



TO : The Ports Regulator of South Africa

ATTENTION:Mr. Phakade Sicwebu

VIA EMAIL : tariffcomments@portsregulator.org

Dear Mr Sicwebu

Public comments in respect of the National Ports Authority Tariff Application 2016/17

The Ports Regulator of South Africa ("the Regulator") has invited comment regarding the proposed tariffs by the National Ports Authority ("Applicant") as contained in their National Ports Authority Tariff Application for Financial Year 2016/17, ("NPA Application") in accordance with the Tariff Strategy for the South African Ports System 2015/16 ("Tariff Strategy").

The National Ports Act 12 of 2005 ("The Act"), through directive 23 (created in terms of section 30(3)), provides the context against which the Regulator should evaluate the proposed tariffs. These considerations include inter alia:

23(1) (b) fairness

23(1) (c) the avoidance of discrimination, save where such discrimination is in the public interest

23(1) (d) simplicity and transparency

23(1) (f) the avoidance of cross subsidisation, save where it is in the public interest

23(1) (g) promotion of access to ports and efficient and effective management and operation of ports

The City of Cape Town ("City") is cognisant of the fact that having a port located within its boundaries is both a strategic and economic asset, and when operated effectively, can be used to boost economic activity. Notwithstanding the Port of Cape Town being an asset of national government, and hence the City having no control over its operations, it is incumbent upon the City to work closely with the Port to ensure that there is an enabling environment for new investments and trade with the City region.

The City acknowledges the Regulator's strategic approach in trying to reduce the complexity of the tariff system, as well as ensure the fairness, transparency and competitiveness of the port ecosystem.

The City opposes the proposed general 5,9% increase in tariffs , and is of the view that an increase should not be granted beyond what is required to deal with rising costs associated with inflation. Reasons for this are provided below.

Directive 23(1) (b), (c) and (f) fairness; the avoidance of discrimination, save where such discrimination is in the public interest; the avoidance of cross-subsidisation, save where it is in the public interest: The Tariff Strategy makes reference to the provision that "*System-wide Pricing Average costing will be applied across the ports system in order to reduce the burden placed on any single port user and to ensure equality in benefit*". This effectively creates an inherent practise of cross-subsidisation between types of cargo, commodities and ports,

which the Tariff Strategy allows for the following reasons: *economic growth and developmental objectives; align to national policy objectives with port pricing; be necessary for equality in benefit; minimise finance and volume risk; promote efficient use of port facilities; reduce congestion; promote the inclusion of previously disadvantaged persons; aimed at reducing carbon emissions; if not granted, imply a drastic cost to the economy.*

Ports which handle higher tariffed containerised and automotive goods contribute far more revenue and profit to the financial system as well as subsidise investment into other ports and services which contribute less. The NPA Application fails to explicitly substantiate the basis for this in terms of the tariff strategy, which is neither fair nor in the public interest.

Directive 23(1) (d) simplicity and transparency: The NPA Application and general practice of selectively reporting some aspects of performance, capacity, demand and spend collectively as opposed to individually is neither transparent nor simple. Thus approving an increase in tariffs without having line of sight as to how the cost increase will affect the performance of each individual port's profitability and sustainability, and equally not being able to follow the proposed direct spend and its impact, does not meet this directive's requirements. While the requested weighted average increase in tariff is simple, the lack of transparency around the impact of the tariff on each business unit is not.

Furthermore, full disclosure is required in respect of whether all profits generated from the totality of national ports are directly reinvested back into them.

Directive 23(1) (g) promotion of access to ports and efficient and effective management and operation of ports: The NPA Application makes reference to the Terminal Operators Performance System ("TOPS") and several other systems as mechanisms to address port inefficiencies from an operational perspective. Thus the Applicant seems to be inferring that increasing spend on infrastructure/repairs coupled with the introduction of an operators monitoring tool will lead to increased efficiency. The mechanism does not address the efficiency and performance of the NPA itself as a landlord/supplier of infrastructure.

There are also elements in measuring efficiency that transcend both the NPA and the Terminal Operator's responsibility (for example truck waiting times to access port terminals seem to be a grey area with regards to which entity is responsible for monitoring and reporting, yet is a major contributor to cost and efficiencies) that are not considered. The proposed increase in tariffs does not seem to explicitly address how it will be spent to improve access or efficiencies, even more so when considering the planned spend does not detail the impact of the expansion within the local environment.

Thus the City is of the view that a tariff increase beyond an inflation cannot be justified in terms of this directive. Furthermore, with both the NPA and Terminal Operator being part of the same controlling entity, the City would recommend the Regulator benchmarks requests for tariff increases against global performance standards.

Yours faithfully



PATRICIA DE LILLE
EXECUTIVE MAYOR

Date: 13 October 2015