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The Chairperson
Ports Regulator
Private Bag X54322
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4 Nov 2013

Att: Mrs G.T. Serobe

Dear Madam,

Re: Response to the NPA's Tariff Application for 2014/15

We welcome the opportunity to respond to the National Port Authority's Tariff Application for the 2014 /15 period and wish to express our concern that any increase in Port Charges applicable to the Automotive Industry would be both inappropriate and unjustified.

In our previous submission dated 31st May 2013, we addressed issues relating to the Automotive Industry as a whole without specifically singling out any particular sub-sector. However in this latest submission we would like to address the concerns and implications that port tariffs have on "sole importers" and component manufacturers in our industry. Importers play a significant role in our economy and their role is often overlooked.

Our last submission welcomed the positive manner in which TNPA has proposed revising the tariffs for the medium to long term and it is in this regard that we rely that the trend continues and we begin noticing downward adjustments to tariffs by the Authority that are totally justifiable.

The attached submission sets out in greater detail our proposed expectations in view of the challenges that our industry faces. We also request the Regulator to address all pending issues that we proposed in our 31st May submission and trust that there is no need to repeat what has already been raised.

We have attempted to limit our questions and remain within the ambit of what this submission addresses (2014/5 tariffs). Although we have not raised anything relating to the previous holistic view that would determine tariffs for a longer period, we nevertheless request that the longer term objectives are reached speedily for earlier implementation.

Finally in closing may we extend our gratitude for the manner in which we have been guided by the CEO of the Ports Regulator throughout the last few years and trust that there is no need to be concerned of the recent "change of guard".

Yours faithfully,

Costas Couremetis

C.E.O.

Submission

by

Atlas Holdings (Pty) Ltd

to

The Ports Regulator

4th Nov 2013

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1. Introduction

Atlas Holdings Pty Ltd ("Atlas") hereby submits in terms of the process defined by The Ports Regulator of South Africa ("Regulator") regarding the National Port Authority's ("NPA" / "Authority") Tariff Application for 2014/15.

Automotive exports have been the main focus of the State's incentive schemes in order to ensure that we preserve an industry that has established itself in a very competitive global arena. Atlas Holdings has at all times attempted to address the interests of our industry in a well balanced way. However we must also not lose sight of the role that Component Manufacturing plays in maintaining the momentum and we feel that it is now high time to extend our efforts in this direction as well as for the survival of our industry.

Having stated the above it is equally important to reflect and endorse the interests of the importers as they represent a real opportunity for additional export growth and without them there would be a serious imbalance in being able to meet market requirements and expectations. No effort has ever been made to assist "sole" Importers who bear the brunt of supporting the majority of logistic costs at our ports and don't have access to DTi relief from the tax authorities on import duties. Importers play a significant part in many facets in supporting our economy. The MIDP has been very successful in attracting investment by the 7 largest local assemblers and this has resulted in substantial job creation over the past 20 years. In January 21013 the APDP succeeded the MIDP and hopefully the momentum will be maintained. Exports of vehicles continue to grow notwithstanding recent events (strike action).

However the same cannot be said for the component manufacturing sector that faces serious challenges, some members even questioning their ability to survive. Importers that may be unable to set up assembly in SA are nevertheless able to generate exports of components to their principles. There are many challenges that govern the attractiveness of sourcing automotive components from SA and the authorities need to consider working together to achieve such objectives.

The local component manufacturing is at a very vulnerable stage and we need to do our utmost to preserve its sustainability and growth. In this regard we enjoy the full support of the Importers who wish to secure its growth through the active engagement of their principals.

We set out below items previously submitted that remain relevant and we wish to address in this submission.

2. Tariff Methodology

2.1 RAB

- Once the valuation of Regulatory Asset Base ("RAB") commissioned by the Ports Regulator has been completed, we propose that the findings be considered for the 14/15 financial year and beyond.

- Since Estimated Capital Works In Progress ("CWIP") are included in the RAB, it would be logical for a reconciliation to be performed at year-end and any adjustments necessary made to clawback.

2.2 Rental Increases to TPT

Under the Proposed Pricing Strategy ("PPS") tenant rentals will increase as a proportion of the Revenue Required from ±19% to ±31%. If accepted by the Regulator, it would be logical to phase in such a substantial increase over time. However, without any access to rental agreements between Transnet Ports Terminal (and other Terminal Operators) and the Authority due to their purported confidentiality we lack sufficient information to challenge resultant Terminal Handling Charges (THCs). Nevertheless we understand that the Regulator is empowered in terms of the Act to peruse such agreements and is also empowered to ensure any rental increases are capped to prevent excessive increases simply being passed on by TPT and other operators.

Since there is no clear indication as to what action will be taken in this regard, we request that the Regulator assist to action the efficiency drive undertaken in the Terminals. All indications suggest that this will go a long way toward offsetting the proposed increases over time. We must however stress that any efficiency drive requires ongoing monitoring to ensure it achieves the intended result.

2.3 F-Factor

In our 31st May submission we requested that the F-Factor should be omitted from the revenue required formula. During the Q and A at last month's Roadshow the Regulator stated that although it may not be applied in FY 2014/15, it reserves the right to consider using it at some future date. Accordingly we await the Regulator's final decision on this issue.

2.4 Clawback (and Ring Fencing)

In our May submission we argued that under the current Methodology Clawback is diluted across all users. This despite the fact that certain cargo types may have contributed proportionately more (or less) due in part to the accuracy of the Authority's volumes. We believe that conservative projections for automotive volumes have prevailed for several years resulting in dilution of the over-recovery back to automotive. In May we therefore suggested that the Regulator consider "ring fencing" the way in which the Clawback is applied.

Accordingly we have no clear indication as to what the Regulator's view on ring fencing revenue by cargo type is and therefore we prefer to abstain from engaging on the application of over recovery to specific cargo types in this submission but reserve the right to do so at some future date.

3. ETIMC Utilisation

The Regulator proposed introducing the ETIMC as a method of cushioning the impact of any future excessive Tariff increases as a result of Capital Expenditure.

The Authority is now requesting a 14.39% increase and proposes to cushion the effect by accessing funds from the ETIMC thus reducing the final increase to 8.5% and making reference to the fact that this relates to the figures presented at the time of the 2013/14 tariff application. We are not totally convinced that the amount requested from the ETIMC is related directly to the Capital expenditure as listed in Appenix B of the Application, but has in fact been determined to achieve the 8.5% rather than to cushion the impact of the Capex spend. Furthermore, since the rules and understanding of the drivers of the process for access to the ETIMC have yet to be determined by the Regulator, it is premature for NPA to make this request and in particular since there is no specific motivation presented in the Application relating to the Capex spend presented. In addition and in view of the limited information made available in the Tariff Application, it would appear that the projected Capex spend is considerably lower than the proportion of ETIMC requested. The question remains should the Regulator agree to award a 14.39% increase?

4. Pricing Strategy

4.1 Request for Information

We have asked the Authority to provide us with information that is not sensitive to any previous bi-lateral agreements or that are subject to confidentiality (i.e. aggregated information by sector). During a meeting with the Authority, senior management advised us that they would only provide such information either if they are instructed by the Regulator or Transnet's Senior management. We wish to highlight that such information would assist us enormously in identifying trends and contributions by port users. Access to such information is critical to enable us to engage fully with the Regulator and the Authority going forward. We must point out that this level of information was provided for the 2011/12 period in the Proposed Tariff Methodology and Pricing Strategy except for actual revenue figures that were not disclosed and remain very important. We therefore request that similar detail be provided for the previous 5 years.

Given the information available to date, it appears that the Automotive Industry has been charged in excess of its attributable asset utilisation. We therefore need access to the information above in order to ascertain properly the industry's position moving forward.

4.2 Allocation of Revenue Required

We support the allocation of Cargo Dues Revenue Required by projected vessel calls as proposed by the Authority in the Proposed Pricing Strategy. This basis of allocation is most fair in terms of the user pays principle without adversely affecting individual cargo handling types through ring-fencing of expenditure on new capital projects (see 2.4 above). We therefore urge the Regulator to consider this in the application of the 2104/15 Tariffs as the current Tariff Book is not yet structured this way.

4.3 Volume Projections

The Authority presents a schedule (Table 9) of automotive volumes. We draw the Regulator's urgent attention to the fact that these figures are significantly lower than the Industry's own forecast. Furthermore, we believe under-statement of volumes has contributed to "over recovery" from automotive over the past 5 years or more, as pointed out in 2.4 above (Clawback). We have been tasked to undertake this initiative on behalf of NAAMSA and as a result the Authority has agreed to a closer working relationship and engagement to improve accuracy of the figures. Accordingly we look forward to engaging fully with the Authority to ensure that the 2014/5 Tariffs are set as accurately as possible.

4.4 Beneficiation Promotion Programme (BPP)

We welcome the NPAs proposed BBP export benefit. Without any evidence to suggest that this will take effect in the next financial year, we urge the Regulator to consider immediate implementation. However, understanding that resultant revenue shortfalls would need to be subsidised by un-beneficiated exports, we anticipate that discount levels would need to be phased-in. This will result in incremental Tariff increases and allow the Regulator to assess the effects of BPP on all Cargo Owners in a progressive manner.

Furthermore, we urge the Regulator to consider that commodities for which the level of beneficiation is easily identifiable, begin to receive the export benefit in order to promote export revenue, job creation and assist to achieve survival of vulnerable manufacturing industries. While not qualified to comment on all commodities, we note that Automotive Components comfortably meet the minimum requirements of local content, labour intensity & value add to qualify as Stage 4 (maximum discount). Therefore, as mentioned above, we request that the Regulator considers the need to identify goods exported in containers so that BPP benefit can be applied accordingly. We therefore urge the PR to enforce a requirement on NPA to differentiate tariffs based on container contents.

4.5 Automotive Volume Discount Scale

Cost reduction as a result of growing volumes is a logical motivation in any commercial activity. The Automotive Volume Discount Scale is therefore an appropriate incentive for OEMs/Importers who improve port efficiency through increased overall volumes & throughput per vessel call.

Nevertheless we caution against manipulation of the scale by making annual adjustments as a routine procedure before ensuring that the entire industry reflects a commensurate growth year to year.

4.6 Support to strategic containerised commodities (Automotive Components)

We would like to bring to the Regulator's attention the distressed state of component suppliers within the Automotive Industry. The effects of the global recession followed by a change in the Industry support programme (MIDP to APDP), has resulted in diminished demand for locally manufactured automotive components. The sector which is responsible for ±80 000 jobs (NAACAM NAAMSA estimate) and approximately R40bn in Export Revenue (AIEC Manual 2013) is under increasing pressure due to weak local demand on top of an ever increasing cost base.

The Automotive component suppliers are in desperate need of support to secure export contracts. These are required in order to achieve the volumes necessary to reduce the cost per unit and reach globally competitive levels. As such we urge that the Regulator consider support through fast tracking BPP for qualifying commodities, especially those manufactured items exported in containers. This will not only result in increased component exports, but will improve the competitiveness of CBU export tenders with increased levels of local content. Furthermore, the latter will lead to increased volume though the ports and consequent revenue for the Authority.