programme for 2013/2014

Annexure to Ports Regulator Performance Agreement 2013/2014

Strategic Objective	Objective statement	KPI indicator	Target
Establishment and maintenance of administration	Expansion and capacitation of technical staff complement to meet capacity requirements and reduce external resource utilisation and implementation of all staff benefits	<ul style="list-style-type: none"> Staff benefits implementation Funded posts filled Skills and training plan implemented for period 	<ul style="list-style-type: none"> 100% - 2nd Q 100% - 2nd Q 100% - 4th Q
	Staff performance management system (PMS) Implemented for all staff	<ul style="list-style-type: none"> PMS Implemented with enhanced performance requirements for each staff member 	<ul style="list-style-type: none"> 100% - 4th Q
	Purchase scalable IT modules(low cost) in research, process and data management that are cost effective and appropriate for the Regulator.	<ul style="list-style-type: none"> Research data analysis software procured and fully implemented Document management system procured and implemented 1st phase Data management software and hardware procured and implemented Tribunal case management system procured and implemented 	<ul style="list-style-type: none"> 100% - 2rd Q 100% - 4th Q 50% - 4th Q 100% - 3rd Q
	Effective functional secretariat established	<ul style="list-style-type: none"> Composite average measure All KPI's average Filled posts divided by funded posts Foreseeable actual expenditure/ budgetted expenditure 	<ul style="list-style-type: none"> 100% - 4th Q
	Preferential procurement in accordance with the regulatory framework	<ul style="list-style-type: none"> 70% of discretionary procurement must be from BBBEE in accordance with the scoring in the regulatory framework 	<ul style="list-style-type: none"> 70% - 4th Q
	Develop gap response to Auditor General's comments and recommendations on 2012/13 financial statements	<ul style="list-style-type: none"> Dashboard matters and matters of emphasis corrected 	<ul style="list-style-type: none"> 100% - 4th Q
	Economic regulation (Price, access, institutional structure, etc) of the ports industry	Medium-term Tariff Methodology and Tariff Strategy consulted and finalised	<ul style="list-style-type: none"> Methodology decision and publication Strategy implementation plan decision and publication
Perform NPA 2014/2015 Tariff Assessment		<ul style="list-style-type: none"> Tariff decision and ROD publication 	<ul style="list-style-type: none"> 100% - 4th Q
Engagement with DOT on integrated tariff methodology principles approach beyond medium term		<ul style="list-style-type: none"> Long term integrated tariff approach agreed with DOT 	<ul style="list-style-type: none"> 100% - 4th Q

Strategic Objective	Objective statement	KPI indicator	Target
	Annual Global Tariff Comparator 4 cargo/commodity type	01 April 2013 Global Port Pricing Comparator completed for 4 cargo/commodity types	<ul style="list-style-type: none"> 100% - 3rd Q
	Revise Directives on compliance filings by all port industry participants	<ul style="list-style-type: none"> Revised Directives published for comment 	<ul style="list-style-type: none"> 100% - 3rd Q
	Revise directives to articulate application of Regulator powers and mandates	<ul style="list-style-type: none"> Revised Directives developed in current Ports Act context 	<ul style="list-style-type: none"> 100% - 2nd Q
Support the development of the ports industry in planning integration, efficiency and transformation	Support the development of the Ministerial Framework for Private Sector Participation in Ports	<ul style="list-style-type: none"> Provide all technical support required by DOT in the process 	<ul style="list-style-type: none"> 100% - 2nd Q
	Implement the Ministerial Framework for Private Sector Participation in Ports	<ul style="list-style-type: none"> Develop directives and monitoring instruments that give effect to the framework 	<ul style="list-style-type: none"> 100% - 4th Q
	Support the further implementation and development of the Ports Act	<ul style="list-style-type: none"> Provide technical support to DOT in Ports Act review and redraft 	<ul style="list-style-type: none"> 100% - 4th Q
	Support the implementation of the NFLS	<ul style="list-style-type: none"> Provide all technical support required by DOT in the process 	<ul style="list-style-type: none"> 100% - 4th Q
	Support the Maritime Industry Development Programme initiatives of the DOT and SAMSA	<ul style="list-style-type: none"> Provide all technical support required by DOT in the process 	<ul style="list-style-type: none"> 100% - 4th Q
	Medium term port benchmarking review 2012/13	<ul style="list-style-type: none"> Perform 1 April 2013 full port benchmarking review on marine, terminal infrastructure services with a shared efficiency research component with DOT 	<ul style="list-style-type: none"> 100% - 4th Q
	Port capacity and utilisation review 2012/13	<ul style="list-style-type: none"> Perform capacity and utilisation review 2012/13 	<ul style="list-style-type: none"> 100% - 4th Q
Monitoring the port industry and its compliance with the port policy, strategy and regulatory instruments	Complete 75% of the compliance review of Durban and Richard's Bay and commence other ports	<ul style="list-style-type: none"> Richard's Bay and Durban port level compliance review complete East London/PE/Ngqurha compliance review completed 	<ul style="list-style-type: none"> 75% - 4th Q 25% - 4th Q

Strategic Objective	Objective statement	KPI indicator	Target
	BBBEE status review of all s56 and s57 port facilities and service providers for port of Durban/Richard's Bay complete and commence other ports	<ul style="list-style-type: none"> Richard's Bay and Durban BBBEE status review complete East London/PE/Ngqurha compliance review completed 	<ul style="list-style-type: none"> 100% - 4th Q 25% - 4th Q
	Joint port traffic statistics review performed with DOT	<ul style="list-style-type: none"> Port traffic statistics review complete 	<ul style="list-style-type: none"> 100% - 4th Q
Establishing and operating a tribunal to hear complaints and appeals under the National Ports Act.	Tribunal manual, training course(academic and experiential), international exposure and tutor support for new members and refresher for existing members	<ul style="list-style-type: none"> International Regulator academic and experiential training completed Domestic tribunal training completed 	<ul style="list-style-type: none"> 100% - 2nd Q 100% - 3rd Q
	Tribunal to have at least 18 days availability in year	<ul style="list-style-type: none"> Tribunal availability 18 days 	<ul style="list-style-type: none"> 100% - 4th Q
	Consult and issue directives for amended tribunal processes	<ul style="list-style-type: none"> Amended tribunal process directives approved, consulted and published 	<ul style="list-style-type: none"> 100% - 3rd Q

**Annual Financial Statements
for
The Ports Regulator of South Africa
for the Year ended 31 March 2013**

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The Ports Regulator of South Africa

**REPORT OF THE ACCOUNTING AUTHORITY
for the year ended 31 March 2013**

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 period ended 31 March 2013 is R 2, 379 279.30.

Approval

The financial statements for the year ended 31 March 2013 set out on pages 39 to 53 were approved by the Audit Committee.

Aubrey Ngcobo
Audit Committee

The Ports Regulator of South Africa

REPORT OF THE ACCOUNTING AUTHORITY for the year ended 31 March 2013

REPORT OF THE AUDITOR-GENERAL TO THE KWAZULU-NATAL PROVINCIAL LEGISLATURE ON THE PORTS REGULATOR OF SOUTH AFRICA REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the financial statements of The Ports Regulator of South Africa as set out on pages 34 to 46, which comprise the statement of financial position as at 31 March 2013, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended, and the notes, comprising a summary of significant accounting policies and other explanatory information.

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 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 the accounting authority determines is 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. My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the general notice issued in terms thereof and International Standards on Auditing. 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.

4. 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.

5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

6. 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 2013, and its financial performance and cash flows for the year then ended in accordance with SA Standards of GRAP and the requirements of the PFMA.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

7. In accordance with the PAA and the general notice issued in terms thereof, I report the following findings relevant

The Ports Regulator of South Africa

**REPORT OF THE ACCOUNTING AUTHORITY
for the year ended 31 March 2013**

to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

Predetermined objectives

8. I performed procedures to obtain evidence about the usefulness and reliability of the information in the annual performance report as set out on pages 19 to 23 of the annual report.

9. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury's annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable (i.e. well defined, verifiable, specific, measurable and time bound) and relevant as required by the *National Treasury Framework for managing programme performance information*.

The reliability of the information in respect of the selected objectives is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

10. There were no material findings on the annual performance report concerning the usefulness and reliability of the information.

Additional matter

11. Although no material findings concerning the usefulness and reliability of the performance information was identified in the annual performance report, I draw attention to the following matter below

Achievement of planned targets

12. Of the total number of 21 targets planned for the year, 11 of targets were partially achieved during the year under review. This represents 52% of total planned targets that were partially achieved during the year under review.

Compliance with laws and regulations

13. I performed procedures to obtain evidence that the entity has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the general notice issued in terms of the PAA are as follows:

Audit Committee

14. The audit committee was appointed during the year and did not fully discharge its responsibilities in accordance with section 51(1)(a)(ii) of the Public Finance Management Act and Treasury Regulation 27.1.

15. The majority of audit committee members were executive members appointed by the accounting authority, in contravention of Treasury Regulation 27.1.4.

The Ports Regulator of South Africa

**REPORT OF THE ACCOUNTING AUTHORITY
for the year ended 31 March 2013**

Internal Audit

16. The accounting authority did not ensure that the internal audit function was established, as required by section 51(1)(a)(ii) of the Public Finance Management Act and Treasury Regulations 27.2.2 and 27.2.3.

Internal control

17. I considered internal control relevant to my audit of the financial statements, performance report and compliance with laws and regulations. The matters reported below under the fundamentals of internal control are limited to the significant deficiencies that resulted in the findings on the performance report and the findings on compliance with laws and regulations included in this report.

Leadership

18. The accounting authority did not exercise sufficient oversight responsibility regarding compliance with Treasury Regulations.

Financial and performance management

19. A proper system for monitoring compliance has not been established to prevent non-compliance with laws and regulations

Governance

20. The entity did not appoint an internal audit unit to identify internal control deficiencies. As a result the audit committee was not fully effective during the year in evaluating and monitoring risks and providing oversight over the effectiveness of the internal control environment, including financial and performance reporting and compliance with laws and regulations.

Auditor - General

Pietermaritzburg
31 July 2013



**AUDITOR - GENERAL
SOUTH AFRICA**

Auditing to build public confidence

The Ports Regulator of South Africa

STATEMENT OF FINANCIAL PERFORMANCE
for the year ended 31 March 2013

	<i>Notes</i>	2013 R'000	2012 R'000
REVENUE			
<i>Non-exchange revenue</i>			
Transfers and subsidies	2	15 069	14 361
<i>Exchange revenue</i>			
Sale of goods and rendering of services	3	339	232
Interest, dividends and rent on land		20	26
		319	206
TOTAL REVENUE		15 407	14 593
EXPENDITURE			
Administration expenses	4	1 900	758
Staff costs	5	5 670	6 444
Audit fees		219	209
Gifts		2	1
Other operating expenses	6	6 337	4 076
TOTAL EXPENDITURE		14 128	11 488
SURPLUS FOR THE YEAR		1 279	3 105

The Ports Regulator of South Africa

STATEMENT OF FINANCIAL POSITION
at 31 March 2013

	<i>Notes</i>	2013 R'000	2012 R'000
ASSETS			
Non-current assets		947	1 011
Property, plant and equipment	7	836	780
Intangible asset	8	109	229
Loans and receivables	9	2	2
Current assets		7 027	5 954
Loans and receivables	9	-	-
Inventory	10	74	74
Trade and other receivables	11	266	120
Cash and cash equivalents	12	6 687	5 760
TOTAL ASSETS		<u>7 975</u>	<u>6 965</u>
LIABILITIES			
Current liabilities		1 227	1 496
Bank – credit card account	12	54	44
Trade and other payables	13	765	1 200
Provisions	15	408	252
TOTAL LIABILITIES		<u>1 227</u>	<u>1 496</u>
NET ASSETS			
CAPITAL AND RESERVES			
Accumulated surplus		6 748	5 469
TOTAL NET ASSETS		<u>6 748</u>	<u>5 469</u>
TOTAL NET ASSETS AND LIABILITIES		<u>7 975</u>	<u>6 965</u>

The Ports Regulator of South Africa

STATEMENT OF CHANGES IN NET ASSETS
for the year ended 31 March 2013

	R'000 Accumulated Surplus
Opening balance at 1 April 2011	2 364
Surplus for the year	<u>3 105</u>
Balance as at 31 March 2012	5 469
Surplus for the year	1 279
Closing balance as at 31 March 2013	<u><u>6 748</u></u>

The Ports Regulator of South Africa

CASH FLOW STATEMENT
for the year ended 31 March 2013

	<i>Note</i>	2013 R'000	2012 R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		15 089	14 387
Transfers received		15 069	14 361
Other income		20	26
Payments		(14 229)	(13 650)
Employee cost		(5 670)	(6 444)
Suppliers and other payments		(8 559)	(7 206)
		-	
Net cash flows from operations		860	737
Interest paid		-	(11)
Finance income		319	206
Net cash flow available from operating activities		1 179	932
CASH FLOWS FROM INVESTING ACTIVITIES			
Acquisition of :			
Property, plant and equipment	7	(250)	(86)
Intangible assets		(12)	(247)
Net cash flows from investing activities		(262)	(333)
Net increase in cash and cash equivalents		917	599
Cash and cash equivalents at beginning of the year		5 716	5 117
Cash and cash equivalents at end of year		6 633	5 716

The Ports Regulator of South Africa

NOTES TO THE ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2013

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

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).

The Ports Regulator of South Africa

NOTES TO THE ANNUAL FINANCIAL STATEMENTS for the year ended 31 March 2013

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.

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.

1.10 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.

1.11 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.

1.12 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.

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1.13 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.

1.14 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.

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	2013 R'000	2012 R'000
2 Transfers received		
Department of Transport	<u>15 069</u>	<u>14 361</u>
3 Other income		
Complaint lodging fee	19	9
Sundry income	1	17
	2013	2012
	R'000	R'000
4 Administrative expenses		
Accounting fee	-	-
Regulator members' remuneration	495	211
Bank charges	15	26
Entertainment	3	6
Internal audit	72	62
Legal fees	190	86
Stationery and printing	110	42
Subscriptions	475	270
Training and staff development	377	18
Venues and facilities	163	37
	<u>1 900</u>	<u>758</u>
5 Staff costs		
Salaries and wages	4 687	4 378
Performance bonus/awards	-	-
Employer contributions	208	15
Retirement due to ill-health/death	775	2 051
	<u>5 670</u>	<u>6 444</u>

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6 Other operating expenses

Advertising		553	142
Amortisation		132	44
Bursary		23	0
Catering		36	33
Communication costs		196	130
Computer expenses		157	140
Conferences		5	0
Consultants		882	1 124
Consumables		15	0
Couriers and delivery charges		18	12
Contracted and temporary employees		-	-
Depreciation		193	353
Fruitless and wasteful expenditure	<i>Note 21</i>	-	11
Hardware		4	0
Insurance		63	36
Maintenance and repairs		41	11
Motor vehicle expenses		8	7
Municipal services		58	49
Functions and events		25	0
Rental		1 169	1 192
Resettlement costs		140	0
Travel, subsistence and disbursements Staff		1 339	476
Travel, subsistence and disbursements Regulator members		1 280	316
		6 337	4 076

7 Property, plant and equipment

2013	Cost	Accumulated depreciated	Carrying value
	R'000	R'000	R'000
Computer equipment	1 971	(1 791)	180
Office furniture and fittings	972	(398)	574
Motor vehicle	179	(97)	82
	3 122	(2 286)	836
2012	Cost	Accumulated depreciated	Carrying value
	R'000	R'000	R'000
Computer equipment	1 817	(1 731)	85
Office furniture and fittings	876	(288)	589
Motor vehicle	179	(74)	106
	2 872	(2 092)	780

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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	85	157	-	(60)	180
Office furniture & fittings	589	93	-	(110)	574
Motor vehicle	106	-	-	(23)	82
	<u>780</u>	<u>250</u>	<u>-</u>	<u>(193)</u>	<u>836</u>

8 Intangible asset

2013	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>372</u>	<u>(263)</u>	<u>109</u>

2012	Cost R'000	Accumulated depreciated R'000	Carrying value R'000
Computer software	<u>360</u>	<u>(131)</u>	<u>229</u>

Reconciliation of Intangible assets
Computer software

	Opening carrying value R'000	Disposal R'000	Additions R'000	Amortisation R'000	Closing carrying value R'000
Computer software	<u>229</u>	<u>-</u>	<u>12</u>	<u>(132)</u>	<u>109</u>

9 Loans and other receivables

	2013 R'000	2012 R'000
Non current		
Deposit	<u>2</u>	<u>2</u>
Current		
Other receivables	<u>-</u>	<u>-</u>

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NOTES TO THE ANNUAL FINANCIAL STATEMENTS
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10 Inventory

Library books at cost	74	74
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11 Trade and other receivables

Prepaid expenditure	266	120
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12 Cash and cash equivalents

Bank balances		
Standard bank cheque account	518	5 760
Standard bank Investment account	6 169	-
	<u>6 687</u>	<u>5 760</u>
Standard bank credit card account	(54)	(44)

13 Trade and other payables

	2013	2012
	R'000	R'000
Accruals	765	352
Receiver of Revenue	0	848
Department of Transport	-	-
- Amounts receivable at beginning of the year	-	-
- Transactions for the year	-	-
	<u>765</u>	<u>1 200</u>

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	593	1 135
- later than one year and not later than five years	-	593
- later than five years	-	-
	<u>593</u>	<u>1 728</u>

15 Leave pay provision

Carrying amount at the beginning of the period	252	165
Additional provisions made in the current period	-	-
Amount utilised in the current period	156	87
Carrying amount at the end of period	<u>408</u>	<u>252</u>

Leave pay provision comprises the value of leave days owing to employees as at 30 September 2012.

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16 Cash generated from operations	2013	2012
Surplus for the year	1 279	3 105
Non cash/ working capital changes	(100)	(2 173)
Depreciation	193	353
Amortisation	132	44
Increase / (Decrease) in payables	(435)	(2 622)
(Decrease) / Increase in provisions	155	87
(Increase) / Decrease in receivables	(145)	(35)
Increase in inventory	-	-
Net cash flow from operating activities	1 179	932

17 Regulator Members' remuneration	No of individuals		
Members	9*	495	211

* There is a total of 9 Regulator Members. Mr Fakir, being a representative of the Presidency, is not remunerated.

18 Executive member's remuneration	No of individuals		
Chief executive officer	1	1884	1800

19 Contingent liabilities

There were no contingent liabilities as at 31 March 2013.

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

Net surplus per Statement of Financial Performance	1 279	3 105
Adjusted for		
Fair value adjustments	-	11
Increase/decrease in provisions	155	87
Increase/decrease in expenditure	(2 040)	(3 064)
Increase/decrease in revenue	(338)	(232)
Net surplus/deficit per approved budget	(944)	98

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21 Unauthorised, irregular and fruitless and wasteful expenditure	2013	2012
	R'000	R'000
Fruitless and wasteful expenditure	<u>8</u>	<u>11</u>

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

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.

