CAPE CHAMBER
OF COMMERCE & INDUSTRY

Friday, 15 September 2017

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Comments: The Transnet National Ports Authority (TNPA) Tariff Application for 2018 / 2019

Introduction

The Cape Chamber of Commerce is a non-partisan organisation which has been representing businesses for more than 200 years. The Cape Chamber represents more than 2 000 businesses involved in the import, export and trade industry.

Submission

After a detailed study of Transnet's application for an average increase on port tariffs of 8.45% for the year 2018 / 2019 and a projected increase 24.8% for the following year as well as the studies undertaken by the Port Regulator, the Cape Chamber of Commerce and Industry believes there is no justification for any increases. In fact, there is ample evidence that cargo owners have been grossly overcharged for the past two decades and it is time for drastic corrective action.

The rules governing the function of the Ports Regulator make provision for a "claw-back" to compensate for overcharging. We quote from the Regulatory Manual for the tariffs: *"The key purpose of applying claw-backs is to ensure that the National Ports Authority (NPA) or any port user is fairly treated and is not subjected to unfair gains or losses…"*

We would point out that in August 2011, the Chamber obtained a Wikileaks cable from US Consular staff to Washington on a meeting with port authorities which confirmed that the *"SA government has historically redistributed TNPA's profits to other divisions."*

A further quote from the cable reads: Cilliers (Billy Cilliers, the NPA's Manager for the planning and port development at the time) concurred that the Transnet National Ports Authority (TPNA) is the cash cow for Transnet and its transfer to an independent authority would be a difficult transition for Transnet. He noted that *"no country in the world has a structure for a port authority or a port operator that is similar to South Africa."*

The authenticity and the accuracy of the report has never been challenged.

Further evidence of the massive overcharging burden on South African cargo owners was provided by a 2012 / 2013 study by the Port Regulator's office which found that cargo dues paid by cargo owners were 874% more than the global average.

Since then cargo dues have been significantly reduced but they are still, well above the global average.

We have pointed out before that the calculation of how much revenue the National Port Authority needs to operate includes a 5% return on assets and the assets include port infrastructure paid for by the South African taxpayer over many years. These assets have all been revalued and the port authorities are seeking a 5% return on values far in excess of the infrastructure's cost. We would also argue that it is unreasonable to treat assets like breakwaters designed to last for centuries, in the same way as equipment subject to wear and tear - such has cranes or machines.

We have a problem with the idea of basing tariff increases on "revenue needed" and have argued before that tariffs should be based on the actual operating costs of the ports.

A further problem with the "revenue needed" approach is that we would expect the revenue raised from the ports to be well and productively used. Unfortunately, this is not the case.

In recent months we have become aware of a massive wasteful spending and a corruption problem in the Transnet family. The "Gupta leaks", for example, have revealed that a "kickback" of R95.6 million was paid on a R651 million order for cranes. On a second purchase of 22 cranes from Liebherr, a "kickback" of R46.4 million was paid.

The situation in Transnet is even worse. The former Chairman of the Transnet Board, Mr Popo Molefe, talked about wide-scale looting and went to court to have a R4.8 billion order for unsuitable Spanish locomotives set aside. The Court cancelled the deal and ordered Swifambo Rail Leasing, the intermediary in the deal, to refund a sum of R2.6 billion.

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A second order for locomotives was revealed in the "Gupta leaks" and saw the tender for locomotives to be supplied by China South Rail increased by 21% to pay an "advisory fee" of R3.8 billion on the R18.1 billion contract to a Hong Kong company "Tequesta" controlled by Salim Essa, a "Gupta lieutenant".

Similar arrangements for a second tender provided about R1.5 billion more, bringing the total "fees" to R5.3 billion."

In these circumstances, we submit, that it is absurd to base tariffs on "revenue needed" when the revenue could include billions of rands spent on wasteful or corrupt transactions by Transnet.

It is the Chamber's view it is now time for cargo owners to be given the advantage of the "claw-back" provision and for port dues and other tariffs to be reduced in order compensate cargo owners for years of overcharging. We would further point out that our exporters operate in labour-intensive areas such as agriculture and bring new money into the country to the general benefit of the economy. As such they should be assisted in every way rather than be punished with excessive tariffs to subsidise inefficient operations and wasteful expenditure by Transnet.

Conclusion

In conclusion, we urge that the Ports Regulator to consider our submission, in a positive light, in order to simplify and streamline business processes in a cost-effective manner - thereby cutting through the bureaucracy that hinders the development of our local and national economy.

Yours faithfully

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Ms Janine Myburgh
President: Cape Chamber of Commerce and Industry

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