

2019 | 2020

ANNUAL REPORT

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Ports Regulator of South Africa Annual Report 2019/2020

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www.portsregulator.org



Ports Regulator of South Africa S30 (6) & S44 Report 2019/2020
(Incorporating the Annual Report in terms of the PFMA)

www.portsregulator.org



Cover Photo: The SA Agulhas training vessel berthed at the Port of Cape Town.



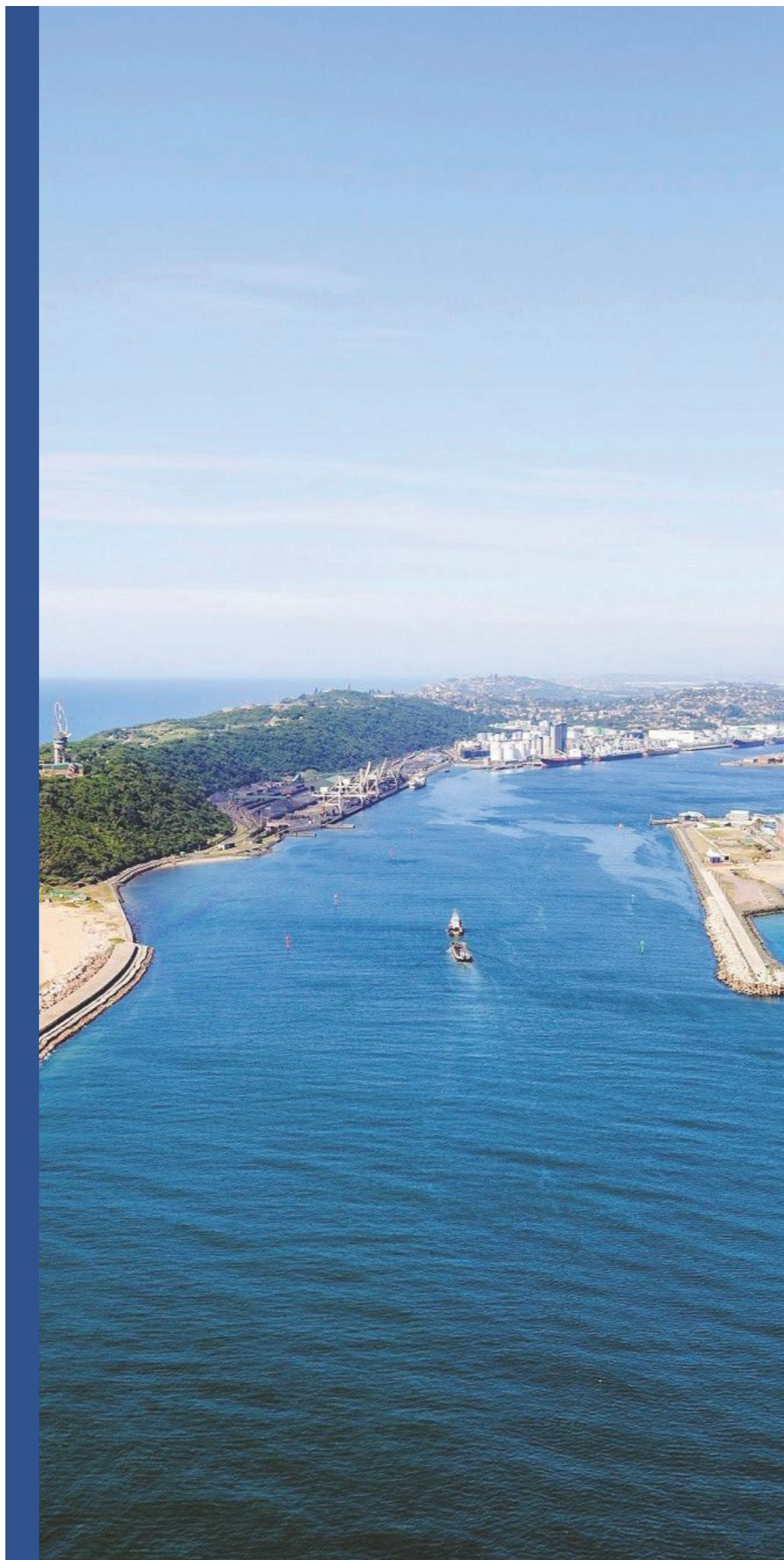
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Harbour entrance, Port of Durban

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Port photographs used with thanks to the National Ports Authority

PART A
GENERAL INFORMATION



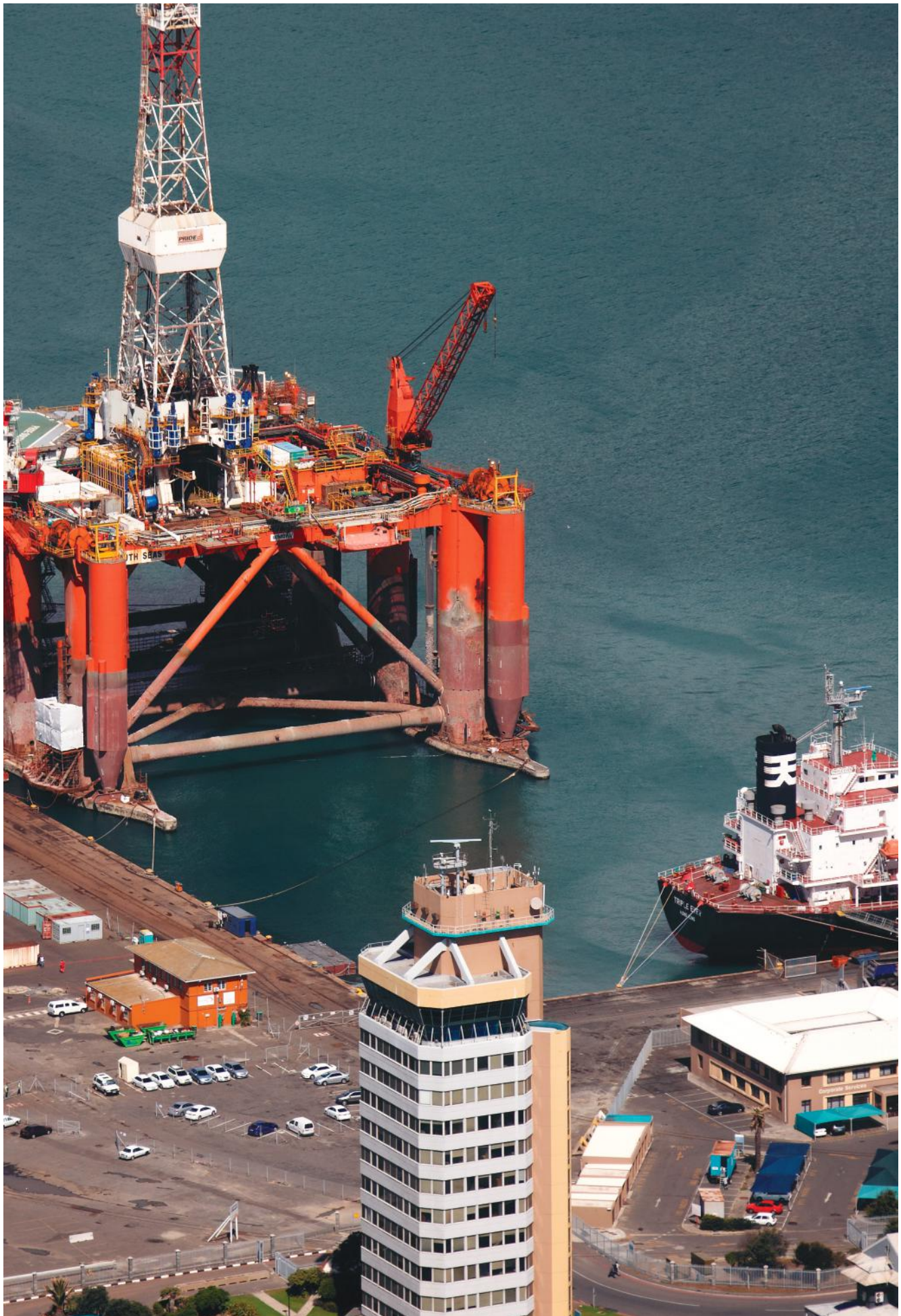
Aerial view of the Port of Cape Town

GENERAL INFORMATION

Country of origin and domicile	South Africa
Legal form of entity	Schedule 3A Public Entity established in terms of the National Ports Act 12 of 2005.
Nature of business and principal activities	Regulator of the National Ports Authority exercising economic regulation of the ports system in line with government's strategic objectives.
Board Chairperson	Mr. Zolani Kgosietsile Matthews
Business address	Ports Regulator of SA Suite 1101, The Marine 22 Dorothy Nyembe Street Durban, 4001
Postal address	Ports Regulator of SA Private Bag X54322 Durban, 4000
Bankers	Standard Bank of South Africa
Auditors	Auditor-General of South Africa
Company Secretary	Ms Kathleen Hall
Preparer of financial statements	The financial statements were compiled internally by Mr. Thokozani Mhlongo

ABBREVIATIONS AND ACRONYMS

AGSA	Auditor-General of South Africa
AMDA	Aerospace Maritime and Defence Association
APP	Annual Performance Plan
B-BBEE	Broad Based Black Economic Empowerment
CEO	Chief Executive Officer
CC	Competition Commission
CFO	Chief Financial Officer
CMTF	Comprehensive Maritime Transport Policy
DoT	Department of Transport
ECMBC	Eastern Cape Maritime Business Chamber
ERT Bill	Economic Regulation Transport Bill
ETIMC	Excessive Tariff Increase Margin Credit
ID	Industry Development
KPI's	Key Performance Indicators
MEC	Member of Executive Council
MTEF	Medium Term Expenditure Framework
NAAMSA	National Association of Automobile Manufacturers of South Africa
NERSA	National Energy Regulator of South Africa
NPA	National Ports Authority
NPCC	National Ports Consultative Committee
PCC	Port Consultative Committee
PFMA	Public Finance Management Act
PSR	Policy, Strategy and Research
PTIP	Port Tariff Incentive Programme
RoD	Record of Decision
ROS	Regulator Outcomes Strategy
SADC	Southern African Development Conference
SCM	Supply Chain Management
SMME	Small Medium and Micro Enterprises
SRAB	Starting Regulatory Asset Base
STER	Single Transport Economic Regulator
TOPS	Terminal Operators Performance Standards
TOC	Trended Original Cost
TR	Treasury Regulations
WEGO	Weighed Efficiency Gains on Operations



Oil rig berthed at the Port of Cape Town

STATEMENT

BY THE CHAIRPERSON

It is now well known that I and my colleagues, were appointed by the Honourable Minister Mbalula as of June 2020 as the Regulator for a period of three years, after an Interim Regulator term of 6 months starting 22 November 2019. Besides the performance of their regulatory duties and functions in terms of the National Ports Act, the Regulator Members have been the governing body and the accounting authority for the Ports Regulator as an entity.

After almost a year without a Regulator, the Interim Regulator, with its previous experience and institutional knowledge, was seized with the task of finalising a number of important decisions, the most important of which was the pending tariff decision.

The Ports Regulator as an institution once again lived up to its aim of reducing the cost of living for South Africans as well as the cost of doing business, by approving a below inflation average increase on Port Authority tariffs of 0% for 2020/21. The Record of Decision was published on 29 November 2019.

Significantly, cargo dues on export containers were reduced by -20% and many break bulk cargo dues were capped in support of President Ramaphosa's economic stimulus imperatives.

The Ports Regulator also took due cognisance of the expected subdued economic activity over the tariff period coupled with a strong capital expenditure programme included in the application, and committed to using the Excessive Tariff Increase Margin Credit (ETIMC) to ensure that overall average tariffs, in the outer two years of the period under review and beyond, remain within or below the inflation target band.

The Ports Regulator continued to hold the Ports Authority to account within its regulatory mandate, implemented the Tariff Strategy in moving progressively towards cost reflective tariffs, developed initiatives to improve the efficiency and performance of SA ports, made continuous strides in determining and implementing a fair value of port assets, helped improve transformation and B-BBEE participation in the sector, and allowed some discretion to implement port tariff subsidies in the public interest that will support economic imperatives, whilst ensuring that, in the main, our port tariffs and efficiencies become globally competitive.

In this regard it is recognised that the Ports Regulator incentives, currently being implemented, have respectively centred on the improvement of port efficiencies (WEGO) as well as a port tariff incentives programme (PTIP) in the interest of beneficiation, industrialisation and localisation which are vital for the re-invigoration of our cooling economic growth.

The Ports Regulator responds positively to President Ramaphosa's recent calls to reduce administered prices as part of his economic stimulus initiative, when it announced a -6,27% average reduction in port tariffs for 2019/20 and 0% for 2020/21.

Whilst bringing greater fairness, cost reflectiveness and predictability in South Africa's port system, the Regulator has responded to South Africa's economic growth and job creation imperatives by maintaining much lower prices for highly benefited South African manufactured cargo in export containers as well as SA manufactured export vehicles, in support of local manufacture and industrialisation. Also, in support of economic development, the Regulator introduced an incentive for the registration of cargo carrying commercial vessels on the SA flag. The growing number of ships taking up this opportunity will improve SA involvement in the maritime sector, increasing jobs, skills and supply chain opportunities for South Africans beyond our boundaries. The Regulator has also in the past ensured that all automotive industry cargo dues were equalised at the full 60% discounted level, enjoyed by only the largest automotive manufacturers. This reduced the cost of doing business for smaller SA auto manufacturers.

Beyond economic stimulus in the automotive sector, the Ports Regulator has developed an overarching framework for port tariff incentives in support of beneficiation, localisation and industrialisation, which allows individuals and companies to apply for port tariff book reductions with approval processes

modelled on the basis of public interest, scrutiny and response combined with comprehensive impact assessments of these subsidies.

The existence of the Ports Regulator has been to significantly lower approved tariffs resulting in a significant real decrease in tariffs to port users over the few years of its existence whilst maintaining the continued revenue sustainability of the National Ports Authority. It continues to be proactive and risk mitigating and maintains an ETIMC of over R2bn available to offset future increases.

Other important research included the Global Ports Pricing Comparator Study, Capacity and Utilisation study for SA ports and the Ports Efficiency Benchmarking Study, all resulting in valuable initiatives to reduce the cost of doing business with South Africa, and monitoring our competitiveness as a country. The Regulator's compliance monitoring work included an audit of B-BBEE compliance in our ports and analysing Ports Act compliance, and the Regulator has proposed additional Ports Act amendments to the DoT to improve regulatory funding, capacity and powers.

It has been six years since the Ports Regulator published its first tariff methodology for 2015/16 to 2017/18, and in March 2020 we published the third revised multi-year tariff methodology for the years 2021/22 to 2023/24, having continued our open and public approach to our work, conducting a written public consultation process, and concluding with the hearing of presentations from interested parties in Durban on 5 February 2020, as the culmination of a Tariff Methodology consultation process that started in early September 2019.

Another significant achievement was the development and publishing of South Africa's first formal Methodology for the Valuation of the Regulatory Asset Base (RAB) of the National Ports Authority. The Regulator concluded that the Trended Original Cost (TOC) approach which ensures Financial Capital Maintenance will be the preferred valuation methodology.

However, some concerns related to the older assets capitalised before 1990 remain, so assets with



Zolani Kgosietsile Matthews

capitalisation dates before 1990 will therefore be treated on the basis of the historical cost method, while treating any assets created from 1991 onwards on the basis of the TOC approach. This RAB Valuation methodology now forms an important component of the latest Tariff Methodology.

It must, however, be noted that whilst the full impact of the implementation of the Value of Assets combined with the uncertainty of the corporate structure of the NPA is still to be determined, the Regulator has opted to apply a partial implementation of the methodology for the 2020/21 tariff year.

All delivery targets have been met in the past year and the Ports Regulator achieved an unqualified audit outcome. I would like to recognise the efforts of the Interim Regulator Members, staff and management for their work in ensuring the success of the Regulator. I would like to thank Minister Mbalula and Deputy Minister Magadzi, as well as the Department of Transport, for the opportunity to have served the country in our capacity as Regulator Members, and I ask for their continued assistance for the Ports Regulator as an institution in the years ahead.

A handwritten signature in black ink, appearing to be 'Z. Kgosietsile'.

Mr. Zolani Kgosietsile Matthews
Chairperson: Ports Regulator of South Africa
30 October 2020

OVERVIEW

BY THE CHIEF EXECUTIVE OFFICER

For the past six years, the Ports Regulator (PRSA) has measured the overall performance of the organisation based on public perception, with stakeholders scoring a basket of six indicators, on feedback forms, at each of its annual tariff roadshows held in Durban, Johannesburg, Cape Town and Nelson Mandela Bay from September 2014 to August 2019.

The indicators measured, and their respective average scores over the past six years, are as follows:

- The efficiency of the PRSA: 81%
- The effectiveness of the PRSA: 80%
- The responsiveness of the PRSA: 79%
- The neutrality of the PRSA: 81%
- The independence of the PRSA: 82%
- Decisions issued by the PRSA: 80%

Aggregate annual basket scores continue to indicate high regard for the Regulator averaging 80,3% for the six years with the lowest annual aggregate score being 78% and the highest 83% (for 2018/19). There was also considerable support from stakeholders over the year, in particular through participation in Regulator initiatives such the WEGO (Weighted Efficiency Gain on Operations) incentive, as well as in the development of the third Multi-Year Tariff Methodology.

Notable also was the support expressed by stakeholders for the Regulator's announcement of a zero percent average increase in Port Authority tariffs for 2020/21, announced on 29 November 2019, in particular the reduction of export container cargo dues of -20%. This resulted in significantly lower tariffs with direct savings to port users and the economy, whilst still maintaining the continued financial sustainability of the National Ports Authority.

In conducting its assessments, the Ports Regulator consistently takes a view on a number of cargo volume

and market related factors, including the inflation outlook, the cost of debt, the operational and cash flow requirements of the National Ports Authority, as well as the implementation of the published Tariff Strategy aiming to rebalance the tariff structure to closer reflect the underlying cost and benefit to specific users of port infrastructure.

In addition, the Ports Regulator was cognisant of the poor economic climate in the country as well as the Government's call for the lowering of port administered prices. In this regard, the Ports Regulator was of the opinion that the export biased lowering of container cargo dues would be in the best interest of stimulating local manufacture, beneficiation, and employment.

In the development of the new tariff methodology applicable to tariffs from 2021/22, a call for submissions was made, a Ports Regulator paper guiding submissions on the methodology was published, and a draft methodology was published for public comment. All comments and submissions were published on the Regulator's website. The consultation process culminated in a face-to-face public consultation meeting on 5 February 2020. Participants from various sectors presented their view on the tariff methodology. These included the Competition Commission (CC); the Eastern Cape Maritime Business Chamber (ECMBC); the National Energy Regulator of South Africa (NERSA); the National Ports Authority (NPA); the National Ports Consultative Committee (NPCC) representing port users; the Aerospace Maritime and Defence Association (AMDA); the National Association of Automobile Manufacturers of South Africa (NAAMSA); and the UKZN Graduate School of Business. After the consultation process, the approved third Multi-year tariff Methodology was published in March 2020.

Much progress has been achieved over the past six years by the Regulator in publishing amongst



Mahesh Fakir

others, a 10-year Port Tariff Strategy in 2015; a Tariff Strategy update in March 2020; three multi-year Tariff Methodologies; a Ports Sector Review; a Regulatory Review; studies benchmarking South African ports against their global peers with respect to pricing as well as performance; the design of the ports performance incentive system within the tariff methodology; the development of a Valuation Methodology for the NPA Regulatory Asset Base; and the development and launch of a Framework for Port Tariff Incentives for Beneficiation and other economic imperatives which are in the public interest as well as the Baseline Equity of Access Report on the implementation of B-BBEE in the ports sector. Besides the new Tariff Methodology and updated Tariff Strategy, recently published documents include the eighth iteration of the global ports pricing study, as well as a Record of Decision (ROD) on WEGO KPI's and weights to be measured in 2020/21.

Country-wide consultations were held in conjunction with the Ports Consultative Committees (PCC's) and other stakeholders on Weighted Efficiency Gains on Operations (WEGO) and other port industry development imperatives, including discussions dealing with the incorporation of the National Ports Authority in terms of the National Ports Act.

The performance incentive system, WEGO, continues to be based on five key indicators that were consulted with the NPA and Port Consultative Committees in the major commercial ports.

However, the 2020 ROD commences the measurement of land-side measures with the inclusion of baseline measurement of Truck Turnaround Time as a future KPI. The new WEGO system, which forms part of the new Tariff Methodology rewards year-on-year improvements in performance and penalises

deteriorating performance, allows the Ports Authority to gain or lose up to 7,5% profit for up to 15% increase or decline on a proportional basis, with the Regulator annually revising the weightings of lower performing KPI's upwards.

The Ports Regulator received an "Unqualified Audit" from the Auditor General 2018/19 as well as 2019/20, and again achieved 100% of APP targets performed, affirming its commitment to good governance and attention to the call of duty. I would like to thank the Chairperson and Regulator Members appointed on 22 November 2019 as the Interim Regulator, as well as to congratulate the new Chairperson and Regulator Members and wish them well in their journey ahead. I thank the Minister of Transport Hon. Fikile Mbalula, Deputy Minister Hon. Dikeledi Magadzi, Director-General Mr. Alec Moemi, and the senior managers and staff of the Department of Transport, and look forward to working together to enhance and capacitate the Ports Regulator and the maritime sector as a whole.

I would like to thank my staff and management for their dedicated service and their consistent achievement of the deliverables set out in the APP and more. In the year ahead the Regulator will focus on implementing the new multi-year tariff methodology and deal with the devastating economic, financial, and organisational impacts of the COVID-19 pandemic.

We will also continue the work on monitoring the implementation of B-BBEE targets as envisaged in the National Ports Act Regulations and in the interests of transformation. In line with the National Development Plan and Ministerial priorities, we will enhance the capacity of the Regulator, assist with the establishment of a Single Transport Economic Regulator (STER), and focus on reducing administered prices in the ports system.

Mr. Mahesh Fakir
Chief Executive Officer & ex officio Regulator Member
30 October 2020

STATEMENT

OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY OF THE ANNUAL REPORT

To the best of my knowledge and belief, we confirm the following:

- All information and amounts disclosed in the annual report is consistent with the annual financial statements audited by the Auditor General
 - The annual report is complete, accurate and is free from any omissions
 - The annual report has been prepared in accordance with the guidelines on the annual report as issued by National Treasury
 - The Annual Financial Statements (Part E) have been prepared in accordance with the Generally Recognised Accounting standards applicable to the public entity
 - The accounting authority is responsible for the preparation of the annual financial statements and for the judgements made in this information
- The accounting authority is responsible for establishing and implementing a system of internal control that has been designed to provide reasonable assurance as to the integrity and reliability of the performance information, the human resources information and the annual financial statements
 - The external auditors are engaged to express an independent opinion on the annual financial statements
 - In our opinion, the annual report fairly reflects the operations, the performance information, the human resources information and the financial affairs of the public entity for the financial year ended 31 March 2020



Mr. Mahesh Fakir
Chief Executive Officer/Accounting Officer
30 October 2020



Mr. Zolani Kgosietsile Matthews
Chairperson of the Ports
Regulator /Accounting Authority
30 October 2020

STRATEGIC OVERVIEW

The Ports Regulator of South Africa is now into thirteen years of existence.

Since its inception the organisation has made great strides in terms of achieving its mandate.

With limited capacity and financial resources, it has made a profound impact on the South African economy as a whole through its regulation of infrastructure and related services prices in South Africa's commercial port sector.

For example, there has been a smoothing of the tariffs charged by the National Ports Authority established in terms of the Act, to own, manage, control and administer all South African ports to ensure their efficient and economic functioning capable of contributing to the economic growth and development of our country.

The Regulator's tariff decisions have translated into a saving to port users of R10billion, and its research studies have informed economic policy and assisted in rationalising port tariffs more closely to international trends, given that South African cargo dues are amongst the highest in the world.

The Regulator has in addition, assisted users by creating a buffer through the Excessive Tariff Increase Margin Credit against excessive tariff increases due to large capital investments by the NPA.

The Regulator has further introduced a programme aimed at developing efficiencies in the port system, which include the PTIP and the down time adjuster. These two programmes have an effect on the tariff decision and tariff book but are primarily aimed at contributing to the efficient use of port facilities within reason.

The organisation has created greater regulatory certainty and predictability through a fairer tariff incidence as well as more accurate investment signals through a ten-year Tariff Strategy

It is required to perform a very strategic balancing act between ensuring the sustainability of the Authority as well as lowering the cost of doing business in South African shores and creating an enabling environment for the National Ports Authority to attract new business and therefore investment.

The transformation of the ports sector remains a key concern of government and industry stakeholders.

Therefore, the Regulator is expected to play a significant monitoring role through its legislative compliance and tribunal functions as well as its interaction with policy makers including the Department of Transport.

The Regulator remains committed to ensuring that the organisation is indeed positioned as an efficient and effective economic regulator. Its agenda is to effectively carry out its mandate and remain relevant in a continually challenging environment.

VISION, MISSION AND VALUES

VISION

The Ports Regulator developed its vision at inception and has retained it without alteration as it clearly articulates the primary perspective for the existence of the public entity. The vision of the Ports remains as:

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

MISSION

The Mission of the Ports Regulator is to:

- Exercise economic regulation of the South African ports system consistent with the government’s strategic objectives
- Promote equity of access to ports and to facilities and services provided in ports
- Monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, Act No.12 of 2005

- Consider the proposed tariffs of the National Ports Authority
- Regulate the provision of adequate, affordable and efficient port services and facilities

VALUES

The Ports Regulator initially established a value set that represented the articulation of its mandates as set out in legislative, regulatory and policy sources. These have been reviewed on an annual basis since inception.

While there has been no significant change in any of the sources of the Regulator that would support an amendment of these values, they have been articulated in a different way to align to the performance of our mandate, and are the foundation upon which the corporate culture in the Ports Regulator is founded and maintained at every level.

	Values	Behavioural Attributes
P	Protection of the values enshrined in the Constitution of human dignity, equality and freedom.	Being people centred in terms of protecting the rights of our staff enshrined in the Constitution and upholding the democratic values of Fairness, Integrity and Transparency.
R	Respect and Relevance	Respect for others at all levels, maintaining high ethical standards and trust especially with regard to the proper use of the resources entrusted to us by the public.
S	Service Delivery and Stakeholder focus	Striving to exceed stakeholder expectations which engender credibility.
A	Accountability	Being accountable to the board of the Regulator, its Executive Authority and stakeholders for the decisions and actions it takes.

LEGISLATIVE

AND OTHER MANDATES

The Regulator derives its mandate from a range of statutory and policy instruments, the primary sources being the White Paper on Commercial Ports (2002), Comprehensive Maritime Transport Policy, the National Ports Act, 12 of 2005 together with the Regulations and Directives thereto.

Procedural and substantive mandate prescripts are also derived from other statutory and policy instruments such as (including but not limited to:

- The Constitution of the Republic of South Africa, 1996
- The Public Finance Management Act, Act No. 1 of 1999 and the Regulations thereto
- The Labour Relations Act, Act No. 66 of 2005
- The Basic Conditions of Employment Act, Act No. 75 of 1997
- The Employment Equity Act, Act No. 55 of 1998, the National Development Plan
- Medium Term Strategic Framework
- Ministerial Performance Agreement
- Operation Phakisa
- The State of Nation Address
- The Ports Regulator Regulatory Review and Strategic Plan

Five Priorities of the Department of Transport

The Minister has set five guiding strategic thrusts which will be the focus of the current administration. These are infused by the Khawuleza ethos.

The Regulator will assist in building a maritime nation and elevating the oceans economy. This will be done through building blocks of the Minister's maritime programme constituting five pillars:

Pillar 1

Enhancing South Africa's Ship Registration Regime.

Pillar 2

Mainstreaming maritime through empowering historically disadvantaged persons to access opportunities, support development of young people to take up opportunities in the maritime fraternity through recreation and economic opportunities.

Pillar 3

Rolling out coastal shipping and creating partnerships to ensure sustainable support systems to enable effective implementation. The end-goal is to have a region-wide coastal shipping market. This is to include all offshore shipping activities in the oil and gas sector.

Pillar 4

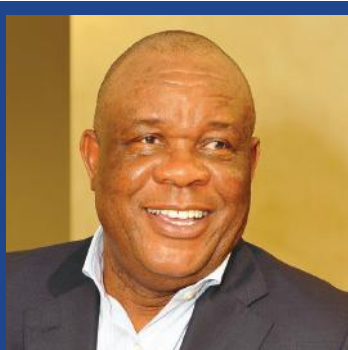
Create programmes to elevate fluvial transport and open up new economic opportunities by maximising the use of inland waterways.

Pillar 5

Unlocking maritime economic stimulation and recreation.

ORGANISATIONAL STRUCTURE

Interim Regulator Members 2019 – 2020



Mr. Thaba Mufamadi

Chairperson



Prof. Didibhuku Thwala

Member



Ms. Anjue Hirachund

Member



Adv. Gugulethu Thimane

Member



Ms. Gerildeen Taylor

Member



Mr. Mthunzi Madiya

Member



Mr. Lindelwe Mabandla

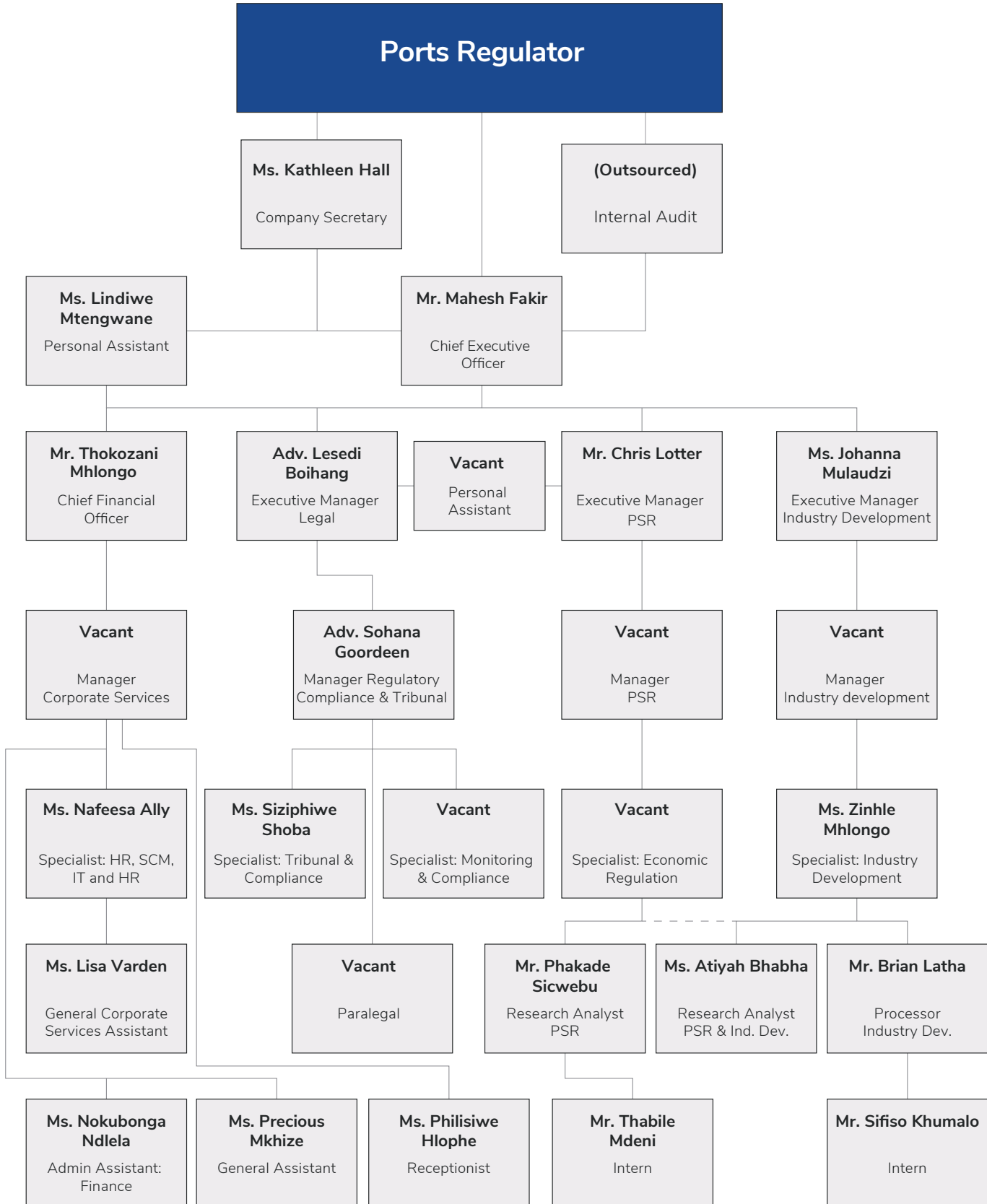
Member



Mr. Mahesh Fakir

Ceo & ex officio Member

Ports Regulator



INTRODUCING THE PORTS REGULATOR

MEMBERS 2020



Mr. Zolani Kgosietsile Matthews
CHAIRPERSON

Mr Matthews has extensive experience in strategy, politics, international relations, and dealing with governments and international organisations and brings a wealth of knowledge to the Ports Regulator,

He currently serves on the Boards of JSE Listed Companies Zarclear Holdings Limited and ENX Group Limited as a Member of their Audit and Risk Committees. He has also been appointed to serve as a member of the ICASA Council.

His qualifications include a Masters degree in Public Administration from Harvard University and a BA (Hons) degree majoring in Political Science from Warwick University, UK. His area of expertise includes economics, commerce and public management.

MEMBERS



Dr. Tshisikhawe Munyama

Dr. Munyama serves as the Chairperson of the Regulatory Committee and the Hearing Panels. He is a foremost economist in South Africa, having held positions as Chief Economist at Transnet National Ports authority and an economist at the South African Reserve Bank and Standard Bank.

With a PhD in Economics from Colorado State University his areas of expertise include economics, commerce, ports, the shipping industry and public and development management.



Mr. Ashraf Adam

Mr. Adam serves as a Member of the Audit and Risk Committee and the Human Resource & Remuneration Committee. He has extensive public sector experience including the built environment in Transportation Planning and Economic Development. He is currently the CEO of the Mandela Bay Development Agency.

He holds a number of qualifications including a Masters Degree in Town and Regional Planning; has served on various Boards including the SA Cities Network and is a former President of the South African Planning Institute (SAPI). His areas of expertise include built environment planning, public management and commerce.



Mr. Zola Fihlani

Mr. Fihlani serves as the Chairperson of the Human Resource and Remuneration Committee and as a Member of the Audit and Risk Committee and Hearing Panels.

He is an experienced Chartered Accountant (CA) SA with extensive Board and Governance experience having served on a vast array of Boards and Committees for organisations such as the Department of International Relations and Co-operation, Special Investigations Unit, Richards Bay Industrial Development Zone, Civil Aviation Authority, Gauteng Partnership Fund and the Gauteng Gambling Board. His areas of expertise include commerce, economics and public management.



Ms. Zandile Kabini

Ms. Kabini serves as a Member of the Human Resource & Remuneration Committee and Hearing Panels.

She holds a B Com (Honours) in Informatics degree and is an experienced ICT professional with extensive public sector experience. She has served on a number of Boards/Committees for organisations such as the Road Traffic Management Corporation, SADC Groundwater Management Institute and Broadband Infraco. She has completed and implemented IT projects across all spheres of Government as well as for SARS, SITA and Eskom. Her areas of expertise include ICT, commerce and corporate strategy and execution.



Mr. Mthunzi Madiya

Mr. Madiya has been re-appointed and serves as a Member of the Regulatory Committee. He is currently the Acting Deputy Director General for the Maritime Transport Branch at the Department of Transport and serves as the DoT Shareholder Representative and also serves on the Teta Council on Maritime.

He holds the qualifications of BPhil (Honours) (Maritime Economic Studies); Bcom Hon, Bsc Hon, Post Graduate Diploma in Business Management and various certificates including a Port of Antwerp Port Management Certificate. He is currently writing this Dissertation for a Master's in Commerce in Maritime Studies.

He has extensive knowledge of maritime transport, ports authorities and port operations, the liquid bulk business, port infrastructure and its commerce. He has served as a Member of the SAMSA Board since 2015 and Chairperson of National Ports and Ports Consultative Committees and is Head of Operation Phakisa Marine Transport and Manufacturing. His expertise includes the shipping industry, economics, commerce, ports and public management.



Ms. Leanda-Marsha Vilakazi

Ms. Vilakazi serves as a Member of the Regulatory Committee and Hearing Panels. She holds a Bachelor of Laws degree (LLB) and a Post Graduate Diploma in Corporate Law; is an Admitted Attorney, Conveyancer and Notary Public of the High Court of South Africa and a Director at Vilakazi Chilwane Inc.

She currently serves as a Board Member of the Companies Tribunal, Ditsong Museums of South Africa, Palaborwa Foundation NPO, Public Service Commission and the National Radioactive Waste Disposal Institute.

Her areas of expertise are corporate commercial law, risk management, regulatory compliance, property and conveyancing law, corporate governance, trust law and notarial law. She has experience in mining, transport and property development specialising in start-up and scaled growth companies as well as the public sector.



Ms. Kenosi Selane

Ms. Selane serves as a Member of the Audit and Risk Committee and Hearing Panels. She is an experienced Chartered Accountant (CA) SA with an MBA.

She brings a wealth of knowledge and experience in strategic financial advisory services and core finance and economic regulation. She has served on various Boards including as Chairperson of the Economic Regulating Committee at the Airports Company of South Africa (ACSA) and Air Traffic Navigation Services (ATNS). These committees' primary mandate is the determination of tariffs for aviation infrastructure in the country's commercial airports under ACSA and ATNS. Her areas of expertise include finance, economics and commerce.



Ms. Sehgothadi Kabelo

Ms. Kabelo serves as a Member of the Regulatory Committee and Hearing Panels. She holds a Bachelor of Laws degree (LLB), has practiced as an Advocate and was a Member of the Johannesburg Society of Advocates. She is currently a Director at KWA Attorneys specialising in general and commercial litigation.

Her areas of expertise include commercial law.

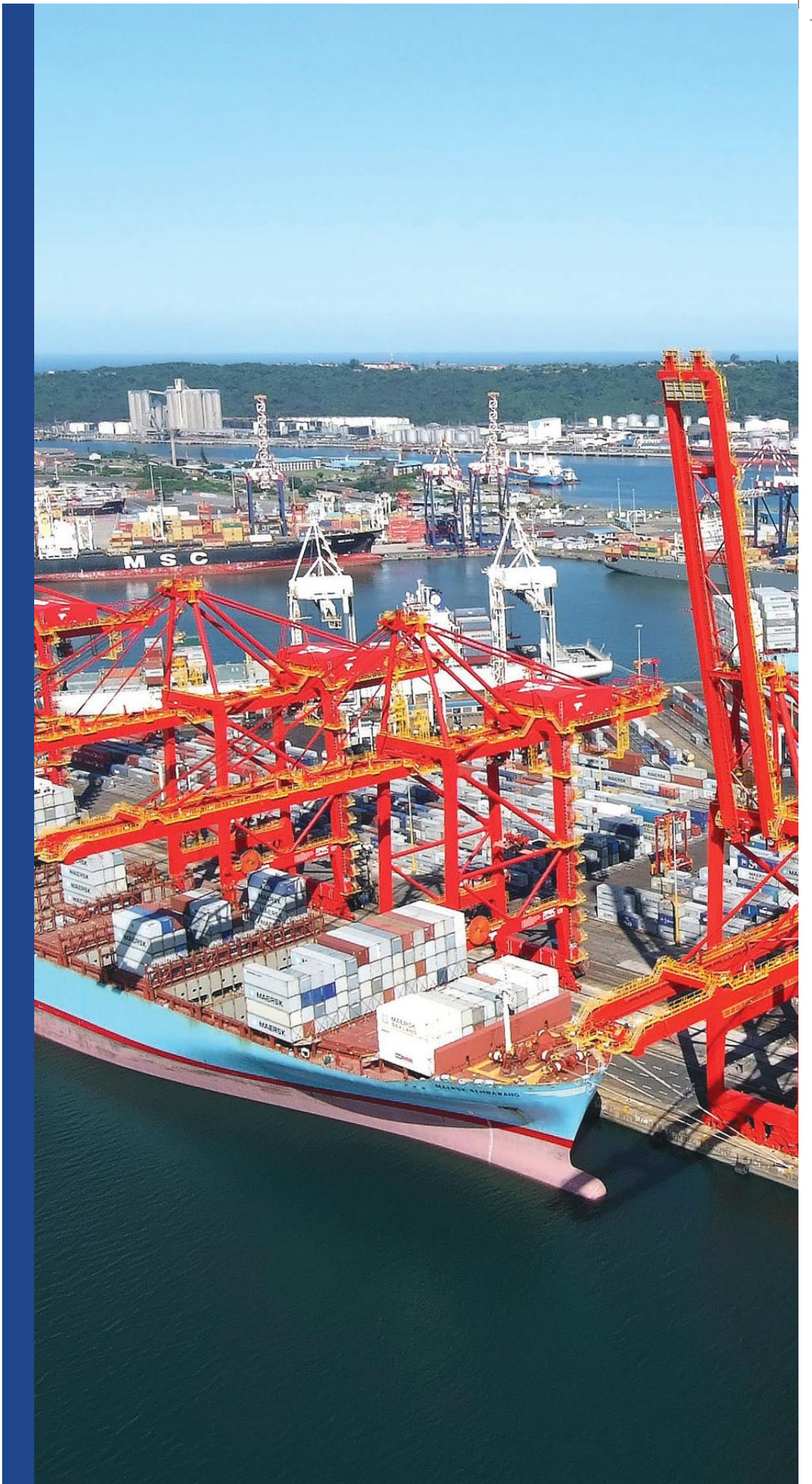


Ms. Siphokazi Matolengwe

Ms. Matolengwe who serves as a Member of the Regulatory Committee and Hearing Panels has considerable experience working in the maritime and shipping industry. She holds a National Diploma in Maritime Studies and is currently studying towards the Professional Qualifying Exams in Maritime.

Her areas of expertise include the shipping industry, commerce and ports.

PART B
PERFORMANCE INFORMATION



Port of Durban's Container Terminal

AUDITOR'S REPORT: PREDETERMINED OBJECTIVES

The AGSA/auditor currently performs the necessary audit procedures on the performance information to provide limited assurance in the form of an audit conclusion. The audit conclusion on the performance against predetermined objectives is included in the report to management, with material findings being reported under the Predetermined Objectives heading in the Report on other legal and regulatory requirements section of the auditor's report.

Refer to page 1 of the Report of the Auditors Report, published as Part E: Financial Information.

SITUATIONAL ANALYSIS

Service Delivery Environment

The Regulator has managed over past financial years to consistently upscale the discharge of its mandated functions under challenging circumstances, with human resource as well as budgetary constraints. However, it can safely be said that the Regulator is in the phase of full implementation of all of its programmes. Some in their infancy stages, but none-the-less positive strides are being made in terms thereof.

The entity has managed to strengthen its governance structures with the intention to fully comply with its key legislative framework, policies, procedures and regulations. This process of strengthening governance has also led to the development and approval of policies and procedures that will govern the operating activities of the entity to achieve the financial and non-financial output, which will be in line with short-term Annual Performance Plans and long-term strategic plans.

This process is to be continued as the capacitation of the organisation allows a greater degree of separation between functions and therefore a greater level of substantive compliance with the governance requirements of an organisation of this type.

The Ports Regulator measures the overall performance of the organisation based on public perception, this is aimed at understanding the impact of the decisions taken by the Regulator. The Regulator has scored highly averaging 80,3% for the six years with the lowest aggregate annual score being 78% and the highest at 83% for 2018/19.

There was also much support given by stakeholders over the year, in particular through participation in Regulator initiatives such the WEGO incentive as well as in the development of the third Multi-Year Tariff Methodology.

The industry also supported the Regulator's announcement of a zero percent average increase in Port Authority tariffs for 2020/21, announced on 29 November 2019, in particular the reduction of export container cargo dues of -20%, resulting in significantly lower tariffs with direct savings to port users and the economy, whilst still maintaining the continued financial sustainability of the National Ports Authority. In addition, the Ports Regulator was cognisant of the poor economic climate in the country as well as the Government's call for the lowering of port administered prices.

The approved third Multi-year tariff Methodology was published in March 2020 after extensive consultations with industry players and consideration of the comments received by the stakeholders.

Considerable progress has been achieved over the past six years by the Regulator in publishing amongst others:

- A 10-year Port Tariff Strategy in 2015 as well as a Tariff Strategy update in March 2020
- Three multi-year Tariff Methodologies; a Ports Sector Review; a Regulatory Review, as well as studies benchmarking South African ports against their global peers with respect to pricing as well as performance
- The design of the ports performance incentive system within the tariff methodology (WEGO)
- The development of a Valuation Methodology for the NPA Regulatory Asset Base
- The development and launch of a Framework for Port Tariff Incentives for beneficiation and other economic imperatives that are in the public interest, as well as the Baseline Equity of Access Report on the implementation of B-BBEE in the ports sector

Besides the new Tariff Methodology and updated Tariff Strategy, recently published documents include the eighth iteration of the global ports pricing study, as well as a Record of Decision on WEGO KPI's and weights to be measured in 2020/21.

Country-wide consultations were held in conjunction with the Ports Consultative Committees and other stakeholders on WEGO and other port industry development imperatives, including discussions dealing with the incorporation of the National Ports Authority in terms of the National Ports Act.

The absence of the Regulator members for a major part of the financial year presented many challenges for the Ports Regulator from a governance point of view and from a performance point of view. It must be remembered that Regulator members have a role to play in the delivery on the mandate. This includes approval of the ROD on the tariff assessments for the National Ports Authority as well as the Tribunal function where Regulator members must preside over and hear matters.

The governance of the Regulator was affected in that there were no oversight engagements on a quarterly basis as required by legislation and best practice. In as much as the CEO could approve submissions in his capacity as Delegated Accounting Authority, independent review of performance and finances was only limited to the internal audit function which is outsourced.

The Minister of Transport re-appointed six Regulator members, who had only served one term, in November 2019 and this allowed the Regulator to approve a record of decision in respect of the NPA's annual tariff application in time for the 01 December deadline.

The record of decision was well received and accepted by industry. The re-appointment of the Regulator members also allowed the tribunal function to be brought back into operation. There were hearings planned for March 2020, but these had to be postponed due to the COVID-19 lockdown restrictions. The hearings have resumed virtually since the easing of lockdown alert levels.

Organisational Environment

The Regulator is an independent ports regulatory body vested with legal personality, which is governed and constrained by the parameter of the Act together with its Regulations and Directives. Section 30 of the Act specifically sets out the parameters of the functions of the Regulator, which is namely to:

- Exercise economic regulation of the ports system
- Promote equity of access to ports and to facilities and services provided in ports
- Monitor the activities of the Authority to ensure that it performs its functions in accordance with the National Ports Act
- Consider and approve the proposed tariffs of the Authority¹
- Must regulate the provision of adequate, affordable and efficient ports services and facilities

Its organisational focus for the period under review was to continue to enhance its Regulatory role, its human resource capacity and management capability and its stakeholder engagements and management thereof, through its various processes, which include the approval of the multi-year tariff methodology, the development and approval of a revised port tariff strategy as well as through its complaints and/appeals processes. These enhancement plans were faced with a number of challenges as outlined below.

The Ports Regulator did not have Regulator members for most part of the financial year. The previous Regulator term expired in November 2018 after the Minister had extended their term for three months when it initially expired in August 2018. The absence of the Regulator members presented a lot of challenges for the entity in that the Regulator members play a role on the delivery of the annual performance plan targets.

The Former Minister of Transport Dr Blade Nzimande designated the CEO in May 2019 to act as the Delegated Accounting Authority in terms of the PFMA to perform administrative duties of the Regulator. This mitigating factor allowed for approval of submissions and reports, but presented a challenge with regard to the approval of the tariff assessment of the National Ports Authority.

Minister of Transport in November 2019 then re-appointed Regulator members who had only served one term and this allowed the Regulator to approve the record of decision. The Minister also appointed a further Member in December 2019. The appointments were for a period not exceeding six months. The CEO's employment contract came to an end in April 2019, and the previous Minister of Transport extended the contract for a period of six months ending in October 2019.

¹ Contemplated in section 72 of the Act, 12 of 2005

The CEO at that time was acting as the Delegated Accounting Authority, therefore the departure of the CEO was going to be catastrophic for the entity as there was going to be no CEO nor Accounting Authority.

In October 2019, the current Minister of Transport also extended the contract of the CEO for a further one-year period. This was to allow the anticipated new Regulator members to attend to the process of a new CEO before the end of October 2020.

The previous Regulator Members, before their term expired in November 2018, had approved a revised organogram to be submitted to the Minister of Transport for approval. The revised organogram was submitted in March 2019 and re-submitted in November 2019 to reiterate the urgency of the approval eagerly awaited. The Regulator revised the organogram to increase the positions from 27 to 61. The current organogram is not aligned with the growth plans of the entity.

It is anticipated that the Ports Regulator will form the nucleus of a Single Transport Economic Regulator ("STER".) This requires the Regulator to better capacitate itself as it prepares for STER, which includes increasing staff in order to enhance the services rendered to the sector in areas of compliance and monitoring as well as greater scrutiny of the accounts of the regulated entity.

The revised organogram when approved will require increase on the baseline funding. In response to this, the Regulator has requested the Department of Transport to fast track the parliamentary processes to approve the funding model proposals in the National Ports Amendment Bill.

It must be noted that the National Ports Act limits the funding that can be raised to transfers from the fiscus, interest income and filing fees. The principle of the new funding model is similar to those of other regulators in the country where a certain percentage of the regulated prices goes to the Regulator.

The funding model, when approved, together with the approved organogram will pave a way forward to a new dawn in transport regulation in South Africa.

The CEO in his capacity as Delegated Accounting Authority started the process to appoint the independent Audit & Risk Committee members after obtaining Executive Authority approval at the Annual General Meeting that was held in September 2019.

The reason behind this initiative was to strengthen governance and compliance by the entity since there were no Regulator members in place. The process to finalise the appointment of three independent Audit and Risk Committee members was finalised in January 2020 together with the Interim Regulator members.

The appointments will ensure that there's complete independence and transparency regarding the oversight responsibilities and the functions of the audit committee as outlined in the PFMA. This will give the Regulator more comfort in the implementation of good internal controls, budget monitoring and risk management to mention a few.

Key Policy Developments and Legislative Changes

Necessary legislative gaps were identified regarding the funding model, enforcement powers and ancillary matters of the Ports Regulator. This resulted in the proposed amendments of the National Ports Act by the Regulator.

The Secretariat engaged extensively with the Department of Transport (DoT/ the Department), which is charged with the function of policy development.

The Department, as the custodian of the National Ports Act, incorporated the agreed comments and proposed amendments into a Draft Amendment Bill(s) (Funding Model and Enforcement Powers) pursuant to the conducted consultation process.

Significant progress was registered on the Draft Amendment Bills, but they have been put in abeyance to go through the necessary Cabinet and Parliamentary processes as a result of the anticipated and impending STER.

During the year under review, the Department further published the Economic Regulation of Transport Bill ("ERT Bill") which was eventually approved by Cabinet in November 2019 and introduced to Parliament to undergo the parliamentary legislative processes.

Therefore, a need has been identified for the Ports Regulator to be capacitated urgently, as it is anticipated to form the core of the proposed Transport Economic Regulator, as envisaged in the ERT Bill.

STRATEGIC OUTCOME ORIENTED GOALS

The Strategic goals of the Regulator have been consolidated as follows:

Strategic Goal	Progress
Ensure implementation of all elements of the regulatory framework within its mandate	The publication of the tariff strategy and the tariff methodology which creates greater certainty and transparency for the industry in terms of the principles applied in tariff assessment. This is also to demonstrate compliance to the requirements of the CMTP and other Government policies as well as to respond to the needs of the stakeholders.
Enhance capacity to deal with all the output requirements of the organisation	Revision of the organogram as well as implementation of the training plan to ensure development of staff. Close monitoring of the funding model bill which is in the parliamentary approval process.
Continue to maintain its reputation as an organisation with integrity focused on delivery and excellence	Continuous public consultations with regard to the decisions of the Regulator and the inclusion of stakeholders in the processes followed to reach such decisions. This immediately creates comfort and confidence in the decisions of the Regulator.
Ensure that the National Ports Authority complies with the Act	Compliance reviews performed on the contracts that fall within the jurisdiction of the Regulator to ensure that such contracts are in compliance with government policies, frameworks and guidelines. This included B-BBEE status review.
Consider the proposed tariffs of the Authority and regulate the provision of adequate, affordable and efficient port services and facilities to ensure enhanced competition and investment	<p>Implemented the equity of access strategy which will allow new port participants; implemented WEGO initiative to enhance efficiency in the port system.</p> <p>Analysed the tariff assessment and issued a record of decision that complies with the call by the President for reduced port administered prices while ensuring sustainability of the National Ports Authority. Implemented the Valuation Methodology for the valuation of the Starting Regulatory Asset Base (SRAB) of the NPA included in the 2020/21 Tariff Assessment.</p>

PERFORMANCE INFORMATION BY PROGRAMME / ACTIVITY / OBJECTIVE

Programme / Activity / Objective 1: Administration

Section 31(1)(a) of the National Ports Act states that: 'The Regulator consists of a chairperson and a minimum of six and a maximum of twelve other members appointed by the Minister for a period of up to five years'.

The term of office for the Regulator members expired on 30 November 2018. As a result, the entity had no Regulator members from December 2018 to 11 November 2019 when the Minister re-appointed previous Regulator members who had only served one term of office.

This appointment was to allow the Regulator to issue a record of decision for the tariff assessment of the National Ports Authority.

The former Minister of Transport Dr Blade Nzimande appointed the CEO in May 2019 to act as the Delegated Accounting Authority in terms of the PFMA in order to perform administrative functions of the Accounting Authority. This allowed the CEO to approve all submissions and reports that required to be approved by the Regulator.

Administratively, the Secretariat has developed, and annually reviewed policies and procedures covering all areas of administration and support.

Further, strategies and frameworks have been updated in order to guide business processes with regards to finance, human resources, information technology, and risk management functions of the entity.

The constant maintenance in terms of compliance and reviews has resulted in a system of strong internal controls and adequate governance practices ensuring minimal (if any) instances of non-compliance by the Regulator.

The administration programme is responsible to provide corporate support to the core programmes of the Regulator.

Administration comprises of IT, HR, SCM, and Finance. This programme is also responsible for preparing, monitoring and reporting on performance information for the whole entity.

This programme is also responsible for budget preparation, monitoring and reporting on a quarterly basis as well as annual report to all stakeholders including Executive Authority, Parliament, Auditor General etc.

This programme designs the internal controls that will guide the business processes in order to achieve the desired out, the internal controls are risk based.

Risk management is the responsibility of the administration programme from an oversight point of view, this includes conducting risk workshop and reporting on risk quarterly.

Programme Objectives: Administration

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
The running of an efficient and effective administration system	IT, HR and Finance policies reviewed by the Accounting Officer and approved by the Regulator	Achieved Policies reviewed and approved by the Regulator; policy gap analysis report signed off by Accounting Authority	Annual review of organisational policies and submit a report on these to the Regulator for approval	Achieved Policies reviewed and approved by the Regulator; Policy gap analysis report signed off by Accounting Authority	None	N/A
	Organisational performance monitored and reported on to the Regulator quarterly	Achieved Quarterly reports against planned performance were submitted to DoT and the Regulator	Achievement of all targets set in the Annual Performance Plan	Achieved Quarterly reports against planned performance were submitted to DoT and the Regulator	None	N/A
	Employee PMS monitored and enhanced by conducting half year and final employee performance reviews to be provided to the Accounting Officer	Achieved Half year and final employee performance assessment performed	Assessment of employee performance to improve organisational efficiency and performance	Achieved Half year and final employee performance assessment performed	None	N/A
	Organisational Performance monitored and reported on to the Regulator quarterly	Achieved Employee performance monitored and reported on	Monitoring employee performance in order to achieve alignment with strategic objectives	Achieved Employee performance monitored and reported on	None	N/A
	Regulator Members and staff matters dealt with and training attendance on Regulatory matters reported annually	Achieved Secretariat and Regulator members received training during the year	Full implementation of the PRSA HR and training plan for Members and staff. Annually report to the Regulator on all regulatory training that has taken place in line with the organisational HR plan	Achieved Secretariat and Regulator members received training during the year	None	N/A

Strategy to overcome areas of under-performance:

- Public entity achieved all targets set for this objective.

Changes to planned targets

- There were no changes throughout the year to the targets set for the administration programme.

Linking performance with budgets

- The under expenditure for this programme relates to meetings for Regulator and Regulator sub-committee meetings that were budgeted for but did not take place since there was no Regulator in place for most part of the financial year.

Programme / Activity / Objective	2019/20			2018/19		
	Budget	Actual Expenditure	(Over) / Under Expenditure	Budget	Actual Expenditure	(Over) / Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Administration	14 706	13 483	1 223	10 745	13 430	2 685
TOTAL	14 706	13 483	1 223	10 745	13 430	2 685



Port of East London

Programme / Activity / Objective 2: Economic Regulation

The Economic Regulation Programme had numerous achievements to highlight in the year under review and continued to expand the level of sophistication with which economic regulation is implemented in the South African ports system.

The Regulator published a number of reports, methodologies and decisions during the year with the review of the Multi-Year Tariff Methodology and an update of the Tariff Strategy key contributions to the further sophistication and rationalisation of tariff setting in the South African ports system.

The continued implementation of the 2017/18 Tariff Methodology resulted in an application by the NPA and the subsequent determination by the Regulator in a Record of Decision (RoD) — published on 29 November 2018 — contained a below inflation, average fixed tariff that remained unchanged for 2019/20 and indicative tariffs for the two subsequent years.

It resulted in a 20% decrease in the tariff for export containers whilst keeping import unchanged.

Some increases, aligned with the implementation of the tariff trajectory as set out in the Tariff Strategy published in 2015 and updated in 2020 that aims to correct the inherent cross subsidies in the tariff book saw marine tariff increase by 5.5% and coal and magnetite increase by 10%.

In order to provide a continuous update of the implementation of the Tariff Strategy and the changes to base tariffs due to changes in port structure, volume forecasts etc., the Regulator published an updated Tariff Strategy that reflects the revalued Regulatory Asset Base.

In addition, base rates for the coming financial year were published in the RoD, reflecting transparent tariff trajectories for different commodity and cargo types, as these tariffs provide an indication of the tariff trajectory during the estimated ten-year implementation period in current terms.

A continuation towards a truly cost reflective tariff book

The publication of cost reflective tariffs in the last four ROD's takes the levels of transparency and methodological tariff development to new heights.

The finalisation and publication of the review of the Multi-year tariff methodology sees continued consistency in the application of economic regulation of South African Port infrastructure through the development of a third Multi-year (3 year) methodology applicable to the 2021/22–2023/24 tariff years.

The consistent application and refinement of the methodology saw not only the full implementation of the Valuation of Assets Methodology, but also the introduction of a more focussed WEGO calculation as well as a “WEGO Adjuster” aiming to compensate port users for preventable downtime in the port system.

The 8th iteration of the Global Port Pricing Report in 2019/20 as well as a number of internal research reports, most of which feeds into the decision making of the Regulator and contributed greatly to the quality of the decision making by the Regulator.

The continued clean-up of the tariff book and implementation of the Tariff Strategy will ensure not only that the underlying costs of providing public infrastructure is appropriate but also incentivises more efficient operations as well as effective expansion and development of the port system.

Programme Objectives: Economic Regulation

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement	Planned Target	Actual Achievement	Deviation planned target to Actual Achievement	Comment on Deviations
		2018/2019	2019/2020	2019/2020	2019/2020	
Ongoing implementation of Economic regulation of ports (Price, access, institutional structure)	Perform Port tariff assessment in accordance with the Multi-year methodology and issue a Record of Decision	Achieved RoD approved and Tariff Book and published	Tariff decision and RoD publication	Achieved Tariff Book Published	None	N/A
	One reviewed Tariff Strategy	Achieved Final Evaluation and impact assessment report submitted to the Regulator	Final Reviewed Tariff Strategy approved by the Regulator	Achieved Tariff Strategy Approved by Regulator	None	N/A
	One Tariff Methodology approved and published	Not applicable for prior year	Tariff Methodology, consulted, approved and published	Achieved Final methodology approved and published	None	N/A
	One monitoring report	Not applicable for prior year	Report submitted to RegCom on the implementation and impact of the ROS	Achieved ROS report submitted to the Regulator	None	N/A
	Monitor the impact of the WEGO Interventions on compliance published in the RoD and report to RegCom	Not applicable for prior year	Report with recommendations submitted to RegCom on the impact of the WEGO Interventions on compliance	Achieved Report submitted to Regulator	None	N/A
	Analyse the terminal leases of the NPA and assess the rental profile with regards to price, duration and cost	Not applicable for prior year	Report with analysis and recommendations submitted to RegCom	Achieved Report submitted to Regulator	None	N/A

Programme Objectives: Economic Regulation Continued

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
Ongoing implementation of Economic regulation of ports (price, access, institutional structure)	Capital Prudency Model used for CAPEX forecast assessment for 2020/21	Achieved Capital prudency assessment criteria applied and included in tariff assessment and determination	Capital prudency assessment criteria applied in tariff determination	Achieved Capital prudency assessment criteria applied in tariff determination	None	N/A
	Global Port Pricing Comparator study	Achieved Compare SA Port Prices with global ports and produce Comparator study	Compare SA Port Prices with global ports and produce Comparator study	Achieved Final approved report published	None	N/A
	Implement the approved Valuation Methodology	Achieved Report on the Implementation of the Valuation Methodology for the valuation of the Starting Regulatory Asset Base (SRAB) of the NPA included in the 2019/20 Tariff Assessment	Report on the implementation of the approved Valuation Methodology for the valuation of the SARB of the NPA included in the 2020/21 Tariff Assessment	Achieved Report on the implementation of the approved Valuation Methodology for the valuation of the SRAB of the NPA included in the 2020/21 Tariff Assessment approved by the Regulator	None	N/A

Strategy to overcome areas of under performance

- Public entity met all the planned targets.

Changes to planned targets

- The public entity did not change any planned targets during the year for this programme.

Linking performance with budgets

- The under expenditure relates to the budget for employee costs. There were delays in the appointment of the Executive Manager Policy, Strategy & Research because there were no Regulator members in place. The appointment was completed by the CEO in his Delegated Accounting Authority capacity. The appointment was made from internal staff which then created another vacant Manager position. The advertisement was made on time but there were some unforeseen delays. The recruitment process was further delayed by the COVID-19 national lockdown. The CEO in his capacity as Delegated Accounting Authority was able to approve the submissions/reports from this department but the planned engagements (meetings/workshops etc.) with Regulator members led to under expenditure.

Programme / Activity / Objective	2019/20			2018/19		
	Budget	Actual Expenditure	(Over) / Under Expenditure	Budget	Actual Expenditure	(Over) / Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Economic Regulation	7 735	3 804	3 931	8 853	3 741	5 112
TOTAL	7 735	3 804	3 931	8 853	3 741	5 112

Programme / Activity / Objective 3: Industry Development

The Industry Development section has continued to facilitate the Regulator's consultation process through a stakeholder engagement programme that focussed on our key processes in economic regulation of the port system.

The annual tariff application road shows were held immediately after the NPA submitted its 2021/22 – 2023/24 tariff application on August 01, 2019. The road shows were held in:

- Durban : 2 August 2019
- Johannesburg : 5 August 2019
- Port Elizabeth : 6 August 2019
- Cape Town : 7 August 2019

After the roadshows, we published a report detailing issues raised by attendees on the various aspects of the tariff application and current issues affecting the port system with issues covered reflecting a barometer on the port users concerns, allowing more nuanced submissions to the tariff application.

At a high level, the following salient issues were recorded;

- Continued increases in marine service charges in the face of marine services inefficiencies
- The trajectory of increasing marine service and cargo dues for dry bulk tariff
- the myriad of problems with operations at Durban Container Terminal; the NPAs under spending on Capex with concerns about the Authority's skills and capacity to execute planned projects
- The impact of the current structure and location of the NPA within Transnet with users registering the urgency in corporatisation of the NPA as an effective tool to combat most of the challenges faced by the Authority by allowing an NPA board to take decisions on behalf of the SA port system and not Transnet

In line with its mandate, the Regulator addresses the issues raised in various ways:

- The Weighted Efficiency Gain from Operations (WEGO) which was introduced in 2016/17 addresses inefficiencies in the system by providing for an incentive to the NPA where performance has improved, while dis-incentivising lack of performance on selected KPIs by lowering the NPAs return. To be effective, i.e. for the Authority to earn further instead of suffer a loss on its return WEGO requires that the NPA play its role as a regulator of terminals and bring about change in behaviour and performance by terminal operators, including TPT.
- The increase in marine services and dry bulk tariffs, whilst taking into account prevailing conditions, is in line with the tariff reform programme articulated in the 10-year tariff strategy to rebalance port tariff, making them more reflective of the cost and benefit from infrastructure and services enjoyed by different port user segments.
- The corporate structure of the NPA is a matter that is now being addressed by the Minister of Public Enterprises to implement section 3(2) of the National Ports Act. The Ports Regulator continues to monitor developments, manage the tariff imperatives related to the current structure and ultimately changes to be brought about by corporatisation through the RoD on the Tariff Application, as reported in the earlier section.
- The NPAs CAPEX program is closely monitored by the Regulator through the tariff requirement (submission of approved business plans by the NPA with the tariff application); a capex register that monitors levels of expenditure in a given year; and in its attendance of PCCs as an observer.

Similar support was given in support of the Economic Regulation 2019/20 programme to develop a new tariff methodology applicable from 2021/22, where Industry Development assisted with and facilitated the consultation session on 5 February 2020. A report outlining submissions made and how these were dealt in by the Regulator in finalising the 2022/23 Tariff Methodology was published.

Feedback from port users, which is aggregated during the tariff application road shows held annually in August/September shows that the efforts of the Regulator to engage industry are well received, with industry rating the Regulator's processes positively.

This is shown in the aggregation of the stakeholders' view from the tariff application road shows from 2014 to 2019. Respondents were asked to rate the Regulator on its effectiveness, efficiency, responsiveness and decisions amongst others, on a scale of 1 to 5, with 5 being the highest score, overall, and over the years.

The 2019 feedback obtained showed that once again, the Regulator scored highly and was therefore considered to be responsive, serving its stakeholders effectively, with neutrality and independence.

Industry Development's conducted research to benchmark port performance and also assess the NPAs performance based on the Terminal Operator Performance Standard (TOPS) and KPIs covered in Transnet's reports.

These are analysed continuously to keep the Regulator abreast of the operational challenges in the port system. Although not the only or the main consideration, the analysis is brought to bear on the WEGO process in assigning weights to the Key Indicators. During the year under review, extensive consultation with port users as represented by the Port Consultative Committees, and with the NPA resulted in consensus to retain five WEGO KPIs for the 2019/20 period.

Industry Development, together with the Legal section, continued to monitor the implementation of B-BBEE in the ports sector and made recommendations on changes to be made in the B-BBEE regulation of 2007 and related process to enable real transformation in the port system.

Stakeholder Rating of the PRSA

Score out of 5	Sept 2014	Sept 2015	Sept 2016	Aug 2017	Aug 2018	Aug 2019
The efficiency of the PRSA	4.0	4.0	4.0	4.27	4.00	3.98
The effectiveness of the PRSA	4.0	4.0	3.89	4.18	3.91	3.99
The responsiveness of the PRSA	3.9	3.8	3.80	4.03	3.91	4.14
The neutrality of the PRSA	4.2	4.1	3.90	4.06	3.80	4.27
The independence of the PRSA	4.1	4.1	3.98	4.14	3.96	4.31
Decisions issues by the PRSA	3.9	3.9	3.92	4.13	3.81	4.20
Number of Respondents	70	56	79	67	70	63

Programme Objectives: Industry Development

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement	Planned Target	Actual Achievement	Deviation planned target to Actual Achievement	Comment on Deviations
		2018/2019	2019/2020	2019/2020	2019/2020	
Engage stakeholders and monitor provision of infrastructure and facilities; and promotion of efficiencies in the port system	Quarterly reports on stakeholder engagement	Achieved Four quarterly Stakeholder Engagement reports & one stakeholder feedback report	One or more engagements with port stakeholders to disseminate information and measure perceptions about the work of the Regulator	Achieved Four quarterly Stakeholder Engagement reports & one stakeholder feedback report	None	N/A
	Finalised Assessment Report on adequacy of planned infrastructure	Achieved Report finalised	Reviewed report on capital roll-out programme at existing efficiency levels	Achieved NPAs capital roll-out programme reviewed and in-house excel dash-board and model developed for assessment of adequacy of infrastructure.	None	N/A
	A report covering the ongoing monitoring of port performance	Achieved WEGO performance up to end of 2018/19 Quarter 3 conducted and report submitted Notice on WEGO based on submissions from PCCs and NPA and performance up to Q3 published	Report on SA port performance operations	Achieved Port performance benchmarking report approved by Board. WEGO performance up to end of 2019/20 Quarter 3 and WEGO ROD for 2020/21 based on submissions from PCCs and NPA approved by Board and published.	None	N/A
	Report: monitoring equity of access in port facilities and services and development of strategy	Achieved Strategy developed	Monitor and report on implementation of equity of access strategy	Achieved One B-BBEE report approved by board and submitted to Executive Authority part of consolidated B-BBBEE report with Legal Department.	None	N/A

Programme Objectives: Industry Development Continued

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
Engage stakeholders and monitor provision of infrastructure and facilities; and promotion of efficiencies in the port system	Efficiency targets developed	Achieved TOPS analysis report with recommendations on target setting signed by CEO	Develop infrastructure operations and marine, service efficiency targets, as a report	Achieved One TOPS report analysing operational performance and NPA operations target setting for year 6 approved by Board.	None	N/A
	CAPEX Assessment report	Achieved Four quarterly CAPEX register assessment reports	CAPEX assessment report per quarter	Achieved Four quarterly CAPEX register assessment reports	None	N/A
	Number of engagements with DoT on the development of coastal shipping and reporting to the CEO/Regulator quarterly	Not applicable for prior year	Four quarterly reports on progress on liaison with DoT on the development of coastal shipping	Achieved Four quarterly reports submitted to Board for noting.	None	N/A

Strategy to overcome areas of under performance

- Public entity met all the targets set for this programme.

Changes to planned targets

- Per performance indicator if the indicators or targets have been changed in-year. In year changes to targets are only permitted if there has been an adjustment in the budget.

Linking performance with budgets

- The under expenditure for this programme was mainly caused by the absence of the Regulator members. This programme together with Economic Regulation are mainly affected if there's no Regulator members in place as most of the outputs require some activity from the Regulator members. The CEO in his capacity as Delegated Accounting Authority was able to approve the submissions/reports from this department but the planned engagements (meetings/workshops etc.) with Regulator members led to under expenditure.

Industry Development Budget

Programme / Activity / Objective	2019/20			2018/28		
	Budget	Actual Expenditure	(Over) / Under Expenditure	Budget	Actual Expenditure	(Over) / Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Industry Development	6 818	3 826	2 992	3 656	3 514	142
TOTAL	6 818	3 826	2 992	3 656	3 514	142

Programme / Activity / Objective 4: Monitoring

The Compliance function of the organisation is enabled by Section 30(1) of the National Ports Act which states that: "The main functions of the Regulator are to – monitor the activities of the Authority to ensure that it performs its functions in accordance with this Act".

This is one of the key functions of ensuring that the Authority complies with the Act and its broader legislative framework, including the National Ports Regulations, 2007 issued in terms of section 80(1) (a),(c),(d),(f) and(g) of the Act.

The Ports Regulator in fulfilling this role also strives to ensure compliance with the broader legislative framework applicable in the ports environment including key pieces of legislation as contained in its Regulatory Universe, such as:

- The National Ports Act, 2005 (Act No. 12 of 2005)
- Public Finance Management Act, 1999 (Act No. 1 of 1999)
- The Labour Relations Act, 1995 (Act No. 6 of 1995)
- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)
- Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)
- Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) as well as any other relevant and applicable legislation

The Regulator quarterly reviews data, information and documents as submitted by the Authority, and it covers the following key areas:

- The NPA as a corporate entity; Sections 56, 57, 65 and 66 agreements, licences and lease agreements, respectively
- B-BBEE compliance
- Section 79 Directives issued
- General Compliance in terms of Section 72(4) agreements

The NPA is engaged on an ongoing basis on the compliance monitoring/review findings to enable improved and increased compliance. This is due to the compliance monitoring approach that the Regulator has adopted which means coordinating compliance across the ports system by working with the regulated entity to increase compliance.

The primary purpose of the compliance monitoring is to determine the extent to which the Authority has met the requirements embodied in Chapters 3, 4, 6 and 10 of the National Ports Act, along with the 2007 Regulations.

The Regulator shall, on an ongoing basis, examine all agreements, leases and licenses of port terminals, port services, and port facilities, provided by the Ports Authority, within the Authority's domain as port landlord, in ensuring the Act has been adhered to.

The Regulator aims to ensure that compliance monitoring of the port industry operations and development is a joint process of compliance monitoring and regulation of the port sector. The Regulator further aims to ensure that the NPA is compliant with the Act.

In the financial year under review, quarterly compliance review reports and quarterly B-BBEE compliance implementation reports, were submitted to the Chief Executive Officer and the Regulator Members (Board and its Committees) for approval as well as forwarded to the Authority.

Over and above the cited reports, a further annual Section 30(5) reports on compliance reviews and B-BBEE implementation in the ports sector were submitted to the Executive Authority.

All the reports compiled are to ensure that the Ports Regulator plays its oversight role over the Authority, to ensure that the Ports Regulator's compliance programme effectively and efficiently identify, prevent, detect and correct any non-compliance risks with applicable laws, regulations, company policies, etc.

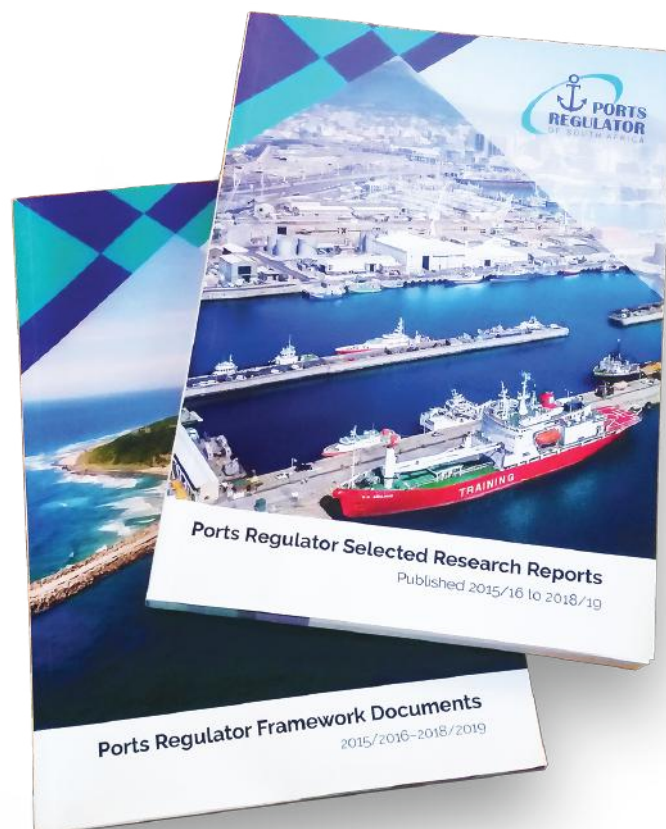
Lastly, the compliance reports are to provide assurance that the Authority executes its activities in line with the requirements of the National Ports Act and its Regulations.

PRSA Compliance

Section 51(1)(h) of the Public Finance Management Act ("PFMA") provides that "an accounting authority for a public entity - must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity".

Compliance with all relevant and applicable legislation, regulations, standards and codes is imperative to the Regulator, and as a result thereof the organisation has managed to strengthen its compliance structures with the aim of fully complying with the applicable regulatory frameworks.

This process of strengthening compliance has further led to the development and approval of a compliance management framework, a compliance scorecard, several policies and procedures that will govern the operating activities of the organisation to achieve its output in line with its Strategic Objectives and Annual Performance Plan, which are reviewed annually.



Programme Objectives: Monitoring and Compliance

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
Monitoring the port industry and its compliance with the National Ports Act and other Regulatory Instruments to ensure access to and competition within the port system	Compliance monitoring for NPA conducted and reported	Achieved Legal has over the past year engaged regularly with the NPA at various meetings and has issued quarterly compliance finding reports for approval by the Regulator	Four quarterly reports to the Regulator on the compliance issues and progress, if any, per quarter, and one annual compliance report to the Executive Authority	Achieved Four quarterly Compliance Review Reports to the Regulator and one Annual S30 (5) report for the Executive Authority	None	N/A
	B-BBEE status review of ports in terms of transformation to be completed in accordance with the Regulations to the National Ports Act and submit report to the Regulator	Achieved NPA compliance with B-BBEE Codes assessed and report issued to the Regulator and the NPA	Assess NPA's compliance with B-BBEE Codes and report thereon to the Regulator and the NPA with specific regard to transformation in the port system	Achieved One Annual B-BBEE Compliance Review Report to the Regulator and one Section 30(5) B-BBEE Report to the Executive Authority	None	N/A
	Framework for rights to equity of access engaged on with a view to implementation and compliance monitoring in the ports system and reporting to the CEO/Regulator quarterly	Achieved Reporting on framework to rights of equity of access finalised and submitted	Four Quarterly Reports on progress on liaison of the framework for equity of access in the Maritime sector with DoT	Achieved Four Quarterly Reports on progress regarding the framework for equity of access in the Maritime sector with DoT	None	N/A

Programme Objectives: Monitoring and Compliance Continued

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
Monitoring the port industry and its compliance with the National Ports Act and other Regulatory Instruments to ensure access to and competition within the port system	Number of engagements with government departments on S3(2) and reporting to the CEO/Regulator quarterly	Not applicable for prior year	Four Quarterly Reports on progress on liaison with government on the implementation of s 3(2) of the National Ports Act	Achieved Four Quarterly Progress Reports submitted to the CEO/Regulator on the status of corporatisation of the NPA	None	N/A
Ensuring good governance and sustainability of the organisation	Governance and compliance checklist reported on quarterly to the Regulator	Achieved Good governance practices established and implemented throughout the organisation	Ensuring good governance and compliance of the organisation	Achieved Good governance practices established and implemented throughout the organisation	None	N/A

Strategy to overcome areas of under performance

- Public entity met all the target set for this programme.
- Funding of all vacant positions to optimise performance.

Changes to planned targets

- The public entity did not change any targets for this programme during the year.

Linking performance with budgets

The under expenditure for this programme is a result of the delayed appointment of the Executive Manager Legal as a result of Regulator member's absence. This resulted in other planned activities for quarter one to be delayed as well.

Monitoring and Compliance budget

Programme / Activity / Objective	2019/20			2018/19		
	Budget	Actual Expenditure	(Over) / Under Expenditure	Budget	Actual Expenditure	(Over) / Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Monitoring	4 001	3 388	613	3 552	748	2 804
TOTAL	4 001	3 388	613	3 552	748	2 804

Programme / Activity / Objective 5: Tribunal

Section 30(2)(a) of the National Ports Act states that: “The Regulator must hear appeals and complaints contemplated in sections 46 and 47, respectively, and investigate complaints contemplated in section 48”.

Complaints management, appeals and hearings are conducted in line with the 2009 Directives issued in terms of Section 30(3) of the Act.

The Ports Regulator Hearing Panel’s (Tribunal) function was not effectively and efficiently run in the year under review since there was no Regulator Members between December 2018 and 21 November 2019.

The Hearing Panel was only constituted on 18 December 2019 and consisted of:

- Adv. Gugu Thimane (Tribunal Chairperson)
- Prof. Didibhuku Thwala (Tribunal Member)
- Ms Anjue Hirachund (Tribunal Member)

No matters were heard by the Tribunal, this is despite the seven active matters that were readied for both pre-hearings and hearings until they were indefinitely deferred as a result of the declaration of the state of disaster and a nationwide lockdown due to the COVID-19 pandemic by the President of the Republic of South Africa.

In the year under review, only two Section 53 Interim Relief applications were dealt with by the Tribunal.

Programme Objectives: Tribunal

Programme / Activity / Objective						
Strategic Objectives	Performance Indicator	Actual Achievement 2018/2019	Planned Target 2019/2020	Actual Achievement 2019/2020	Deviation planned target to Actual Achievement 2019/2020	Comment on Deviations
Operating an effective and efficient tribunal to hear complaints and appeals under the National Ports Act	Performance assessment of case management, adjudication of matters and decision making	Achieved Four Quarterly Tribunal Reports to the Regulator	Chairman supported by the secretariat performed quarterly performance assessment regarding case management, oversight of pending and emerging litigation, adjudication and decision making of the Tribunal	Achieved Four Quarterly Tribunal Reports to the Regulator	None	N/A

Strategy to overcome areas of under performance

- Public entity met all the target set for this programme.

Changes to planned targets

- The public entity did not change any targets for this programme during the year.

Linking performance with budgets

The under expenditure for this programme is a result of the delayed appointment of the Executive Manager Legal as a result of Regulator member's absence.

This resulted in other planned activities for quarter one to be delayed as well. Furthermore, the tribunal function had been suspended as a result of no Regulator members in place for the most part of the financial year.

Tribunal budget

Programme / Activity / Objective	2019/20			2018/19		
	Budget	Actual Expenditure	(Over) / Under Expenditure	Budget	Actual Expenditure	(Over) / Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Tribunal	4 974	1 915	3 059	4 333	2 831	1 502
TOTAL	4 974	1 915	3 059	4 333	2 831	1 502

REVENUE COLLECTION

Sources of Revenue	2019/20			2018/19		
	Estimate	Actual Amount Collected	(Over) / Under Collection	Estimate	Actual Amount Collected	(Over) / Under Collection
	R'000	R'000	R'000	R'000	R'000	R'000
Government Grants and Subsidies	36 774	36 774	0	25 619	25 619	0
Interest income	1 460	1 399	(61)	520	1 021	501
Sale of Goods and Services	0	0	0	0	6	6
Other Income	0	277	277	0	92	92
TOTAL	38 234	38 450	216	26 139	26 738	599

Ports Regulator Financing

The Ports Regulator is financed by the three types of revenue in terms of the National Ports Act, these types are transfers from the fiscus, interest income and complaints and appeals fees.

This puts a great strain on the finances as the interest income and filing fees are not sufficient to mitigate funding shortfalls. All the transfers from the fiscus were received without any baseline reduction.

It must be noted that due to the struggling South African economy, the National Treasury implemented budget cuts across all spheres of government. The Ports Regulator managed to negotiate with the National Treasury and the Department of Transport to avoid baseline reduction.

There was under collection on the interest income for the 2019/20 financial year. It must be noted that the interest income comes from the investment of surplus funds and the transfers that have not yet been utilised. There were some delays on the transfers being received by the Regulator, which led to under recovery on the interest income.

This under collection does not have material impact on the service delivery ability of the Regulator as there was a surplus realised for the financial year.

Monthly management accounts are prepared and submitted to the Accounting Officer to indicate the financial status and budget implementation ability of the entity.

This includes monthly expenditure against the budget and comparison to prior year as well as projection for the balance of the financial year. This assist to spend as per the budget.

The Regulator has developed a funding model that is aimed at improving the financial status of the entity. The funding model requires legislative amendments in order to be implemented. The principle of the funding model is to charge the regulated entity 0.5 to 0.7% of their regulated revenue just as it is done in many regulated sectors in the country.

The amendments relating to the funding model are currently in the parliamentary process of approval. The funding model when approved will also assist the Regulator to prepare for the Single Transport Economic Regulator (STER) in terms of human capital and other resources.

Capital Investment

The Ports Regulator made minimal capital investment in terms of asset purchases during the financial year. This investment relates to computer equipment purchases. It must be noted that the Regulator's functions are more of administrative in nature, as a result there's no high investment on capital assets other than computers, furniture & equipment and vehicles.

The office accommodation that is used by the Regulator is leased and there is no other owned immovable property.

The internal controls that were put in place were sufficient to ensure that there were no asset disposals, scrapping or loss during the financial year.

The asset register is updated immediately when there's movements for any assets to ensure that all assets can be tracked with ease.

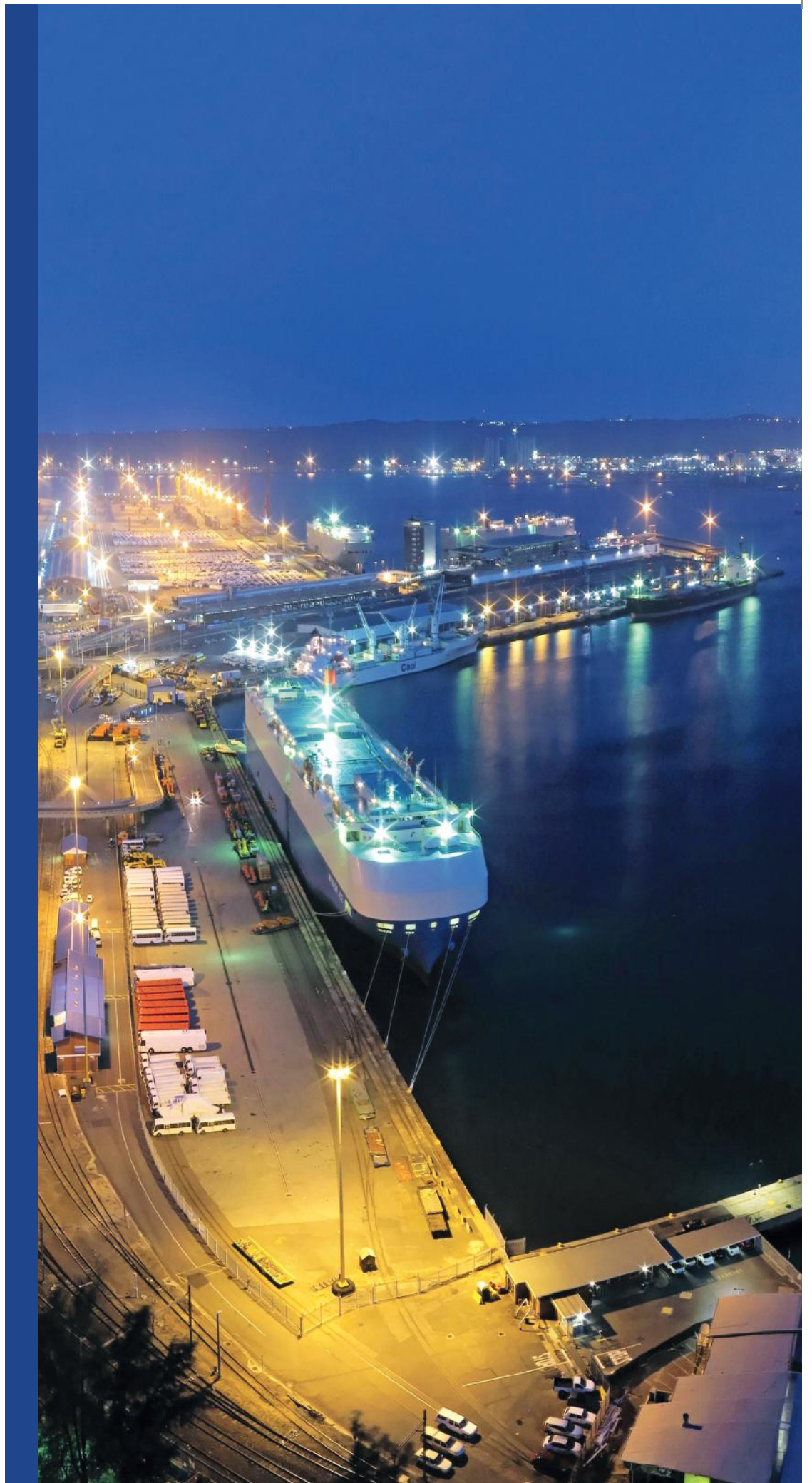
The asset register is reconciled with the general ledger on a monthly basis to ensure that all capital asset movements are accounted for on both the ledger and the asset register. This is followed by annual review of the useful life of each class of assets to ensure that the useful life is still a true reflection of the expected economic benefits to be derived from the use of the asset.

Asset counts are performed once a year since there's not much movements in the asset register.

All assets of the Regulator were inspected to confirm their existence during the asset count and also to confirm that they are in good working condition. There were no issues detected during the asset count.

No infrastructure projects are undertaken by the Ports Regulator.

PART C
GOVERNANCE



Aerial shot of the Port of Durban at night

INTRODUCTION

The Members of the Regulator are guided in the performance of their governance functions by the Constitution of the Republic of South Africa, 1996; the National Ports Act, 2005; the Public Finance Management Act, 1999; the King IV Code on Corporate Governance in South Africa (“King IV”) and other applicable prescripts.

As a Schedule 3A Public Entity, the Ports Regulator is responsible in terms of section 195 of the Constitution of South Africa, 1996 to ensure that the democratic values and principles enshrined in the Constitution, including a high standard of professional ethics, are promoted and maintained.

The Ports Regulator is the focal point and custodian of corporate governance. Regulator Members must uphold the organisational values of the PRSA and display the ethical characteristics of integrity, competence, responsibility, accountability, fairness and transparency in the performance of their duties and functions.

The Regulator subscribes to the principles and practices of King IV in order to achieve the four desired governance outcomes of ethical culture, good performance, effective control and legitimacy.

The Regulator leads the organisation in an ethical and effective manner by ensuring the implementation of good corporate governance through its various governance structures, strategies, processes, procedures and various prescripts such as delegations of authority, charters, codes of conduct and policies.

The Regulator ensured its commitment to good corporate governance and sustainability was at the forefront of the organisation in 2019/2020 by implementing a Governance and Compliance Checklist, aligned to the principles and practices of King IV.

Governance Compliance Reports were submitted to the Regulator, in which disclosures were made in terms of the Regulator’s governance practices and explaining how the Regulator was implementing the principles of King IV.

The disclosures made in the Governance Compliance Reports are an important instrument to monitor, evaluate and make an informed assessment of the Regulator’s overall governance performance.

“The Regulator subscribes to the principles and practices of King IV to achieve an ethical culture, good performance, effective control and legitimacy.”

The organisation generally performed well in terms of governance practices, which was strengthened by the re-appointment of previous Members, who possessed the necessary skills and experience to serve on an Interim Regulator; the appointment of fit and proper persons to serve as an Independent Chairperson and Independent Members of the Ports Regulator’s Audit and Risk Committee (“the ARC”), and the further extension of the CEO’s contract to ensure continued organisational stability.

The Ports Regulator is committed to striving continually to strengthen and improve its governance practices, processes and procedures.

The table on pages 44 – 46 is a summarised account of the Ports Regulator application of the King IV Principles.

Summary of Application of King IV Principles Tick =Compliance

King IV Principle	Description of Principle	✓	Application of Principle (Practices implemented)
Principle 1 Leadership	The Ports Regulator/Accounting Authority should lead ethically and effectively	✓	The Regulator Charter and Code of Ethics and Business Conduct set out the ethical responsibilities. Members are also required to submit specific and general declarations of interest.
Principle 2 Organisational ethics	The Ports Regulator/Accounting Authority should govern the ethics of the organisation in a way that supports the establishment of an ethical culture	✓	The Regulator is responsible for institutionalising the entity's ethical standards. The organisation has the following mechanisms/policies/procedures in place which advocate ethical behaviour: Code of Ethics and Business Conduct, SCM Policy, Fraud Prevention Policy, and a Whistle-blowing Policy. Staff must submit annual declarations of interest and Code of Ethics.
Principle 3 Responsible corporate citizenship	The Ports Regulator/Accounting Authority should ensure the organisation is, and is seen to be a responsible corporate citizen	✓	The Regulator is committed to open and transparent stakeholder engagements and relationships, and receives quarterly reports on Stakeholder activities from Management.
Principle 4 Strategy and Performance	The Ports Regulator/Accounting Authority should appreciate that the organisation's core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.	✓	The Regulator is responsible for strategy and performance management, and approves the Annual Performance Plan and Strategic Plan.
Principle 5 Reporting	The Ports Regulator/Accounting Authority should ensure that reports issued by the organisation enable stakeholders to make informed assessments of the organisation's performance, and its short, medium and long term prospects.	✓	The Regulator ensures that the Annual Report complies with the National Ports Act, 2005, the PFMA, 1999, the Treasury Regulations, 2005 and any other applicable regulatory instrument.
Principle 6 Primary role and responsibilities of the governing body	The Ports Regulator/Accounting Authority should serve as the focal point and custodian of corporate governance in the organisation.	✓	The roles and responsibilities of the Regulator are contained in a Regulator Charter, which provides for delegation to sub-committees such as the Audit and Risk Committee, Regulatory Committee and Human Resource and Remuneration Committee. Each Committee has its own Terms of Reference which are approved by the Regulator.

King IV Principle	Description of Principle	✓	Application of Principle (Practices implemented)
Principle 7 Composition of the governing body	The Ports Regulator/Accounting Authority should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively.	✓	The Regulator has the required knowledge, skills, experience, diversity and independence to effectively discharge its mandate.
Principle 8 Committees of the governing body	The Ports Regulator/Accounting Authority should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with balance of power and the effective discharge of its duties.	✓	The Regulator has delegated certain functions to three sub-committees, with each sub-committee governed by a Terms of Reference.
Principle 9 Evaluations of the performance of the governing body	The Ports Regulator/Accounting Authority should ensure that the evaluation of its own performance, that of its committees, its chair and its individual members support continued improvement in its performance and effectiveness.	✓	A Performance Evaluation Questionnaire is developed and all Regulator Members are required to complete and return the questionnaire to the Company/Regulator Secretary for evaluation and reporting. Performance Evaluations are ordinarily conducted on an annual basis.
Principle 10 Appointment and delegation to management	The Ports Regulator/Accounting Authority should ensure that the appointment of, and delegation to, management contribute to role clarity and the effective exercise of authority and its responsibilities.	✓	A Delegation of Authority Framework is currently in place.
Principle 11 Risk Governance	The Ports Regulator/Accounting Authority should govern risk in a way that supports the organisation in setting and achieving its strategic objectives.	✓	In terms of the Regulator Charter, the Regulator is responsible for the governance of risk. A Risk Management Policy is in place. A Risk Register is developed each year and Management submits Risk Management Reports to ARC on a quarterly basis.
Principle 12 Technology and information governance	The Ports Regulator/Accounting Authority should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives.	✓	Management submits Quarterly IT Governance Reports to ARC.

King IV Principle	Description of Principle	✓	Application of Principle (Practices implemented)
Principle 13 Compliance Governance	The Ports Regulator/Accounting Authority should govern compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen.	✓	Compliance is monitored by the Audit Committee and Management.
Principle 14 Remuneration Governance	The Ports Regulator/Accounting Authority should ensure that the organisation remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term.	✓	The Human Resource and Remuneration Committee provides oversight on HR matters. The PRSA has a Remuneration and Rewards Policy and Short Term Incentive Policy in place. The Regulator approved that pay progression provisions be included in the Remuneration and Rewards Policy to further incentivise employees.
Principle 15 Assurance	The Ports Regulator/Accounting Authority should ensure that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisations external reports.	✓	The ARC assists the Regulator with this responsibility. Internal Audit provides assurance services to the organisation.
Principle 16 Stakeholders	In the execution of its governance role and responsibilities, the Ports Regulator/Accounting Authority should adopt a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interest of the organisation over time.	✓	The Industry Development Department is responsible for Stakeholder Engagement, and is required for each Quarter to submit a Stakeholder Engagement Report to the Regulatory Committee.

In terms of Governance, the Ports Regulator carried out the following key activities, including but not limited to:

- Considering and approving the entities Annual Performance Plan 2020/21
- Considering and approving the entities Strategic Plan 2020-2025
- Constituting Ports Regulator Sub-Committees
- Appointing Chairpersons and Members to serve on Sub-Committees
- Appointing an Independent Non-Executive Chairperson and two Independent Non-Executive Members to serve on the Audit & Risk Committee
- The Ports Regulator Charter and all sub-Committee Terms of Reference were reviewed during the reporting period
- Approving the Governance Compliance Checklist Appointing a Hearing Panel to consider appeals/ complaints
- Quarterly reports on the performance, including financial performance, of the Entity were submitted timeously to the Executive Authority.
- The Ports Regulator achieved 100% of its annual targets in terms of its Annual Performance Plan 2019/2020.
- The Ports Regulatory ensures that it has a transparent and open relationship with the Executive Authority and continuously informs the Authority of work undertaken, milestones and challenges faced by the Entity.

PORTS REGULATOR/ACCOUNTING AUTHORITY ROLE

The Ports Regulator is the Accounting Authority and as the governing body is responsible and accountable for both the governance and performance of the organisation.

The role of the Ports Regulator includes but is not limited to:

- Providing effective leadership on an ethical foundation
- Acting as the focal point for and custodian of corporate governance
- Effectively performing the functions as more fully set out in section 30 of the National Ports Act, 2005
- Considering and approving the strategic and business plans of the entity
- Assuming responsibility for the performance of the entity
- Ensuring an effective and independent Audit & Risk Committee is in place

- Assuming responsibility for the governance of risk and IT governance
- Ensuring an effective risk-based Internal Audit
- Ensuring compliance with all applicable laws and regulatory instruments
- Setting and evaluating the overall policy for the development, improvement and operations of the Ports Regulator

PORTS REGULATOR CHARTER

As recommended by Principle 6 of King IV, the Ports Regulator has a Charter in place which is reviewed and approved on an annual basis to ensure that it remains relevant.

The Charter provides for role and responsibilities as well as the requirements for its composition, meeting procedures and its code of conduct.

The Ports Regulator confirms that during the period under review, it satisfactorily discharged its duties and obligations as contained in the Charter.

COMPOSITION OF THE PORTS REGULATOR

In terms of the National Ports Act, 2005, the Minister of Transport is responsible for appointing persons to serve as Members of the Ports Regulator. The Minister of Transport appointed an Interim Ports Regulator during the period of review.

The Interim Ports Regulator comprises of seven Non-Executive Members and the CEO in his capacity as an ex officio Member as contemplated in section 29 of the National Ports Act, 2005.

All Interim Regulator Members were re-appointed to serve on the 22nd November 2019, with the exception of Mr. Mthunzi Madiya who was appointed as a new Member on the 2nd December 2019.

All Interim Members were appointed to serve for a duration not exceeding six months or until the appointment of a permanent Regulator, whichever comes first.

From the commencement of the financial year under review i.e. April 2019 up until the appointment of the Interim Regulator, the CEO had been delegated the authority, by the former Minister of Transport, to act as the Interim Accounting Authority during this period (effective 1st December 2018) in order to ensure that governance of the organisation was not impeded.

The re-appointment of Members assisted in providing continuity, skills and experience during the period under review, especially in terms of making integral decisions with regards to the National Ports Authority Annual Tariff Application and reviewing the multi-year Tariff Methodology and Tariff Strategy.

In accordance with Principle 7 of King IV, Members represented a diversity of knowledge, skills, experience, age, culture, race and gender in its membership. The Interim Ports Regulator comprised of Members who had suitable qualifications and experience as contemplated in section 31 (4) of the National Ports Act, 2005. Mr. Mahesh Fakir is the only Executive Member of the Ports Regulator.

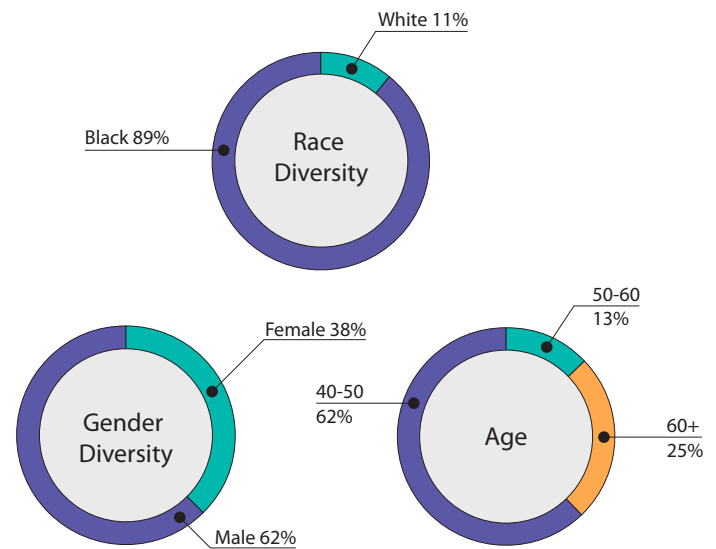
The CEO's contract was for a five year period from the 1st May 2014 to the 30th April 2019. On the 30th March 2019, the former Minister of Transport extended the CEO's contract for a further six months until the 31st October 2019.

On the 29th October 2019, the Minister of Transport Hon. Fikile Mbalula further extended the CEO's contract for a further one year until the 30th October 2020.

The roles of the Ports Regulator Chairperson and the Chief Executive Officer are separate and their responsibilities are clearly defined in terms of the National Ports Act, 2005 and Regulator Charter.

A total of three Ports Regulator Meetings were held during the year under review.

Composition of Interim Ports Regulator in terms of Gender, Race & Age



Members of the Interim Ports Regulator as at 31st March 2020

Name	Designation
Mr. Thabadiawa Alfred Mufamadi	Chairperson (Re-appointment)
Adv. Gugulethu Abigail Thimane	Member (Re-appointment)
Prof. Wellington Didibhuku Thwala	Member (Re-appointment)
Ms. Anjue Hirachund	Member (Re-appointment)
Mr. Mthunzi Madiya	Member (New appointment)
Mr. Lindelwe Mabandla	Member (Re-appointment)
Ms. Gerdileen Taylor	Member (Re-appointment)
Mr. Mahesh Fakir	CEO and ex officio Member

COMPOSITION OF THE PORTS REGULATOR

Name	Designation	Date Appointed	Qualification	Area of Expertise	Other Committees	Membership Professional Bodies	Meetings Attended
Mr. Thabadiawa Mufamadi	Chairperson Re-appointed	22/11/2019	National Diploma (Telecommunications) International Training on Utility Regulation & Strategy (University of Florida)	Finance Economic Development Investment Budgets	-	-	3/3
Prof. Didibhuku Thwala	Member Re-appointed	22/11/2019	PhD Engineering (Construction Project Management) MSc Development Planning MSc Project Management Post Grad Certificate Education BA (Geography & Planning) International Training on Utility Regulation & Strategy (University of Florida)	-	Chairperson of Regulatory Committee	University of Johannesburg Faculty Board Professional Construction Project Manager Professional Town and Regional Planner (1272) Corporate Member South African Planning Institute Chartered Institute of Building	3/3
Adv. Gugulethu Thimane	Member Re-appointed	22/11/2019	Bachelor of Laws (LLB) B.Com Honours (Economics) B.Com (Economics) BA (Social Work) Masters Diploma HR Management International Training on Utility Regulation & Strategy (University of Florida)	Leadership Corporate Governance Legal & Development	Member of HR&REMCO Member of Regulatory Committee Tribunal Chairperson	Institute of Directors South Africa (IoDSA)	3/3
Ms. Anjue Hirachund	Member Re-appointed	22/11/2019	Masters of Business Administration (MBA) National Diploma: Engineering: Chemical International Training on Utility Regulation & Strategy (University of Florida) Diploma: Production Management Diploma: Quality Management	Strategic Leadership Board & Committee Participation Compliance & Regulation	Chairperson of the HR&REMCO Member of the Audit & Risk Committee	Institute of Directors South Africa (IoDSA)	3/3

Name	Designation	Date Appointed	Qualification	Area of Expertise	Other Committees	Membership Professional Bodies	Meetings Attended
Mr. Lindelwe Mabandla	Member Re-appointed	22/11/2019	Masters of Arts (MA): Curriculum Studies (UK) BA (English & Political Studies) Teachers Diploma	Human Resource Management	Member of the HR & REMCO	-	1/3
Ms. Gerdileen Taylor	Member Re-appointed	22/11/2019	B.Com (Accounting) B.Compt (Honours) Chartered Accountant (SA) International Training on Utility Regulation & Strategy (University of Florida)	Internal Audit Risk Management Combined Assurance Accounts	Member of the Regulatory Committee	South African Institute of Chartered Accountants (SAICA) Institute of Internal Auditors SA (IIA) Independent Regulatory Board for Auditors (IRBA)	0/3
Mr. Mthunzi Madiya	Member New appointment	02/12/2019	B.Com (Honours) BPhil (Honours) (Maritime Economic Studies) Bachelor of Social Science (Honours) Post Grad Diploma (Business Management) Commercial Capability Certificate (GIBS) Port Management Certificate (Antwerp Ports Authority Belgium)	Maritime Transport Ports Authorities and Ports Operation Liquid Bulk Business Ports Infrastructure & its Commerce Stakeholder Management Project Development and Management	Member of the Regulatory Committee	Member of SAMSA since 2015 Member of SAMSA Board Maritime Industry Development sub-committee Head Operation Phakisa Ocean Economy-Maritime Transport and Manufacturing Chairperson of National Ports Consultative Committee & Ports Consultative Committee	1/3
Mr. Mahesh Fakir	CEO & ex officio Member	1/04/2014 Contract extended: 30/03 2019 & 30/10/2019	MSc. (Development Finance) University of London MBA MSc & BSc (Engineering) Post Grad Diploma (Engineering) National Diploma Electrical Engineering International Training Utility Regulation & Strategy (University of Florida)	Leadership Economics Economic Regulation Finance	Standing Invitee: ARC, HR&REMCO and Regulatory Committee	Professional Engineer: Engineering Council of South Africa Institute of Directors South Africa	3/3

PORTS REGULATOR COMMITTEES

In accordance with Principle 8 of King IV, the Regulator delegates certain responsibilities to Regulator Sub-Committees, while still remaining ultimately accountable. The Committees enable the Regulator to make more informed decisions on various matters, based on recommendations from these Committees.

The Ports Regulator has three Committees:

- Audit & Risk Committee (“ARC”)
- Human Resource & Remuneration Committee
- Regulatory Committee

Each Regulator Sub-Committee is governed by formal Terms of Reference/Charter which are reviewed on an annual basis and approved by the Regulator. The Terms of Reference/Charter deal with matters of composition, roles and responsibilities, and meeting procedures.

The Regulator appoints the Chairperson and Members to these Committee who are constituted in order to assist the Regulator in achieving the organisations objectives.

Each Committee is required to submit Reports to, and where applicable, make recommendations to the Regulator. Each Committee has the necessary skills, expertise, knowledge, capacity and experience to perform their functions and duties efficiently and effectively.

Audit and Risk Committee

The Audit and Risk Committee is a statutory committee that provides independent assurance, oversight and assistance in respect of control, governance and risk management.

At the Annual General Meeting held in September 2019, it was resolved that services of the Independent Non-Executive Chairperson of ARC, Mr. Trevor Boltman, be terminated in accordance with 27.1.1 of the Treasury Regulations, 2005 and that a process commence to appoint an independent Audit and Risk Committee.

Accordingly, a process to appoint persons to serve on the ARC commenced, and following the appointment of the Interim Regulator, the appointments were finalised. An Independent Chairperson and two Independent Members were appointed for a period of two financial years.

The Executive Authority was informed of the appointments and the ARC Membership shall be ratified at the next Annual General Meeting to take place in or about September 2020.

The ARC is comprised of four Members and met on two occasions during the period under review.

The Members of the Committee are:

- Ms. Desiree Siphwe Nage
(Independent Non-Executive Chairperson)

- Ms. Anjue Hirachund
(Interim Ports Regulator Member)
- Mr. Luyanda Mansfield Mangquku
(Independent Non-Executive Member)
- Mr. Junaid Bhayat
(Independent Non-Executive Member)

The Members of this Committee collectively possessed the necessary financial skills, literacy and experience to perform their functions effectively. The ARC operates in terms of an approved ARC Charter.

The following are some of the ARC’s responsibilities:

- Review the Annual Financial Statements and Annual Report and make recommendations to the Ports Regulator
- Oversight of Risk Management
- Reviewing and assessing Internal Controls
- Reviewing compliance with performance management and reporting systems
- Review and approve Internal Audit Plan
- Review findings and recommendations of External Auditors
- Review effectiveness of compliance monitoring
- Provide necessary Reports and Reporting
- Assess effectiveness of Combined Assurance
- Review ARC Charter & Internal Audit Charter

Human Resource And Remuneration Committee

The Human Resource & Remuneration Committee was comprised of three Members and met on one occasion during the period under review.

The Members of the Committee are:

- Ms. Anjue Hirachund (Chairperson)
- Adv. Gugulethu Thimane
- Mr. Lindelwe Mabandla

The role of the Human Resource and Remuneration Committee is to assist the Regulator with:

- Governance and control of human resource and remuneration strategies, processes, procedures and HR activities within the organisation
- Ensuring fair and transparent conditions of services and employee benefits
- Ensuring effective human resource related policies and procedures in place
- Overseeing the execution of the Human Resource Strategy
- Conducting Annual Review of policies, procedures and remuneration structures

Notwithstanding that the Committee was only able to meet once during the period under review, the Committee considered and recommended a number of instrumental documents and policies which were approved by the Regulator:

- Reviewing the Committee's Terms of Reference
- Amendments to the Leave and Working Hours Policy to include legislative developments
- Amendments to the PRSA Conditions of Service
- Amendments to the PRSA Rewards and Remuneration Policy to include provisions relating to pay progression
- Cost of Living Adjustments for PRSA staff for the 2020/21 Financial Year

Ms. Anjue Hirachund

Chairperson: Human Resource & Remuneration Committee

Regulatory Committee

The Regulatory Committee was comprised of four Members and met on one occasion during the period under review.

The Members of the Committee are:

- Prof. Didibhuku Thwala (Chairperson)
- Adv. Gugulethu Thimane
- Mr. Mthunzi Madiya
- Ms. Gerdileen Taylor

The role of the Regulatory Committee is to assist the Regulator with:

- Monitoring the National Ports Authorities compliance with the National Ports Act
- Maintaining oversight of the Regulatory and Tribunal functions of the Regulator
- Providing oversight of economic regulation as it relates to the Tariff Application process
- Oversight of access to and ensuring transformation in the ports sector
- Regulating the provision of adequate, affordable and efficient ports services and facilities
- Highlights of the activities of the Regulatory Committee for the year under review included-
- Reviewing the Committee's Terms of Reference
- Announcement of the Tariff Decision on the 29th November 2019 which resulted in unchanged average tariff levels, but provided for significant export support for South African manufacturers with a 20% decrease in the cargo dues for export containers
- Considering and recommending for approval to the Regulator a draft Multi-Year Tariff Methodology
- Considering and recommending for approval to the Regulator an update of the 10-year Tariff Strategy
- Full implementation of the Valuation of Assets Methodology

- Considering and made recommendation to the Regulator in terms of the SA Flag Vessel Incentive that continued a significant tariff reduction incentive for South African flagged vessels
- Considering and made recommendation to the Regulator on reviewed Tariff Strategy
- Recommending to the Regulator approval of the Report on the National Port's Authority Capital Roll-Out Programme
- Recommending to the Regulator approval of the finalisation and publication of the Report on SA Port Performance
- The Chairperson and Mr. Madiya were in attendance at the Public Participation Event held at Umhlanga during February 2020 for the Tariff Methodology Review

Prof. Didibhuku Thwala
Chairperson: Regulatory Committee

PORTS REGULATOR MEETINGS ATTENDANCE

The table below indicates the attendance of Ports Regulator members at meetings for the period under review.

Ports Regulator Meetings 2019/2020

Ports Regulator Meetings		
Names of the Interim Regulator Members (8)	Dates of Meetings: 27 November 2019, 18 December 2019 5 March 2020	
	Meetings held	Meetings attended
Mr. Thaba Mufamadi (Chairperson)	3	3
Adv. Gugulethu Thimane	3	3
Prof. Didibhuku Thwala	3	3
Ms. Anjue Hirachund	3	3
Mr. Lindelwe Mabandla	3	1
Ms. Gerildeen Taylor	3	0
Mr. Mthunzi Madiya (Appointed December 2019)	3	1
Mr. Mahesh Fakir (CEO & ex officio Member)	3	3

PORTS REGULATOR COMMITTEE MEETINGS ATTENDANCE

The following tables indicates the attendance of Ports Regulator members at meetings for the period under review.

Audit & Risk Committee Meetings 2019/2020

Audit and Risk Committee				
Names of Members	Dates of Meetings 30 January 2020 14 February 2020			
	Date of Appointment	Qualifications	Professional Membership	Attendance
Ms. Desiree Nage Independent Non-Executive Chairperson	22/01/2020	BCom (Accounting) CIA – Certified Internal Auditor CCSA – Certified Control Self Assessor	Institute of Internal Auditors SA (IIA) Institute of Risk Management SA (IRMSA) Institute of Directors South Africa (IoDSA)	1/2
Ms. Anjue Hirachund Member	22/11/2019	Masters of Business Administration (MBA) National Diploma: Engineering: Chemical International Training on Utility Regulation & Strategy (University of Florida) Diploma: Production Management Diploma: Quality Management	Institute of Directors South Africa (IoDSA)	2/2
Mr. Luyanda Mangquku Independent Non-Executive Member	22/01/2020	B.Compt Bachelor of Accounting Sciences (Honours) Master in Business Leadership (MBL) B.Com (Honours) (Accounting) Chartered Accountant (SA)	South African Institute of Chartered Accountants (SAICA)	2/2
Mr. Junaid Bhayat Independent Non-Executive Member	22/01/2020	BCom (Honours) (Accounting) Master of Business Administration (MBA) Chartered Accountant (SA) Registered Auditor (IRBA)	South African Institute of Chartered Accountants (SAICA)	2/2

Regulatory Committee Meetings 2019/2020

Regulatory Committee		
Names of Members	Date of Meeting 24th February 2020	Attendance
Prof. Didibhuku Thwala (Chairperson)		1/1
Adv. Gugulethu Thimane		1/1
Mr. Mthunzi Madiya		1/1
Ms. Gerdileen Taylor		0/1

Human Resource & Remuneration Committee Meetings 2019/2020

Human Resources and Remuneration Committee		
Names of Members	Date of Meeting 11 February 2020	Attendance
Ms. Anjue Hirachund (Chairperson)		1/1
Adv. Gugulethu Thimane		1/1
Mr. Lindelwe Mabandla		0/1

REMUNERATION OF PORTS REGULATOR MEMBERS

Subject to section 31(7) of the National Ports Act, a Member of the Ports Regulator including the Independent Non-Executive Audit Committee Chairperson and other Independent Non-Executive Audit Committee Members, are appointed on such terms and conditions and are entitled to such remuneration as the Minister of Transport may, with the concurrence of the Minister of Finance, determine.

Members are remunerated for meeting attendance and preparation. Members are also reimbursed for any travel/business expenses incurred. Remuneration is disclosed in the Annual Financial Statements.

Ports Regulator Member Remuneration 2019/2020			
Name of Member	Annual Remuneration (R)	Other Re-imbursements (R)	Total (R)
Mr. Thaba Mufamadi	22 208.00	235.37	22 443.37
Ms. Anjue Hirachund	90 720.00	4 223.70	94 943.70
Prof. Didibhuku Thwala	45 360.00	86.64	45 446.64
TOTAL	158 288.00	4 545.71	162 833.71

RISK MANAGEMENT

The Ports Regulator has adopted a Risk Management Policy which provides guidelines for the effective and efficient management of risks.

During the period under review and in the absence of Regulator Members, the CEO as delegated Accounting Authority, Senior Management and Internal Audit met to discuss the strategic and operational risks faced by the Entity.

A Risk Register was developed and approved by the delegated Accounting Authority. The Risk Register is continually monitored and reported on by the Executive Management.

The previous Regulator whose term expired in November 2018 took a decision that since the Ports Regulator is a small entity, there will be no need to create a separate Risk Committee, but that Risk Management would form part of the responsibilities of the Audit Committee, which then led to the change in name to Audit & Risk Committee.

Risk management is a standing item on the EXCO meetings as well as on the Audit & Risk Committee meetings.

The CFO is the Risk Officer who reports on both these meetings on the actions taken to mitigate the risks in place, new risks and those risks which no longer exist.

Following the appointment of the Interim Regulator, one of the interim Regulator Members was appointed to serve on the Audit and Risk Committee. The ARC assists the Ports Regulator with the governance of risk. Management ensures that a quarterly Risk Management Report serves at every ARC meeting. Internal audit also assists the ARC in assessing the effectiveness of risk control and mitigation plans.

The Risk Management plans have been effective in that the entity has managed to achieve 100% of its planned targets on the annual performance plan. This was a very challenging year since there was no Regulator in place for most of the financial year,

It must be remembered that the Regulator plays a role in the delivery of the annual performance plan targets. Therefore, it is worth noting that all the risks facing the organisation were managed effectively and didn't prevent the entity from achieving its planned goals.

INTERNAL AUDIT

The Ports Regulator appointed Morar Inc. as Internal Audit for a three year period ending in 2021. Internal Audit help the entity accomplish its objectives by assisting in the evaluation and improvement of risk management, internal control and governance processes.

The work of Internal Audit is guided by the Internal Audit Charter and Internal Audit is required to be present at all meetings of the Audit and Risk Committee. Internal Audit reports administratively to the Chief Executive Officer. The Accounting Authority/ARC reviews the work of Internal Audit on a quarterly basis.

Internal Audit undertakes independent reviews, including of organisational compliance with policies, process and codes and assessing how the entity is performing in terms of its internal controls and organisational performance as set out in the Annual Performance Plan.

A risk based three-year coverage plan as well as the internal audit plan for the 2019/20 financial year was developed and approved by the ARC.

Internal Audit executed and completed all the audits as per the approved Internal Audit Plan. A total of four Internal Audit Reports were issued. Report findings were presented to Management, and tracked to determine progress by Management in attending to findings.

Below is the table of internal audit assignments that were performed during the year:

Coverage	Implementation Period
Performance information	Quarter 3: October — December 2019
Supply Chain & Expenditure Management	
Asset Management	
Audit Committee	
Performance information	Quarter 4: January — March 2019
Risk Management	
Financial Management	
Follow-ups	
Audit Committee	

COMPLIANCE WITH LAWS AND REGULATIONS

Quarterly reports are submitted to the ARC and Ports Regulator in respect of compliance with the Public Finance Management Act, 1999. This is addressed under the PRSA Compliance section.

FRAUD AND CORRUPTION

The Ports Regulator has adopted a Fraud Prevention Policy and Whistle blowing Policy.

There were no incidents of fraud, corruption or irregularity committed by employees and/or Regulator members during the period under review.

Employees are also required to submit an annual declaration of interest. In addition, each year employees are provided with a copy of the PRSA Code of Ethics and Business Code Policy and required to sign an annual declaration. These declarations are submitted to the HR Department.

Regulator Members are required to declare any conflict of interest at every meeting, and written declarations are submitted to the Company/Regulator Secretary who maintains a Declaration of Interest Register.

Management provides quarterly reports to the Ports Regulator and the Executive Authority on any matters of fraud and corruption.

The compliance framework, fraud prevention policy and whistle blowing policy that have been implemented are designed to allow early detection of fraud and corruption as well as steps to be taken should any fraud be identified.

MINIMISING CONFLICTS OF INTEREST

The Ports Regulator uses the best practice when it comes to minimising conflict of interest. The SCM policy is annually reviewed to ensure alignment with latest National Treasury updates as well as best practice in the SCM.

The SCM policy also has a provision for managing conflict of interest and the guidelines that need to be followed should any conflict be identified. All employees who are involved in the SCM processes are annually trained as required by the Treasury Regulations. The training is aimed to highlight the significant amongst other things the need for managing conflicts of interest on all bids.

All employees involved in SCM are required to declare their annual declaration of interest just like other employees and furthermore, they have to declare their interest when evaluating bids.

The internal auditors as well as external auditors also perform tests during the SCM audit to identify if all employees have declared their interest and also perform a CIPRO check for any possible link between the Regulator suppliers and the employees at the Ports Regulator.

There were no conflicts of interest that were declared during the financial year and the audit processes did not identify any such conflicts.

CODE OF CONDUCT

The Ports Regulator has adopted a Code of Conduct and Business Ethics Policy. The Code applies to both Regulator Members and Employees. The spirit of the Code is to support the highest standards of ethical and good business conduct.

The purpose of the Code is to provide guidelines to the Members and Employees as to what is expected from them from an ethical point of view, both in their individual conduct and their relationships with both internal and external stakeholders. The CEO is responsible for ensuring that employees sign an annual declaration as required by the Code.

Any employee who contravenes the Code shall be dealt with in accordance with the provisions of the PRSA Disciplinary and Grievance Policy, and any Member who contravenes the Code shall be dealt with in accordance with their appointment in terms of the National Ports Act, 2005.

HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

The Entity places a high premium on the wellness of its employees. The Ports Regulator has adopted a Health, Safety and Environmental Policy which sets out guidelines to ensure a safe and healthy workplace environment.

The organisation appointed two employees as Health and Safety Officers. These employees were given training which highlighted the basic responsibilities of the Health and Safety officer as well as the necessary resources required to fulfil their duties. The Regulator procured all the requested resources in order to allow the Health and Safety officers to execute their duties efficiently. There were no on-duty incidents to report for the period under review.

COMPANY/REGULATOR SECRETARY

Ports Regulator Members are supported by a Company/Regulator Secretary, Ms. Kathleen Hall, who assists the Regulator Members in the carrying out of their functions and duties and strengthens the governance structures and practices of the organisation.

The Company/Regulator Secretary assists the Regulator in providing guidance and support with regards to the Members roles and responsibilities. The Members have full access to the services and advice of the Company/Regulator Secretary.

The Company/Regulator Secretary carries out the following duties which includes but is not limited to:

- Reviewing Charters/Terms of Reference Annually
- Advising the Regulator on governance issues
- Ensuring the Regulator receives adequate information to make informed decisions
- Maintaining registers, acting as secretary to all meetings, overseeing induction and training
- Monitoring and communication of Regulator decisions
- Facilitating the Annual General Meeting and liaising with the Executive Authority regarding Regulator matters

SOCIAL RESPONSIBILITY

The Ports Regulator did not undertake any social responsibility activities during the financial year due to constraints on funding.

It is well known that the Regulator's operations are financed by transfers from the fiscus. This places great pressure on the ability of the Regulator to stretch its budget to perform social responsibility activities.

REPORT OF THE **AUDIT & RISK COMMITTEE**

We are pleased to present our report for the financial year ended 31 March 2020.

Audit and Risk Committee Responsibility

The Audit and Risk Committee reports that it has complied with its responsibilities arising from Section 51 (1)(a)(ii) of the Public Finance Management Act and Treasury Regulation 27.1.

The Audit and Risk Committee also reports that it has adopted appropriate formal terms of reference as its Audit and Risk Committee Charter, has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein.

The Audit and Risk Committee supports the Accounting Authority in discharging its Corporate Governance responsibilities in relation to:

- Review of disclosures in the Annual Report
- Financial reporting
- Internal control
- Business ethics and fraud prevention policies
- Risk Management
- Ensuring integrity and effectiveness of internal audit function

The Audit and Risk Committee is responsible for approving the external audit strategy and fees. The Audit and Risk Committee further monitors the application of our financial resources.

Enterprise Risk Management

The Accounting Authority is responsible for entrenching risk management governance through effective leadership. Management accounts to the Accounting Authority for the integration of risk management into the PRSA's daily operations and for the implementation and monitoring of the risk management process.

The Audit and Risk Committee considers all risk matters and provides advice and guidance on the overall risk management system, with particular attention to risks that have been measured as above acceptable tolerance levels.

The Audit and Risk Committee further independently monitors the effectiveness of the risk management system and reports to the Accounting Authority accordingly.

The PRSA has implemented an integrated internal risk management strategy through which risks and opportunities are identified on an ongoing basis. This strategy is underpinned and guided by the following key principles:

- A strong and solid risk culture is a critical pillar of good governance
- Consideration of real and potential risks in decision making processes
- The acceptance that risk management is mandatory
- Continuously monitoring risk exposure as impacted by the changing internal and external environments
- Acceptance that accountability for risk management cannot be deferred or shifted
- The importance of maintaining an appropriate balance between risk and control

Enterprise Risk Management Governance

The Audit and Risk Committee is responsible for the oversight of the risk management function. Management has designed and implemented controls to manage the risks faced by the PRSA. Management reports to the Audit and Risk Committee on PRSA's management of risk, and has advised management on a continual basis on the best risk management practices.

This would include monitoring the progress on the implementation of future mitigation strategies to provide assurance that PRSA is effectively managing their risks.

The PRSA conducted their Annual Risk Assessment and the Annual Strategic and Operational Risk Register was approved and adopted by the Interim Ports Regulator.

The Audit and Risk Committee has reviewed the strategic and operational risk registers, considered new and emerging risks and has satisfied itself of the risk mitigating measures employed to ensure risks are within tolerable levels.

The PRSA ensures progress in the management of risks through its risk monitoring activities. It is committed to improving its risk performance on an ongoing basis, where high risk areas are targeted through focused resources and effort.

Fraud and Corruption Prevention Strategy

The PRSA has implemented a Fraud and Corruption Prevention Strategy as part of the overall governance strategy. The effectiveness of the Fraud and Corruption Prevention Strategy is monitored on an ongoing basis.

Management is responsible for the prevention of incidents and occurrences of fraud and corruption, and does this through the design, implementation and monitoring of a sound system of internal control. A risk assessment with specific focus on fraud and corruption is conducted annually and monitoring and reporting is done continually.

The Effectiveness of Internal Control

The system of controls within the PRSA is designed to provide reasonable assurance that assets are safeguarded and that liabilities and working capital are properly managed in line with the PFMA and the protocol on corporate governance.

This is achieved by a risk-based internal audit plan, Internal Audit assessing the adequacy of controls mitigating the risk and the Audit and Risk Committee monitoring the implementation of corrective actions.

From our review of the reports of the Internal Auditors, the Audit Report on the Annual Financial Statements and the Management Report of the Auditor-General of South Africa (AGSA), we can conclude that the system of internal control, as applied over financial and non-financial matters and enterprise risk management at the PRSA, is satisfactory.

The Committee has noted Management's commitment to address the lack of control effectiveness where it exists. The Committee will be monitoring Management's progress in resolving these issues on a regular basis.

Internal Audit

We are satisfied that the internal audit function has operated effectively; that it has addressed the risks pertinent to the PRSA in its audits and has assisted the PRSA with value adding services to ensure that both financial and operational objectives are achieved. Internal Audit has completed 11 of the 11 planned Internal Audit projects.

The following internal audit work was completed during the year under review:

Internal Audits undertaken	Implementation period
Predetermined Objectives (PMS)	Quarter 1: April — June 2019
Compliance with Laws and Regulations	
Human Resource Management	
Predetermined Objectives (PMS)	Quarter 2: July — September 2019
Supply Chain, Contract, and Expenditure Management	
Asset management	
Predetermined Objectives (PMS)	Quarter 3: October — December 2019
Follow up audit	
Risk Management	
Predetermined Objectives (PMS)	Quarter 4: January — March 2019
Review of Annual Financial statements	

Ad Hoc Audits

Determination of irregular expenditure finding from Auditor-General of South Africa for 2018/2019 financial year.

Deferred Audit Projects

None

Governance Process

The Audit and Risk Committee is also responsible for monitoring governance and compliance with the PRSA Code of Ethics and Business Conduct for receiving quarterly Governance and Compliance Reports.

IT Governance

IT governance continues to be a key focus of the Audit and Risk Committee on behalf of the Ports Regulator. The CFO is responsible for executing the ICT Governance Strategy and reports on a quarterly basis to the Audit and Risk Committee. The Committee provided oversight on ICT governance and reported accordingly to the Accounting Authority on a quarterly basis during the period under review.

In Year Management and Management Quarterly Reports

The Chief Executive Officer presented quarterly financial and performance information for review by the Audit and Risk Committee and we were satisfied with the content and quality of the quarterly reports prepared and issued by the Chief Executive Officer of the PRSA. All the reports were submitted on time to the Executive Authority and National Treasury.

Evaluation of the Financial Statements

The Audit and Risk Committee has:

- Reviewed and discussed the audited Annual Financial Statements to be included in the Annual Report with the AGSA and the Chief Executive Officer
- Reviewed the AGSA's Management Report and Management's response thereto
- Reviewed accounting policies and practices as reported in the Annual Financial Statements
- Reviewed the PRSA's processes for compliance with legal and regulatory provisions
- Reviewed the information on predetermined objectives as reported in the Annual Report
- Reviewed adjustments resulting from the audit of the PRSA; and where appropriate, recommended changes to the Annual Financial Statements as presented by the PRSA Management for the year ending 31 March 2020.

Auditor's Report

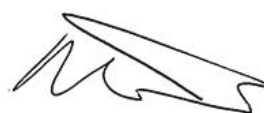
We have on a quarterly basis reviewed the PRSA's implementation plan for audit issues raised in the prior year. The Audit and Risk Committee has met with the Auditor General of SA (AGSA) to ensure that there are no unresolved issues that emanated from the regulatory audit.

Corrective actions on the detailed findings raised by the AGSA were monitored by the Audit and Risk Committee on a quarterly basis and all matters raised were resolved by financial year end.

The Audit and Risk Committee concurs and accepts the conclusions of the AGSA on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the AGSA.

Appreciation

The Audit and Risk Committee wishes to acknowledge the dedication and work performed by the Chief Executive Officer, Management and Officials of the PRSA. The Audit and Risk Committee wishes to express its appreciation to Management, the AGSA and the Internal Audit Unit for the co-operation and information they have provided to enable us to discharge our responsibilities.



Ms. Desiree Sphiwe Nage

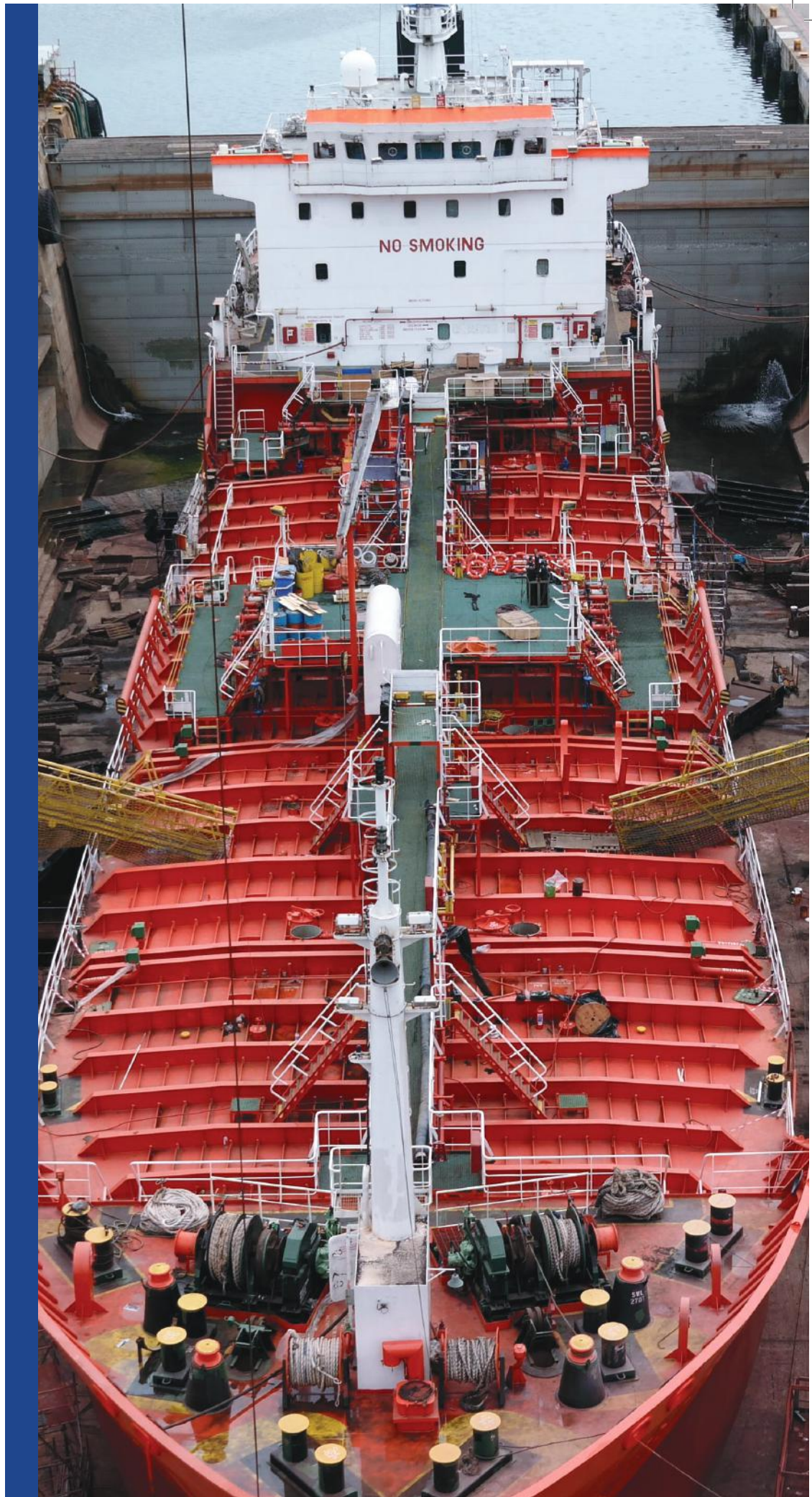
Independent Non-Executive Chairperson
Ports Regulator Audit and Risk Committee
7 October 2020

B-BBEE COMPLIANCE PERFORMANCE INFORMATION

The following table has been completed in accordance with the compliance to the B-BBEE requirements of the B-BBEE Act of 2013 and as determined by the Department of Trade and Industry.

Has the Department / Public Entity applied any relevant Code of Good Practice (B-BBEE Certificate Levels 1 – 8) with regards to the following?:		
Criteria	Response Yes / No	Discussion
Determining qualification criteria for the issuing of licences, concessions or other authorisations in respect of economic activity in terms of any law?	No	The PRSA does not issue licenses, concessions or authorizations
Developing and implementing a preferential procurement policy?	No	The PRSA complies with the PPPFA and its regulations as prescribed by treasury.
Determining qualification criteria for the sale of state-owned enterprises?	No	The PRSA does not sell any state-owned enterprises
Developing criteria for entering into partnerships with the private sector?	No	The PRSA has not entered into partnerships with the private sector
Determining criteria for the awarding of incentives, grants and investment schemes in support of Broad Based Black Economic Empowerment?	No	The PRSA complies with Broad based black economic empowerment requirements in the procurement of goods and services.

PART D
HUMAN RESOURCES MANAGEMENT



Vessel being repaired in the Sturrock Dry Dock at the port of Cape Town

HUMAN RESOURCES

Management

INTRODUCTION

Overview of HR matters at the public entity

The Regulator has an organogram which has 27 positions. This organogram is very limiting since it does not allow for internal growth for staff and is not aligned to growth strategy of the entity, this led to the revision of the organogram to increase positions from 27 to 60.

The Regulator even though has limited resources both financial and human capital, managed to again deliver 100% achievement of targets on the annual performance plan. This is as a result of high performance culture that has been embedded on the business operations of the entity.

The Regulator reviewed its HR policies especially for leave, reward and recognition as well as conditions of service. The revision was to ensure that the leave policy is aligned to the latest legislative updates regarding leave. The Reward and Recognition policy was reviewed to increase the incentives for employees who perform beyond their expectations.

The Regulator philosophy is that when employees work really hard and deliver on their targets, then such employees must be rewarded in order to encourage them to deliver even more in the future. The Conditions of service were reviewed to align them to the latest business environment and to align to the latest legislative updates, the Conditions of Service have not been updated since first approval and implementation in July 2011.

The Regulator believes on the development of its workforce. This is evident on the training and development that took place during the financial year. The financial resources are not adequate to address all the training needs of the entity but management does its best to ensure that employees receive training that will allow them to develop on technical issues in their area of speciality.

An employee satisfaction survey was conducted in 2018/19 using services of ICAS. The outcomes of the survey indicated that employees were generally happy with the working conditions at the Regulator with a few identified areas of improvement.

Management engaged on suggestions/recommendations from staff and has implemented those recommendations which were identified to be within reason. Measures were put in place to allow for more engagement within teams to ensure synergy.

HR priorities for the year under review and the impact of these

The Regulator embarked on a process to revise the organogram that has been in place since 2007/2008 financial year when the entity started operations. The current organogram has been identified as not being in line with the growth strategies of the Regulator and will not allow the Regulator to better prepare itself for the Single Transport Economic Regulator.

The current organogram is designed in such a way that it limits the Regulator's ambitions to increase enforcement of compliance by the regulated entity and does not allow for greater scrutiny of the accounts of the regulated entity.

The revised organogram provides for additional employees, especially in the administration section where three key functions of SCM, HR and IT are currently being performed by one employee. This is not best practice and not ideal from an audit point of view.

The revised organogram has been submitted to the Minister of Transport for approval as required by legislation and the Regulator eagerly awaits the approval which will pave way for much needed growth.

The Regulator also prioritised the filling of the vacant top management positions. The three positions are that of Executive Manager for Legal, Industry Development and Policy, Strategy & Research.

The top management positions are critical as these employees are responsible for executing the annual performance plan as well as the mandate of the entity under the leadership of the CEO.

The position of Executive Manager Legal was vacant following a resignation in March 2018. This position was filled by an applicant who was not internal. The Executive Manager Industry Development and Policy, Strategy & Research had not been filled before because of funding constraints. These positions were filled by employees who were already acting in each position as part of the Regulator's internal staff development.

Employee Performance Management Framework

The Regulator has an employee management framework in place to manage employee performance. The framework is designed in such a way that it encourages a high performance culture. Employees complete the performance agreement, which is informed by the output from the annual performance plan, at the beginning of the financial year. Half-year performance assessments are performed in October each year as a monitoring tool to ensure that all employees are on the correct path to achieve the set targets for the financial year.

Final performance assessments are performed in March and performance bonuses are paid to those employees who achieved their targets. Employee performance is critical as it affects the employee's ability to progress on the salary scales.

Employees who achieve a score above 4.5 qualify for a performance bonus and a salary progression, which is then implemented in April at the start of the new financial year. The objective of this clause is to encourage employees to deliver high quality output in their respective area of work.

Employee Wellness Programme

The Regulator complies with the labour practices which includes providing an employee wellness service to employees. An employee well service provider was appointed, to ensure that employees have an independent party that they can engage with on their needs, which cannot be immediately solved by the employer.

ICAS is the service provider for employee wellness and their services have been adequate for the needs of the Regulator. The service provider also makes presentations on certain issues which affect employees. These issues include finances, mental health in the workplace, balancing work and family matters etc. This is aimed at ensuring that employees do not have any factors that may affect their performance in the workplace.

Policy Development

The Regulator has various approved policies and procedures in place. These policies are reviewed on an annual basis for any legislative updates and changes in the business environment. The policies are workshopped with staff to ensure full understanding and expectations from employees on the implementation of such policies.

The policy review falls under the responsibility of human resources and recommended by the Human Resource & Remuneration Committee to the Regulator for final approval. The internal audit which is outsourced also assists to review the policies to ensure that they comply with current legislation and are aligned to each other where necessary.

Highlight Achievements

The Regulator for the first time in its history filled top management positions. All four top management positions were filled which assists to strengthen the performance of the entity.

The Regulator also implemented its training plan for the financial year. The training aims at improving the academic and technical understanding of the different areas of speciality for all employees.

All the set targets for employees were achieved for the financial year which resulted in a 100% achievement on the annual performance plan targets.

Challenges Faced by the Public Entity

The Regulator experienced some delays in the appointment of top management employees. The Regulator is set up in such way that the Regulator members form part of the entity's performance. This includes the Regulator approving the record of decision for the tariff assessment as required by the National Ports Act.

The Regulator also performs a tribunal function to hear complaints and appeals as required by the National Ports Act. The absence of Regulator members resulted in the tribunal function being suspended. The Regulator members were re-appointed, for those

who have served one term of office, by the Minister in November 2019 for six months and this allowed the record of decision to be approved and published by 01 December 2019.

This also allowed the tribunal function to be activated and hearings were planned for March 2020. However, due to the COVID-19 epidemic the hearings had to be postponed.

Future HR Plans and Goals

The Regulator plans to increase its capacity in order to deliver more on the mandate of the entity. The functions of the regulator are more administrative and require investment in human capital in order to be able to achieve its mandate.

The organogram has been revised and positions

increased from 27 to 60. The revised organogram has been submitted to the Minister of Transport for approval. The revised organogram will also assist the Regulator in preparing for the Single Transport Economic Regulator.

The Regulator will continue to its perform salary benchmarking exercise every five years in order to ensure that it offers attractive remuneration to employees.

Performance of employees will also be carefully monitored to ensure that 100% achievement of targets in the annual performance plan is maintained.



HUMAN RESOURCES OVERSIGHT STATISTICS

Personnel Cost by Programme					
Programme / Activity / Objective	Total Expenditure for the entity (R'000)	Personnel Expenditure (R'000)	Personnel expenditure as a % of total expenditure (R'000)	No. of employees	Average personnel cost per employee (R'000)
Administration	13 483	7 300	58.14%	9	811.11
Economic Regulation	3 804	3 205	84.25%	3	1 068.33
Tribunal	1 915	1 915	100%	2	957.5
Industry Development	3 826	2 982	77.94%	5	596.4
Monitoring	3 388	2 146	63.34%	3	715.33

Personnel Cost by Salary Band				
Level	Personnel Expenditure (R'000)	% of Personnel expenditure to total personnel cost (R'000)	No. of employees	Average personnel cost per employee (R'000)
Top Management	3 298	18.79%	1	3298
Senior Management	5 879	33.50%	6	979.83
Professional qualified	2 340	13.33%	7	334
Skilled	5 613	31.99%	6	936
Semi-skilled	220	1.25%	1	220
Unskilled	198	1.13%	1	198
TOTAL	17 548	100%	22	

Training Costs					
Programme//Activity/ Objective	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Training Expenditure as a % of Personnel Cost.	No. of employees trained	Average training cost per employee (R'000)
Administration	7 300	103	1.41%	7	14,71
Economic Regulation	3 205	22	0.69%	3	7,33
Tribunal	1 915	65	3.39%	2	32,5
Industry Development	2 982	64	2.15%	5	12,8
Monitoring	2 146	65	3.03%	3	21,67

Performance Rewards			
Programme / Activity / Objective	Performance Rewards (R'000)	Personnel Expenditure (R'000)	% of Performance rewards to total personnel cost
Top Management	537	3 298	16.28%
Senior Management	237	5 879	4.03%
Professional Qualified	598	2 340	25.56%
Skilled	401	5 613	7.14%
Semi-skilled	13	220	5.91%
Unskilled	12	198	6.06%
TOTAL	1 798	17 548	

Employment and Vacancies					
Programme / Activity / Objective	2019/2020 No. of Employees	2019/2020 Approved Posts	2018/2019 No. of Employees	2018/2019 Vacancies	% of Vacancies
Administration	9	10	9	10	10%
Economic Regulation	3	6	3	6	50%
Tribunal	2	2	2	2	0%
Industry Development	5	6	5	6	16.67%
Monitoring	3	3	2	3	0%

Employment and Vacancies per Level					
Programme/Activity/Objective	2019/2020 No. of Employees	2019/2020 Approved Posts	2018/2019 No. of Employees	2018/2019 Vacancies	% of Vacancies
Top Management	1	1	1	1	0%
Senior Management	4	4	1	4	0%
Professional qualified	4	7	4	7	42.85%
Skilled	10	12	12	12	16.67%
Semi-skilled	2	2	2	2	0%
Unskilled	1	1	1	1	0%
TOTAL	22	27	21	27	

Employment Changes

At the beginning of the financial year the Ports Regulator had three funded vacant positions in top management. These positions were vacant and there were delays in the appointment of top management employees because there were no Regulator members in place during the financial year. Their term of office had expired on 30 November 2019.

The CEO approved the appointment of three executive managers. There were no other vacant funded posts as a result of the funding constraints.

The three vacant positions were vacant for a period not exceeding the first four months of the financial year, the appointments were finalised in July 2019

The Regulator directed human resources to vet and verify the skills and experience of the applicants to ensure that only high performers were appointed to the entity. The working environment of the Regulator is highly technical and complex therefore requires employees with high acumen.

For the purposes of transparency and to ensure a large skills pool to choose from, the three positions were advertised internally and externally.

The three appointed executive managers comprised of two internal employees and one external, the two internal employees were already in the acting capacity for the positions appointed into

This appointment was critical in order to eliminate the acting positions and to decrease the vacancy rate. The Regulator also made every effort to fill the vacant positions by giving preference to internal staff without compromising on the skills and experience required for each of the three positions.

The Regulator has started the process to amend the organogram from 27 positions to 60 positions. This is aimed at increasing the capacity of the Regulator in preparation for the STER. It is anticipated that the Ports Regulator will form the nucleus of STER therefore this necessitates the need to better capacitate the Regulator especially with regard to human capital. The revised organogram has been submitted to Department of Transport for approval by the Minister following which it will be implemented immediately.

Every five years the Regulator performs a salary benchmarking exercise to ensure that the Regulator offers competitive remuneration packages to employees. This assists in attracting new talent and retaining the current talent. The benchmarking exercise was last performed in the 2018/19 financial year and the new salary scales were implemented in April 2019.

Summary of Actuals				
Salary Band	Employment at beginning of period	Appointments	Terminations	Employment at end of the period
Top Management	1	0	0	1
Senior Management	1	3	0	4
Professional qualified	4	0	2	2
Skilled	12	0	2	10
Semi-skilled	2	0	0	2
Unskilled	1	0	0	1
TOTAL	21	3	4	20

Summary of Terminations

The terminations that took place relate to employees who had ambitions to further their careers where the Regulator could not fulfil their career development goals.

This was as a result of the organogram being too small and also as a result of the Regulator not being able to offer article training for aspiring attorneys.

The Regulator immediately advertised the vacant positions in order to ensure timeous replacement of the employees that have left.

There was no requirement for disciplinary action during the financial year.

Reasons for Employment Termination		
Reason	Number	Percentage of total no. of staff leaving
Death	0	0%
Resignation	2	100%
Dismissal	0	0%
Retirement	0	0%
Ill health	0	0%
Expiry of contract	0	0%
Other	0	0%
TOTAL	2	100%

Equity Target and Employment Equity Status

The Ports Regulator strives to promote employment equity in their workforce.

This is sometimes met with challenges where the unique skill required may not be available in the target group resulting in the employment equity plans not being fully met.

This is however managed in that previously missed targets are carried forward to the next period to ensure that the entity complies with its employment equity plan submitted to Labour department.

Employment Equity: Disabled

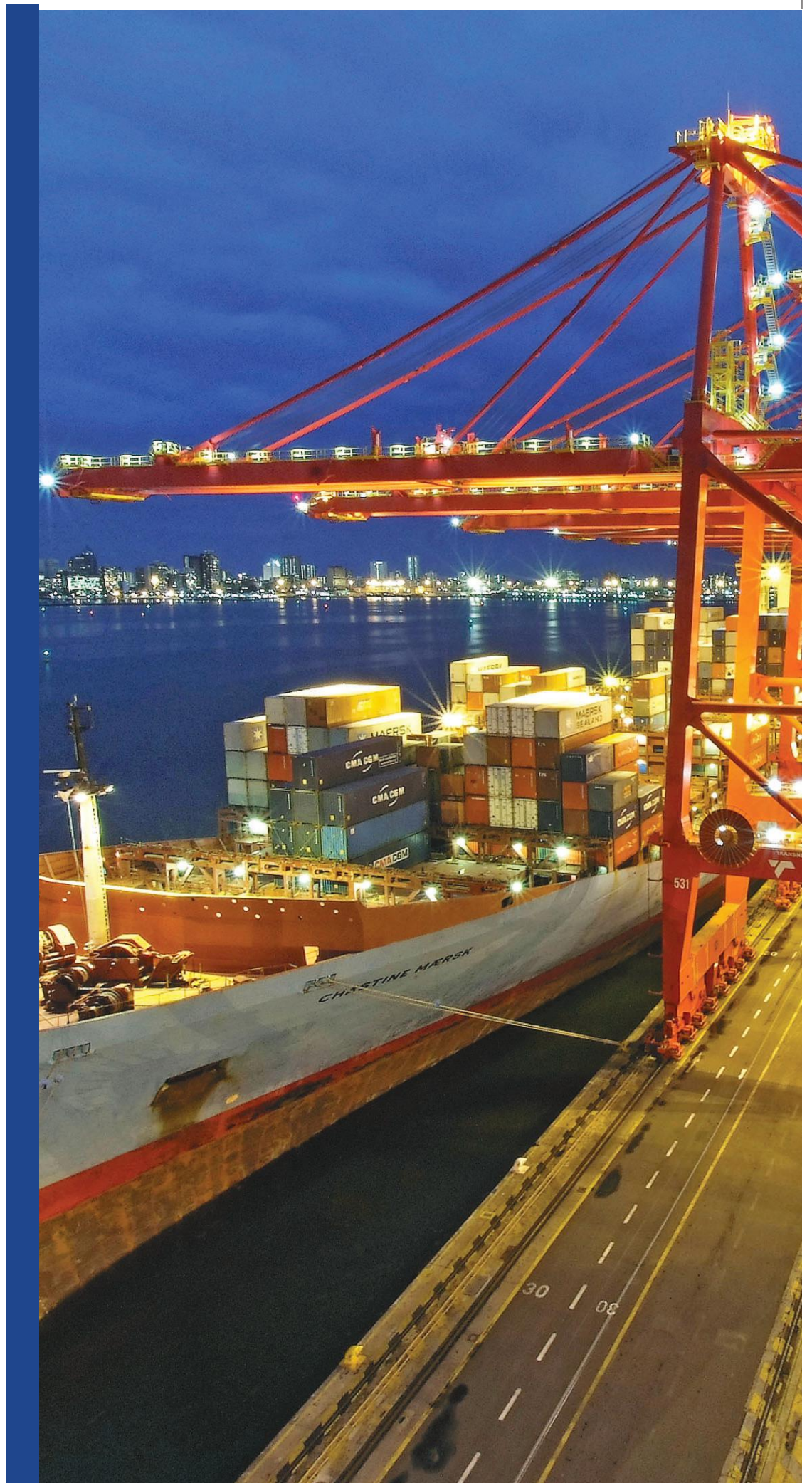
The PRSA has no equity targets for disabled persons and no disabled persons were hired throughout the year

Employment Equity Target vs. Current: Male								
Levels	Male							
	African		Coloured		Indian		White	
	Actual	Target	Actual	Target	Actual	Target	Actual	Target
Top Management	0	0	0	0	1	0	0	0
Senior Management	2	2	0	0	0	0	1	1
Professional qualified	0	1	0	0	0	0	0	1
Skilled	4	4	0	0	0	0	0	0
Semi-skilled	0	0	0	0	0	0	0	0
Unskilled	0	0	0	0	0	0	0	0
TOTAL	6	7	0	0	1	0	1	2

Employment Equity Target vs. Current: Female								
Levels	Female							
	African		Coloured		Indian		White	
	Actual	Target	Actual	Target	Actual	Target	Actual	Target
Top Management	0	0	0	0	0	0	0	0
Senior Management	1	1	0	0	0	0	0	0
Professional qualified	0	1	0	1	1	1	1	1
Skilled	5	6	0	0	2	3	0	0
Semi-skilled	1	1	1	1	0	0	0	0
Unskilled	1	1	0	0	0	0	0	0
TOTAL	8	10	1	2	3	4	1	1

PART E
ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2020



Night operations at the Port of Durban

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Auditor-Generals Report	75	82	Statement of Cash Flow
Statement of Financial Position	79	83	Statement of Comparison to Budget
Statement of Financial Performance	80	84	Notes to the Annual Financial Statements

General Information

Country of incorporation	South Africa
Nature of the business	Economic Regulation
Business address	11th Floor, The Marine Building 22 Dorothy Nyembe Street Durban 4001
Postal address	Private Bag X54322 Durban 4000
Website	www.portsregulator.org
Bankers	Standard Bank Limited
Auditors	Auditor-General of South Africa
Controlling entity	Department of Transport

ACCOUNTING AUTHORITY'S

RESPONSIBILITIES AND APPROVAL

FOR THE YEAR ENDING 31 MARCH 2020

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).

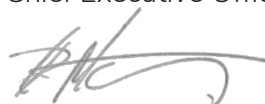
The Regulator Members are also responsible for the system of internal financial control. These are designed to provide reasonable, but not absolute, assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain accountability of the assets, and prevent 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.

The financial statements for the year ended 31 March 2020 set out on pages 79 to 99 were approved by the Regulator on 31st July 2020.



Mr. Mahesh Fakir
Chief Executive Officer/Accounting Officer



Mr. Zolani Kgosietsile Matthews
Chairperson of the Accounting Authority

THE REPORT OF THE AUDITOR-GENERAL

TO PARLIAMENT ON THE PORTS REGULATOR OF SOUTH AFRICA

We are pleased to present our report for the financial year ended 31 March 2020

REPORT ON THE AUDIT OF THE FINANCIAL STATEMENTS

Opinion

1. I have audited the financial statements of the Ports Regulator of South Africa set out on pages 79 to 99, which comprise the statement of financial position as at 31 March 2020, statement of financial performance, statement of changes in net assets, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.
2. 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 2020, and its financial performance and cash flows for the year then ended 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).

Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of this auditor's report.
4. I am independent of the entity in accordance with sections 290 and 291 of the Code of ethics for professional accountants and parts 1 and 3 of the International Code of Ethics for Professional Accountants (including International Independence Standards) of the International Ethics Standards Board for Accountants (IESBA codes) as well as the ethical requirements that are relevant to my audit in South Africa.

I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA codes.

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

Responsibilities of the accounting authority for the financial statements

6. The board of directors, which constitutes the accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with the SA Standards of GRAP and the requirements of the 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.
7. In preparing the financial statements, the accounting authority is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

Auditor-General's responsibilities for the audit of the financial statements

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

9. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

REPORT ON THE AUDIT OF THE ANNUAL PERFORMANCE REPORT

Introduction and scope

10. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected objectives presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

11. My procedures address the usefulness and reliability of the reported performance information, which must be based on the approved performance planning documents of the entity. I have not evaluated the completeness and appropriateness of the performance indicators/ measures included in the planning documents. My procedures do not examine whether the actions taken by the entity enabled service delivery. My procedures also do not extend to any disclosures or assertions relating to planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

12. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected objective presented in the annual performance report of the entity for the year ended 31 March 2020:

Objective	Pages in the annual performance report
Objective 2: Ongoing implementation of economic regulation of ports (price, access, institutional structure)	28 – 31

13. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

14. I did not identify any material findings on the usefulness and reliability of the reported performance information for this objective:

Objective 2: ongoing implementation of economic regulation of ports (price, access, institutional structure).

Other matter

15. I draw attention to the matter below.

Achievement of planned targets

16. I Refer to the annual performance report on pages 25 to 40 for information on the achievement of planned targets for the year and explanations provided for the under-/overachievement of a number of targets.

REPORT ON THE AUDIT OF COMPLIANCE WITH LEGISLATION

Introduction and scope

17. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the entity's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

18. The material findings on compliance with specific matters in key legislation are as follows:

Procurement and contract management

19. Goods and service of a transaction value above R500 000 was procured without inviting competitive bids and the deviation was approved by the accounting officer without obtaining prior written approval from the relevant treasury, which is prescribed in order to comply with treasury regulations 16A6.1 and 16A6.4.

Similar non-compliance was also reported in the prior year.

20. A contract was awarded to a bidder and some quotations were accepted from prospective suppliers who did not submit a declaration on whether they are employed by the state or connected to any person employed by the state, which is prescribed in order to comply with treasury regulation 16A6.3. Similar non-compliance was also reported in the prior year.

21. A contract was awarded to a supplier whose tax matters had not been declared by the South African Revenue Service to be in order as required by treasury regulations 16A9.1(d).

Expenditure management

22. Effective and appropriate steps were not taken to prevent irregular expenditure amounting to R921 000 as disclosed in note 22 to the annual financial statements, as required by section 51(1)(b)(ii) of the PFMA. The majority of the irregular expenditure was caused by contraventions to deviation requirements.

Consequence management

23. I was unable to obtain sufficient appropriate audit evidence that disciplinary steps were taken against officials who had incurred irregular expenditure as required by section 51(1)(e)(iii) of the PFMA. This was due to proper and complete records that were not maintained as evidence to support the investigations into irregular expenditure.

Other information

24. The accounting authority is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and the selected objective presented in the annual performance report that has been specifically reported in this auditor's report.

25. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion thereon.

26. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected objective presented in the annual performance report, or my

knowledge obtained in the audit, or otherwise appears to be materially misstated.

27. If, based on the work I have performed, I conclude that there is a material misstatement in this other information, I am required to report that fact. I have nothing to report in this regard.

Internal control deficiencies

28. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on compliance with legislation included in this report.

29. Leadership did not exercise adequate oversight on non-compliance with laws and regulations relating to consequence management, and procurement and contract management.

30. Non-compliance with key legislation could have been prevented, had management implemented and monitored adherence to supply chain management compliance checklists.

Auditor General

Pietermaritzburg
30 September 2020



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

ANNEXURE: AUDITOR GENERAL'S RESPONSIBILITY FOR THE AUDIT

1. As part of an audit in accordance with the ISAs, I exercise professional Judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for the selected objective and on the entity's compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the board of directors, which constitutes the accounting authority.
- Conclude on the appropriateness of the board of directors, which constitutes the accounting authority's use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the Ports Regulator of South Africa to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material

uncertainly or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause an entity to cease operating as a going concern

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Communication with those charge with governance

3. I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also confirm to the accounting authority that I have complied with relevant ethical requirements regarding independence, and communicate all relationships and other matters that may reasonably be thought to have a bearing on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

Annual Financial Statements

STATEMENT OF FINANCIAL POSITION FOR THE YEAR ENDED 31 MARCH 2020			
	NOTE(s)	2020 (R'000)	2019 (R'000)
ASSETS			
Non-current assets			
		2 158	2 318
Property, plant and equipment	8	1 799	1 952
Intangible asset	9	13	22
Loans and receivables	10	346	344
Current assets			
		29 196	17 640
Trade and other receivables	11	102	79
Cash and cash equivalents	12	29 094	17 561
TOTAL ASSETS		31 354	19 958
LIABILITIES			
Current Liabilities			
		984	1 404
Trade and other payables	13	377	817
Provisions	15	607	587
TOTAL LIABILITIES		984	1 404
NET ASSETS			
CAPITAL AND RESERVES			
		30 370	18 554
Accumulated surplus		30 370	18 554
TOTAL NET ASSETS		30 370	18 554
TOTAL NET ASSETS AND LIABILITIES		31 354	19 958

**STATEMENT OF FINANCIAL PERFORMANCE
AS AT 31 MARCH 2020**

	NOTE(S)	2020 (R'000)	2019 (R'000)
REVENUE			
Revenue from non-exchange transactions	2	36 774	25 619
Government grants and subsidies		36 774	25 619
Revenue from exchange transactions	3	277	98
Sale of goods and rendering of services		-	6
Other income		277	92
TOTAL REVENUE		37 051	25 717
EXPENDITURE			
Administration expenses	5	1 607	1 670
Amortisation and depreciation	8 & 9	534	520
Staff costs	6	17 548	13 820
Audit fees	26	370	348
Legal fees	27	248	800
Operating Lease	14	1 631	1 672
Other operating expenses	7	4 538	4 637
Regulator members' remuneration	17	158	797
TOTAL EXPENDITURE		26 634	24 264
Finance income	4	1 399	1 021
OTHER GAINS/(LOSSES)			
Gain/(loss) on disposal of assets		-	(118)
SURPLUS/(DEFICIT) FOR THE PERIOD		11 816	2 356

**STATEMENT OF CHANGES IN NET ASSETS
FOR THE YEAR ENDED 31 MARCH 2020**

	Note(s)	Accumulated surplus (R'000)
Opening balance at 1 April 2018		16 043
Surplus/(Deficit) for the year		2 356
Prior year adjustment	28	155
Opening balance at 1 April 2019		18 554
Surplus/(Deficit) for the year		11 816
Closing balance as at 31 March 2020		30 370

**STATEMENT OF CASH FLOW
FOR THE YEAR ENDED 31 MARCH 2020**

	NOTE(s)	2020 (R'000)	2019 (R'000)
CASHFLOWS FROM OPERATING ACTIVITIES			
Receipts		37 051	25 717
Transfers received	2	36 774	25 619
Sale goods and services	3	-	6
Other income		277	92
Payments		(26 545)	(23 475)
Employee costs	6	(17 548)	(13 820)
Suppliers and other payments		(8 997)	(9 655)
Net cash flows from operations		10 506	2 242
Interest paid		-	-
Finance income		1 399	1021
Net cash flow available from activities	16	11 905	3 265
CASH FLOWS FROM INVESTING ACTIVITIES			
Property, plant and equipment	8	(377)	(1 125)
Intangible assets	9	-	-
Proceeds from de-recognition of property, plant and equipment		5	136
Net cash flows from investing activities		(372)	(989)
Net increase/(decrease)in cash and cash equivalents		11 533	2 274
Cash and cash equivalents at beginning of the year		17 561	15 287
Cash and cash equivalents at end of year		29 094	17 561

**STATEMENT OF COMPARISON TO BUDGET
FOR THE YEAR ENDED 31 MARCH 2020**

Economic Classification	Approved Budget	Adjustments	Final Approved Budget	Actual	Variance
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Revenue					
Transfers	36 774	0	36 774	36 774	0
Interest received	1 460	0	1 460	1 399	(61)
Sale of goods and services	0	0	0	0	0
Other income	0	0	0	277	277
Reserves	0	0	0	0	0
Gain on disposal	0	0	0	0	0
	38 234	0	38 234	38 450	216
Expenses					
Depreciation & Amortisation	499	0	499	534	(35)
Compensation of employees	20 415	0	20 415	17 548	2867
Goods & services	17 320	0	17 320	8 552	8 768
Loss on disposal of assets	0	0	0	0	0
	38 234	0	38 234	26 634	11 600
Surplus/(Deficit)	0	0	0	11 816	11 816
Capital Budget	0	0	0	377	377

*Please refer to Note 21 of the Annual Financial Statements for detailed variance analysis between budget and actual amounts.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2020

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 the 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, applied in the preparation of these annual financial statements, are set out below. These accounting policies are consistent with those applied in the preparation of the prior year annual financial statements, unless specified otherwise. Details of any changes in the accounting policies are provided in notes.

When the presentation or classification of items in the annual financial statements is amended, prior period comparative amounts are also reclassified and restated, unless such comparative reclassification and / or restatement is not required by a Standard of GRAP.

The nature and reason for such reclassifications and restatements are also disclosed.

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

The details of any changes in accounting policies are explained in the relevant policy.

The statement of cash flow 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 up to the nearest one thousand Rand (R'000).

1.4 Standards, amendments to standards and interpretations issued but not yet effective

The following Standards of GRAP and / or amendments thereto have been issued by the Accounting Standards Board, but will only become effective in future periods or have not been given an effective date by the Minister of Finance:

- GRAP 20: Related-party disclosures
- GRAP 109: Accounting by principals and agents
- GRAP 108: Statutory receivables
- GRAP 32: Service concession arrangements.

The entity has not early-adopted any of these new standards or amendments thereto, but has referred to them for guidance in the development of accounting policies in accordance with GRAP 3 as read with Directive 5: GRAP 18 (Segment reporting).

1.5 Property, plant and equipment

Property, plant and equipment are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes and are expected to be used during more than one year.

Items of property, plant and equipment are initially recognised as assets on acquisition date and are initially recorded at cost where acquired through exchange transactions.

However, when items of property, plant and equipment are acquired through non-exchange transactions, those items are initially measured at their fair values as at the date of acquisition.

The cost of an item of property, plant and equipment is the purchase price and other costs directly attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by the entity.

Trade discounts and rebates are deducted in arriving at the cost at which the asset is recognised. The cost also includes the estimated costs of dismantling and removing the asset and restoring the site on which it is operated.

Depreciation is calculated on the depreciable amount, using the straight-line method over the estimated useful lives of the assets. Components of assets that are significant in relation to the whole asset and that have different useful lives are depreciated separately. The depreciable amount is determined after taking into account an asset's residual value, where applicable for the entity

- Office furniture and fittings : 15 years
- Computer equipment : 5 years
- Motor vehicles : 7 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 subsequent measurement of property, plant and equipment is carried out using the cost model.

Property, plant and equipment is de-recognised on disposal or when the future economic benefits or no service potential are expected from its use or disposal.

When an item of property, plant or equipment is de-recognised, the gain or loss upon de-recognition is included in surplus or deficit for the period.

1.6 Books

Books consist of library material that is used by the entity for the research, legal and economic regulation activities.

Books are recognised at cost upon acquisition. There are subsequent measurements that occur every year for each book until the book has reached its useful life. Subsequent measurements are done using the cost model.

Reviews are carried out at the end of each financial year. Upon de-recognition, the gain/loss is included in the surplus or deficit for the period

- Books : 8 years

1.7 Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. The entity recognises an intangible asset in its Statement of Financial Position only when it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity and the cost or fair value of the asset can be measured reliably. Intangible assets are initially recognised at cost.

Where an intangible asset is acquired by the entity for no or nominal consideration (i.e. a non-exchange transaction), the cost is deemed to be equal to the fair value of that asset on the date acquired.

The cost of an intangible asset is amortised over the useful life where that useful life is finite. The amortisation expense on intangible assets with finite lives is recognised in the Statement of Financial Performance in the expense category consistent with the function of the intangible asset.

Amortisation is charged to write off the cost of intangible assets over their estimated useful lives using the straight-line method

- Computer Software : 5 years

1.8 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
- A reasonable estimate can be made of the obligation

1.9 Leases

The Ports Regulator is a lessee for office accommodation.

Assets subject to operating leases, i.e. those leases where substantially all of the risks and rewards of ownership are not transferred to the lessee through the lease, are not recognised in the Statement of Financial Position. The operating lease expense is recognised over the course of the lease arrangement.

Operating lease payments are recognised in the Statement of Financial Performance on a straight – line basis over the term of the lease.

1.10 Financial instruments

Financial instruments are initially recognised at cost.

1.10.1 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 twelve months from the reporting date are classified as current.

1.10.2 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.

1.11 Budget information

The budget of the entity is prepared on a cash basis while the annual financial statements are prepared on an accrual basis.

The budget covers the period from 01 April at the beginning of each period until 31 March being the end of the period.

The budget is prepared based on the appropriations from Parliament and a reconciliation is included in the statement of comparison to budget.

1.12 Going concern

The financial statements of the entity are presented on a going concern basis. This is as a result that the assets of the entity exceed its liabilities as at 31 March 2020. Based on this, there is no uncertainty regarding the continued existence of the entity for the foreseeable future.

It must be noted that the entity relies on transfers from the appropriation to fund its operations, therefore there is no doubt regarding the funding of the future operations of the entity and the ability to realise its assets and settle its liabilities.

The Executive Authority is in the process of establishing a Single Transport Economic Regulator. It must be noted that in terms of the gazetted STER

Bill (February 2018), the Ports Regulator will be the core of the STER when it is formed. This eliminates any uncertainty regarding the continued existence of the Ports Regulator.

1.13 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 and are subject to an insignificant risk of changes in value.

1.14 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.

1.15 Revenue recognition

Revenue from non-exchange transaction arises when the entity either receives value from another entity without directly giving approximately equal value in exchange or gives value to another entity without directly receiving approximately equal value in exchange.

An asset that is recognised as a result of a non-exchange transaction is recognised at its fair value at the date of the transfer.

Consequently, revenue arising from a non-exchange transaction is measured at the fair value of the asset received, less the amount of any liabilities that are also recognised due to conditions that must still be satisfied.

Revenue from exchange transactions refers to revenue that accrues to the entity directly in return for services rendered or goods sold, the value of which approximates the consideration received or receivable, excluding indirect taxes, rebates and discounts.

Revenue from exchange transactions is only recognised once all of the following criteria have been satisfied:

- (a) The entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold
- (b) The amount of revenue can be measured reliably; and
- (c) It is probable that the economic benefits or service potential associated with the transaction will flow to the entity and the costs incurred or to be incurred in respect of the transaction can be measured reliably.

1.16 Related Parties

The entity has processes and controls in place to aid in the identification of related parties.

A related party is a person or an entity with the ability to control or jointly control the other party, or exercise significant influence over the other party, or vice versa, or an entity that is subject to common control, or joint control.

Related party relationships where control exists are disclosed regardless of whether any transactions took place between the parties during the reporting period.

1.17 Unauthorised & irregular expenditure

Irregular expenditure is expenditure :

- That is contrary to the Public Finance Management Act (PFMA) and the Public Office Bearers Act (Act No. 20 of 1998)
- Is in contravention of the entity's supply chain management policies;
- Irregular expenditure excludes unauthorised expenditure.

Irregular 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.

Unauthorised expenditure is:

- Expenditure that has not been budgeted for;
- Is not in terms of the conditions of an allocation received from another sphere of government or organ of state; or
- Expenditure in the form of a grant that is not permitted.

Unauthorised expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as income in the Statement of Financial Performance.

1.18 Employee Costs

The employee costs represent the actual expenditure for basic salaries, employer contributions, allowances and performance bonuses.

The pension benefits are administered by the Government Pensions Administrations Agency; the Ports Regulator contributes to the agency with the balance coming from employees as per the rules governing pension. Medical aid benefits are administered by Discovery Medical Aid and the Ports Regulator contributes towards the medical aid service provider.

The group life benefits are administered by Liberty Life, all benefits as per the conditions of service are available to employees.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

	2020 (R'000)	2019 (R'000)
2 Transfers and subsidies		
Department of Transport	36 774	25 619
3 Sale of goods and services		
Sale of goods & services	-	6
Other income	277	92
Other income consists of R270 000 received by the entity for a favourable judgement by the court. R7 000 was received by the entity for the African Rail 2019 event where the CEO was a guest speaker.		
4 Finance income		
Interest income – Standard Bank	1 399	1 021
5 Administrative expenses		
Bank charges	19	21
Internal audit	316	228
Stakeholder engagement	332	359
Stationery and printing	409	269
Subscriptions	20	54
Training and staff development	321	595
Venues and facilities	190	144
	1 607	1 670

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

	2020 (R'000)	2019 (R'000)
6 Staff Costs		
Salaries and wages	14 651	11 765
Performance bonus/awards	1 798	1 241
Employer contributions	1 099	814
	17 548	13 820
7 Other operating expenses		
Advertising	49	50
Audit committee fees	26	67
Catering	64	67
Communication costs	160	266
Computer expenses	792	732
Consultants	158	344
Consumables	33	24
Couriers and delivery charges	5	2
Data and information storage	21	20
Movement in leave pay provision	74	102
Insurance	139	92
Maintenance and repairs	23	15
Motor vehicle expenses	11	11
Municipal services	243	191
Parking	218	180
Security	7	5
Training & development -Board members	20	-
Travel subsistence and disbursements: staff	2 462	1882
Travel subsistence and disbursements: Board Members	33	587
	4 538	4 637

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

8 Property, plant and equipment

	2020			2019		
	Cost	Accumulated Depreciation	Carrying value	Cost	Accumulated Depreciation	Carrying value
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Computer equipment	2 222	(1 596)	626	1 929	(1 302)	627
Office furniture and fittings	1 025	(677)	348	967	(610)	357
Books	76	(50)	26	74	(46)	28
Motor vehicle	987	(188)	799	987	(47)	940
TOTAL	4 310	(2 511)	1799	3 957	(2 005)	1 952

Reconciliation of property, plant and equipment: 31 March 2020

	Opening carrying value	De-recognition	Additions	Depreciation	Closing carrying value
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Computer equipment	627	(5)	316	(312)	626
Office furniture and fittings	357	-	59	(68)	348
Books	28	-	2	(4)	26
Motor vehicles	940	-	-	(141)	799
TOTAL	1 952	(5)	377	(525)	1 799

Reconciliation of property, plant and equipment: 31 March 2019

	Opening carrying value	De-recognition	Additions	Depreciation	Closing carrying value
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Computer equipment	1 003	(170)	72	(278)	627
Office furniture and fittings	449	(4)	66	(154)	357
Books	34	-	-	(6)	28
Motor Vehicle	98	(80)	987	(65)	940
TOTAL	1 584	(254)	1 125	(503)	1952

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING MARCH 31 2020

GRAP 17 requires the entity to review the useful life for all classes of Property, Plant and Equipment (PPE). The Regulator reviewed the useful lives and changed the estimates for furniture and fittings. The reason for the change of the estimate was as a result that the assets were kept beyond their initial estimated useful lives.

The Regulator did not revise the residual values since the majority of assets are kept up until the end of their useful lives and there's no intention to sell the assets at the end of their useful lives. The Regulator also could not reliably estimate the value of the sale to be realised at the end of the asset's useful life.

9 Intangible assets

	2020			2019		
	Cost	Accumulated amortised	Carrying value	Cost	Accumulated amortised	Carrying value
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Computer software	393	(380)	13	393	(371)	22

Reconciliation of intangible assets: 31 March 2020						
	Opening carrying value	Disposal	Additions	Amortisation	Closing carrying value	
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)	
Computer software	22	-	-	(9)	13	
	22	-	-	(9)	13	

Reconciliation of intangible assets: 31 March 2019						
	Opening carrying value	Disposal	Additions	Amortisation	Closing carrying value	
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)	
Computer software	39	-	-	(17)	22	
	39	-	-	(17)	22	

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

GRAP 31 requires the useful life and the amortisation method to be reviewed at the end of each period. The Regulator did not change the estimate of the useful life of the intangible assets after realising that the assets will be kept for a period up until the end of their useful lives.

The Regulator has not spent any funds to enhance the nature of the intangible assets nor spend any funds to prolong the useful life of the intangible assets. As a result, the amortisation method of intangible assets was not changed. The reason for no change is because the operations of the entity may possibly change in future years for which these assets may no longer be used or its use will be modified when the change occurs

	2020 (R'000)	2019 (R'000)
10 Loans and receivables		
Non-current		
Deposit for car parking and lease	346	344
11 Trade and other receivables		
Accrued income	5	-
Prepaid expenditure	97	79
	102	79
12 Cash and cash equivalents		
Bank balances		
Standard bank cheque account	238	154
Standard bank investment account	28 856	17 407
	29 094	17 561
13 Trade and other payables		
Accruals	353	793
Receiver of Revenue	-	-
Discovery medical aid	24	24
Total movements	-	-
-Amounts receivable at the beginning of the year	-	-
-Transaction for the year	-	-
TOTAL	377	817

The entity has considered payables discounting as required by the standards of GRAP, the entity has a policy and is required by legislation to pay all outstanding invoices within the 30 days' period This has resulted in the payables discounting not being necessary to be applied.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

	2020	2019
14 Operating lease commitments		
The Ports Regulator entered into a three year operating lease agreement with Delta Property Fund that commenced on 1 October 2019 for R 139 496.62 per month including VAT with an escalation clause of 8% annually. The lease will expire on 30 September 2022.		
Minimum lease payments due		
-not later than one year	1 741	905
-later and one year and not later than five years	2 856	-
-later than five years	-	-
	4 597	905
Expenditure for the year	1 631	1 672
15 Provisions		
Carrying amount at the beginning of the period	587	485
Additional provisions made in the current period	74	102
Amount utilised in the current period	(54)	-
Carrying amount at the end of period	607	587
Provisions comprise the value of leave days owing to employees as at 31 March 2020		
16 Cash generated from operations		
Surplus/(Deficit) for the period	11 816	2 356
Non-cash items	89	907
Depreciation	525	503
Amortisation	9	17
(Gain)/Loss on sale of assets	-	118
Working capital changes		
Increase/(Decrease)in payables	(440)	140
(Decrease)/Increase in provisions	20	102
(Increase)/Decrease in receivables	(23)	30
(Increase)/Decrease in inventory	-	-
Other working capital movements	(2)	(3)
Net Cash flow from operating activities	11 095	3 263

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

	2020 (R'000)	2019 (R'000)
17 Regulator Members' Remuneration		
Number of Regulator Members: seven (07*)	158	797
*A total of seven Regulator Members were appointed with effect 22 November 2019 as an interim Board		
Remuneration per Regulator Member	2020 (R'000)	2019 (R'000)
Member		
T. Tsautse	-	102
A Ngcobo	-	131
A Mahlalutye	-	105
*D Thwala	45	-
*T Mufamadi	22	11
*A Hirachund	91	123
*G Taylor	-	101
*G Thimane	-	131
*L Mabandla	-	93
*M Madiya	-	-
TOTAL	158	797

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

		2020 R'000	2019 R'000
18. Executive member's remuneration	N° of Individuals		
	5	9 177	5 852
Johanna Mulaudzi *(Industry Development Executive Manager)		2020 R'000	2019 R'000
Basic Salary		897	-
Performance Bonus		120	-
Taxable allowance		524	-
Medical Aid Allowance		38	-
TOTAL		1579	-
*Ms. Johanna Mulaudzi was appointed as the Industry Development Executive Manager 01 September 2019.			
Chris Lotter **(Policy, Strategy & Research Executive Manager)		2020 R'000	2019 R'000
Basic Salary		1 466	-
Performance Bonus		127	-
TOTAL		1 593	-
** Mr. Chris Lotter was appointed as the PSR Executive Manager effective 01 September 2019.			
Lesedi Boihang *** (Legal Executive Manager)		2020 R'000	2019 R'000
Basic Salary Basic Salary		945	-
TOTAL		945	-
Thokozani Mhlongo (Chief Financial Officer)		2020 R'000	2019 R'000
Basic Salary		932	786
Performance Bonus		237	-
Taxable allowance		525	475
Medical Aid Allowance		67	52
TOTAL		1 762	1 313

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

Mahesh Fakir (Chief Executive Officer)	2020 R'000	2019 R'000
Basic Salary	1 932	1 932
Performance Bonus	537 (Bonus for 2018/19 FY)	419 (Bonus for 2017/18 FY)
Taxable Allowance	780	780
Travel Allowance	48	48
TOTAL	3 298	3 179

19 Contingent liabilities

The entity under the Tribunal function, was taken on review to court for one of the matters, this matter is an on-going matter and was scheduled to be heard on 31 July 2020. This matter has an estimated costs of R 260 000 that may result in the entity having to pay depending on the judgment of the matter.

In terms of section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. Approval has been requested from the National Treasury to retain surplus amounting to R 28 212 000; however, the entity is still awaiting approval.

20 Events after reporting date

On 15 March 2020 the President declared a national state of disaster in terms of the Disaster Management Act to enable the government to manage the spread of the COVID-19 virus, this may have an impact on the business continuity in terms of budget cutting/adjustment as the entity primarily receives government funding for its operations. Management will make every effort to minimise any budget cuts/adjustments.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

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

Ports Regulator presents its approved budget on a cash basis and the financial statements on the accrual basis.

Economic Classification	Reason for Variance
Revenue	
Transfers	N/A
Interest received	Interest is based on the investment balance kept by the entity
Sundry income	The entity received a bill of cost for the matter that was taken on review.
Sale of goods and services	There were no complaints/appeals submitted to the entity during the financial year.
Expenses	
Depreciation & amortisation	Difference was caused by some planned purchases that did not take place.
Staff costs	Unspent expenditure arose due to delays in the appointment of management posts, and executive managers' performance assessments were conducted after the financial year end.
General expenses	The entity was allowed to retain unspent surplus funds; therefore majority of expenditure was on projects that were partly funded by the unspent funds.
Capital Budget	
Property Plant and equipment	New computer equipment was purchased during the year such as computer hardware

22 Unauthorised, irregular and fruitless and wasteful expenditure

	2020 R'000	2019 R'000
Opening balance	1 477	116
Irregular expenditure current year	921	1 361
Less: Amounts condoned	-	-
Less: Amounts recoverable	-	-
Less: Amounts not recoverable	-	-
Adjustment to prior period	-	-
Irregular expenditure	2 398	1 477

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

The entity is still waiting for approval of condonation requested from the National Treasury for the opening balance of irregular expenditure. During 2019/20 financial year, the entity incurred Irregular expenditure due to material non-compliance with the procurement legislation. Therefore, any other movement in irregular expenditure will occur after National Treasury has approved the condonation.

23 Taxation

No provision is made for taxation as the entity is exempt from taxation per Section 10(1) of the Income Tax Act, Act No 58 of 1962.

24 Risk Management

	2020 R'000	2019 R'000
Interest rate risk		
As the entity has no significant interest-bearing assets, the entity's income and operating cash flows are substantially independent of changes in market interest rates.		
Liquidity risk		
The entity's risk to liquidity is a result of the funds available to cover future commitments. The entity manages liquidity risk through an ongoing review of future commitments and credit facilities. Cash flow forecasts are prepared and adequate utilised borrowing facilities are monitored. The entity relies solely on transfers from the parent DoT. These transfers are transferred by the department to the entity at the start of each quarter to fund the cash flows for that specific quarter. Any delays in transfers may cause cash flow risks to the entity. The table below analyses the entity's financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows		
Not later than one month		
Payables	377	817
Maximum credit risk exposure		
Credit risk consists mainly of cash deposits, cash equivalents. The entity only deposits cash with major banks with high quality credit standing and limits exposure to any one counter-party. The financial assets carried at amortised cost, expose the entity to credit risk. The value of the maximum exposure to credit risk are as follows for each of classes of financial assets at amortised cost		
Cash and cash equivalents	29 094	17 561
Trade and other receivables from exchange transactions	102	79

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

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 MARCH 2020

25 Related party transactions

There were related party transactions relating to the transfers of funds from the Department of Transport to Ports Regulator as per the voted funds in the appropriation statement:

	2020 R'000	2019 R'000
Description of transaction		
Transfers from the Department of Transport	36 774	25 619

26 Audit Fees

Audit fees relates to the payments made to Auditor General for the Regularity audit.	370	348
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27 Legal Fees

Legal fees constitute those for Tribunal proceedings	248	800
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28 Change in Accounting Estimates

The Regulator during the financial year changed the accounting estimates for furniture & fittings, the change in accounting estimates was made after careful consideration of the GRAP standard requirements to review the useful life of the assets every year. The Regulator has kept its different class of assets far beyond their initial estimated useful life which is indicative that the useful life must be reviewed as required by the standards of GRAP. The Regulator did not change the residual value of zero % for all class of assets. These assets have no active market at the end of their useful lives thus no value can be realised at the end of their useful life. The effect of the change in accounting estimate is as follows:

Statement of changes in net assets	R'000
Prior year adjustment	155

