



Ports Regulator of South Africa

Port Tariff Methodology for Tariff Years 2021/2022- 2023/2024

NPCC Submission

5 February 2020

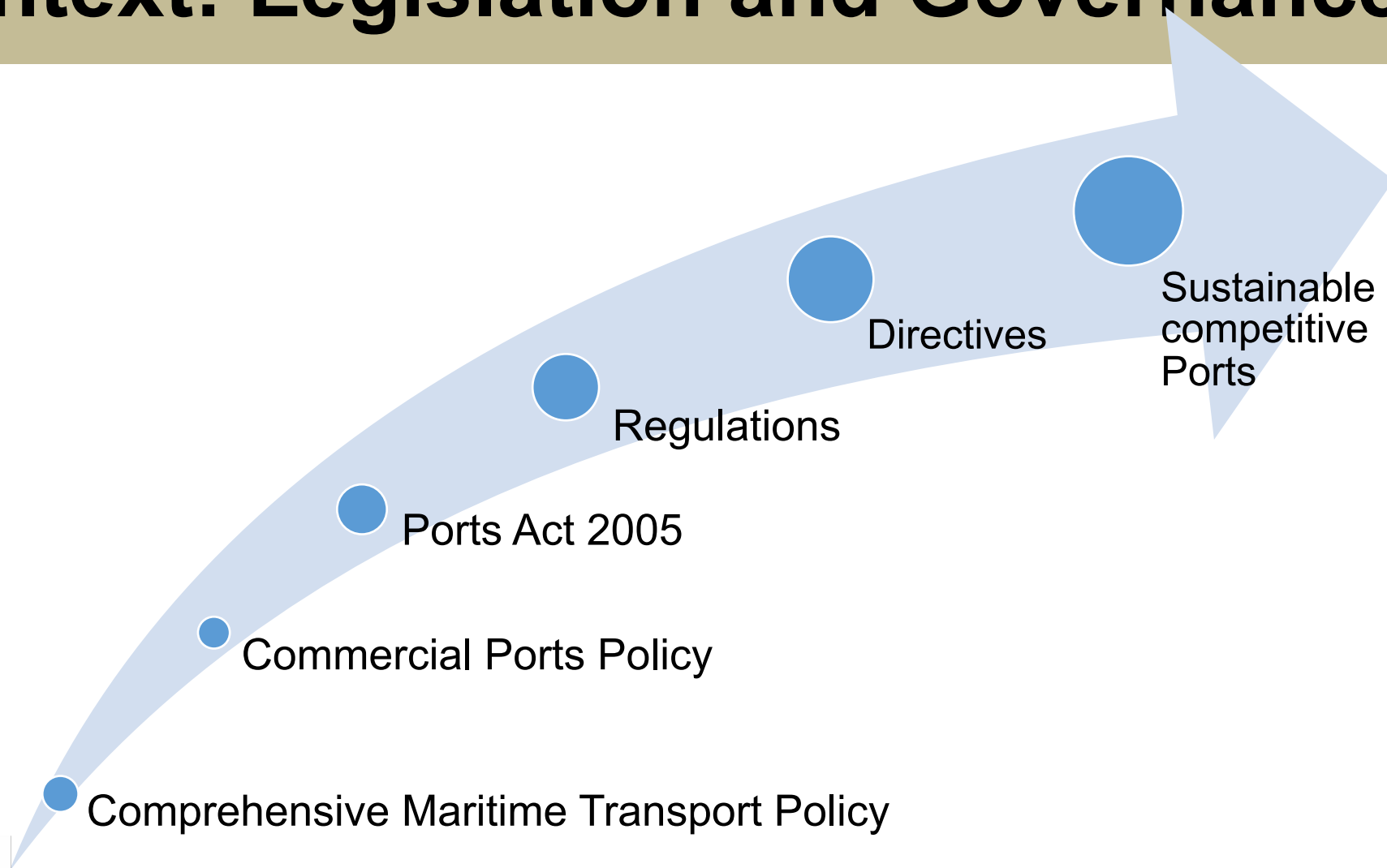
Presented by NPCC Representative: Ben Human

Agenda

- 1 Context: Legislation and Governance
- 2 PCC Members per Port & NPCC Representatives
- 3 Tariff Methodology: Compliance with the Act, Regulations, Directives
- 4 Port Performance
- 5 Recommendations



Context: Legislation and Governance



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Context: Ports Act Chapter 11

1. Draft Maritime Transport Policy/ Ports Policy / Ports Act / Regulations / Directives
2. Ports Act Chapter 11 – Mandate and Composition per port PCC and NPCC
3. Operationalising the Act: Protocol of Meetings
4. Issue escalation process
5. Annual Schedule of Meetings



Mandate: Ports Act Chapter 11

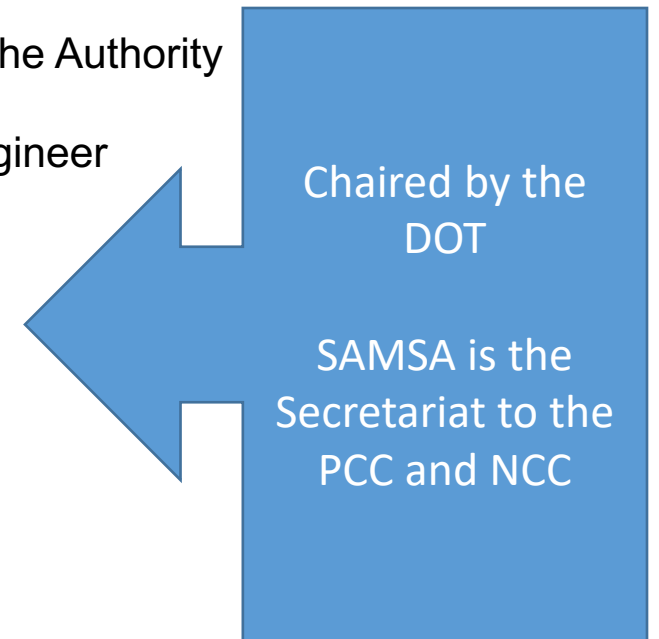
		Functions and Duties of the PCCs and NPCC				
		Forum for Exchange of Views	Advice on expansions and developments of ports	Advice on Policy Matters	Advice on Regulatory Framework	Advice on alterations to the NPA tariff
Key perspectives	Relevance	Relevance Membership /Relevance of PCC Discussions to the Mandate	PCC inputs relevance and consideration.	Relevance on Policy matters	Relevance of advice.	Relevance and impact of inputs.
	Effectiveness	Effective representation of all stakeholders	Discussion impact at port level.	Policy changes post PCC inputs.	Regulatory Framework changes post PCC input.	NPA tariff adjustments post PCC inputs.
	Efficiency	Efficiencies of PCC meetings in addressing core issues. CSFs	PCC system relevance in delaying or enhance port developments.	PCC system delay / enhance policy development.	PCC system delay or enhance regulatory framework adjustments.	PCC system delay or enhance appropriate tariff adjustments?
	Impact	Evidence of forum impact	Evidence of PCC impact on expansion and development	Evidence of PCC impact on policy	Evidence of PCC impact on the Regulatory Framework	Evidence of PCC impact on the NPA tariff adjustments
	Sustainability	Sustainable of forum outcomes	PCC inputs into port expansion and development debates.	Sustainability of policy inputs / need for refinement.	Regulatory framework inputs sustainability / additional refinement.	TNPA adjustment advice input sustainable or do they require additional input?



PCC Members per Port & NPCC Representatives

1. [Port of Mossel Bay](#)
2. [Port of Saldanha](#)
3. [Port of Cape Town](#)
4. [Port of Richards Bay](#)
5. [Port of Durban](#)
6. [Port of East London](#)
7. [Port of Ngqura](#)
8. [Port of Port Elizabeth](#)
9. [NPCC Membership](#)

- Harbour Master
- Two Representatives from the Authority
 - ❖ Port Manager
 - ❖ Port Planner / Port Engineer
 - ❖
- Local Government
- Provincial Government
- SAMSA
- Labour
- Port User Representative



NPCC Representatives

- National Ports Authority
- Department of Transport
- Department of Public Enterprises
- The Dti
- Labour
- National Port Users Forum
- A Representative from each of the PCCs

Port	NPCC Representative
Mossel Bay	Mr Lionel Brown
Saldanha	Mr Arthur Martin Mr Steve Hrabar
Cape Town	Ms Megan Gobey Mr Yongama Ndugane
Richards Bay	Mr Danny Knoesen
Durban	Mr Ben Human
East London	Ms Telrita Jacobs
Port of Ngqura	Mr Arthur Waters
Port Elizabeth	Mr Paul Klackers Mr Tanduxolo Ngubaleng



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Tariff Methodology: Compliance

1. Compliance with the Act, Regulations, Directives
 - i. Section 72(2) of the National Ports Act stipulates that the Authority must, prior to any substantial alteration of tariffs consult with the NPCC.
 - ii. **Directives 22(3) b-c:** This directive articulates the need for sufficient information to the PRSA to reflect on total costs and the amounts to be invested and revenues to be utilised in port development, safety, security and environmental protection.
 - iii. **Directives 23 (1) a-f:** This directive considers balancing key considerations such as a consistent and comparable tariff methodology, fairness, avoidance of discrimination such as when same is in the public interest, simplicity and transparency, predictability and stability, avoidance of cross subsidisation save where same is in the public interest,
 - iv. **Directives 23(1)g:** Promotion of access to ports, efficient and effective management and operation in ports.



Tariff Methodology: Revenue Required and Methodology period

2. Methodological Approach and Consistency:

- i. Approach based on the RR model in the absence of any other model. Determination of the Revenue Required by the Authority still to be clarified.
- ii. Multi Year approach – Flexibility of the Multi-year approach allowing for annual reviews well received by Industry. Introduced consistency and predictability whilst responding to annual market developments
- iii. Level of predictability



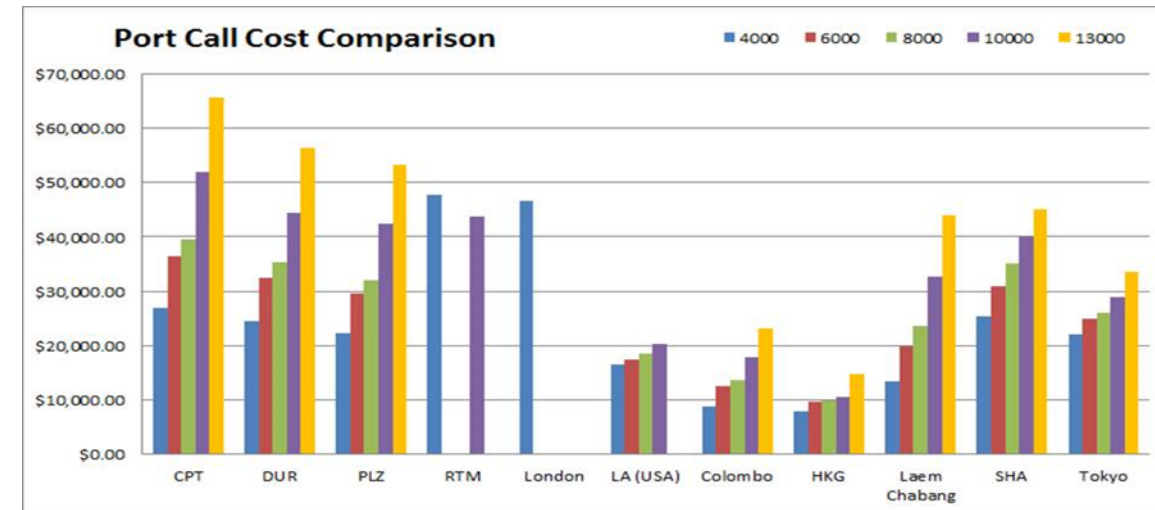
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Tariff Methodology –Rate of Return Regulation

- The NPCC supports the Authority recovering its investment and costs etc.
- The issue of risk and its justification remains a challenge noting that the Authority largely operates in a monopolistic environment. Current risks include the Authority's consistent lack of investment and decision making.
- Justification of the actual Revenue Requirement itself remains a challenge noting the lack of investment and lack of transparency related to the redistribution or reinvestment of net profits.
- Noting these comments, it is a concern that these monopolistic practices may contribute to excessive charges. The graph previously submitted by Captain Sumeet illustrating port call cost differences.



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Tariff Methodology -RAB

- a. Strides made with regards to the revaluation of the RAB acknowledged.
- b. Appropriate minimum criteria for setting an appropriate RAB and asst valuation supported.
- c. Assets prior to 1990 – applying historical cost basis supported;
- d. Assets post 1990 applying the Trended Original costs method supported.
- e. Further supports the PRSA undertaking to ensure the Ports Authority “correctly allocate capital maintenance applied to pre1990 in the asset register satisfying the stipulated conditions as outlined by the PRSA.

Tariff Methodology –Rules for inclusion

- a. Strides made with regards to the revaluation of the RAB acknowledged.
- b. The NPCC acknowledges the PRSA’s “rules setting criteria for inclusion and valuation of assets and treatment of maintenance” as it relates to the RAB. The NPCC wish to express its appreciation for the long term view noting that fixed assets consider a long terms approach and is operationally used and useable.
- c. The National Ports Authority’s oversight role including monitoring and auditing remain a concern. By way of example in the case of a tug, which at the start of the financial year was in working order, and a month or two into the new financial year the same tug has to be taken out for repairs which could take 6-8 months to be repaired.
- d. Clarity is sought as to timing of the adjustment to be done. In particular whether it is done in the next financial year to exclude the specific asset for the period it was out of commission?
- e. Important to note that the NPCC is not referring to normal maintenance but long-term repairs which may be anything over a month in our opinion and should be considered long term and not operational and used



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Tariff Methodology –Elements continue

2. Weighted Average Cost of Capital (WACC)
 - a. Understood that the Vanilla WACC is commonly used internationally.
 - b. Gearing impact on WACC: Same should consider the Authority's level of borrowing instead of the Groups.
 - c. Authority's Risk exposure vs. Groups risk exposure.

Tariff Methodology –Elements continue

3. Operating Costs
 - a. Need for higher level of disclosure of information.
 - b. Savings through increased efficiencies to be encouraged and to be appropriately rewarded when such savings are achieved. Not at the risk of compromising safety. The existence or otherwise of transfer pricing within the broader Transnet group needs to be interrogated, since it could, if it existed, have a significant impact on required revenue.
 - c. Value proposition in respect of skills developed and employed to contribute to an improved and productive port system.
4. Depreciation
 - a. PRSA Treatment of the depreciation acknowledged.
 - b. Differentiation between assets neglected and assets refurbished important to note.

Tariff Methodology –Elements continue

5. Taxation expenses
6. Claw-back – usefulness of this mechanism reflects the stride made
 - a. Mechanism for over and under recovery discretionary use acknowledged
 - b. Importance of accurate volume forecasting jointly with commodity and activity owners.
 - c. Concerns regards under recovery expressed and impact same may have on industry.
7. Excessive Tariff Increase Margin Credit (ETIMC)
 - a. Buffering tool to smooth out tariff spikes supported.
 - b. Application to be considered holistically.
8. Net Profits - Ports Act of 2005 requires the Ports Authority to be corporatized which would allow for net profits to be reinvested in the port system.



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Tariff Methodology – Port Performance - WEGO

1. Port Performance incentives and penalties

- I. WEGO welcomed across the port system.
- II. A different perspective
 - I. Operational Efficiencies – operational inefficiencies across the port system remain a challenge.
 - II. Financial efficiencies – Relationship between the Authority, TPT and Transnet Group in breach with the Ports Act of 2005 requiring the Ports Act to be corporatized. Ports Authority to be financially ringfenced.
 - III. CAPEX Investment Efficiencies – year on year lack of capex spend reflect the
 - IV. Asset Maintenance Efficiencies.
- III. Incentives and penalties - all parties



Recommendations

1. Independent Valuation of the RAB to be prioritised as articulated by the PRSA.
2. Consideration to be given as to the true Revenue Requirement need.
3. Net Profit Challenge
 - reinvestment of net profits, and percentage to be reinvested.
 - Governance of net profits reinvested within Transnet.
4. WEGO welcomed. Performance challenges to be addressed.
5. Authority has an obligation to exercise its oversight role which is perceived to be dormant. Illustrated by the challenges across the port system.
6. The current structure of the Ports Authority does not allow it to perform as envisaged by the Ports Act of 2005 and Port Regulations of 2007. The proverbial elephant in the room remains the corporatization of the Ports Authority which has to be fast-tracked.
7. Regulatory Empowerment and oversight of the Ports Authority oversight obligations to ensure an efficient and effective port system.





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Thank You



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