Record of Decision
2015/16

Tariff Application by the National Ports Authority for the Tariff Year 2015/16-2017/18

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1. **On 1 September 2014 the National Ports Authority (the NPA) applied to the Ports Regulator of South Africa in terms of section 72 of the National Ports Act (12 of 2005) for approval of the tariffs for services and facilities offered by the NPA for the period 1 April 2015 to 31 March 2016 and indicative tariffs for the periods 1 April 2016 to 31 March 2017 and 1 April 2017 to 31 March 2018.**

2. **After considering the application and the submissions by all stakeholders during the consultation period, the Ports Regulator declined the proposed average 9.47% tariff increase for the 2015/16 tariff year.**

3. **After considering all relevant information at its disposal the Regulator has approved an overall increase in average tariffs of 4.8% for the financial year 2015/16.**

4. **All cargo dues for 2015/16 are to increase by 3.55%, except, Dry Bulk Cargo Dues for Coal, Iron Ore and Manganese which are to increase by 6.00%. Marine Services and related tariffs (sections 1-8 of the tariff book excluding section 7 that deals with cargo dues) are to increase by 6.00%.**

5. **In line with the multi-year tariff manual of August 2014 the Regulator projects that the indicative overall average tariff adjustment for the 2016/17 and 2017/18 tariff years will be within the inflation target band.**

ROD

1. The Tariff Application

The NPA requested a tariff increase of 9.47% for the 2015/16 tariff year. In addition, and in line with the tariff manual, the NPA applied for an indicative tariff of 15.91% and 6.49% for 2016/17 and 2017/18 respectively.

Table 1: NPA Tariff Application

	2015/16	**2016/17**	**2017/18**
	Fixed Tariff Year	**Indicative Tariff Years**	
Components		**R million**	
RAB	67000	72995	81532
Vanilla WACC	5.59%	5.78%	6.01%
Return on Capital	3745	4219	4900
Plus: Depreciation	1807	1968	2201
Plus: Operating Costs	5020	5489	5905
Plus: Taxation Expense	964	1064	1219
Plus/Less: Clawback	-328	310	
Revenue Allowed	**11208**	**13050**	**14225**
Less: Real Estate	-2449	-2674	-2933
Marine Revenue	**8759**	**10376**	**11292**
Tariff	**9.47%**	**15.91%**	**6.49%**

2. The Regulator's Mandate

In considering the Applicant's proposed tariffs, the Regulator was guided by the National Ports Act (12 of 2005), the Regulations issued in terms of Section 80(1) of the Act, and the Directives[1] (hereinafter jointly referred to as the 'Regulatory framework') and the Regulatory Tariff Manual applicable to the period up to 2017/18 (the "manual").

The Regulator also considered the submissions contained in the application and all subsequent submissions, written and oral comments, received in the consultation process, including the responses thereto, as well as its own information and research.

[1] The Directives were promulgated in terms of section 30(3) of the Act in Government Notice 825, Gazette No. 32480 dated 6 August 2009, as were amended in the Directives Amendment Notice, promulgated in Government Notice 37, Gazette No. 32898 on 29 January 2010.

3. The Methodology

In order to continue to improve the level of transparency and consistency in the tariff setting process the Regulator undertook extensive consultations with all port stakeholders, including the NPA, through consultation hearings (road shows), meetings, and the receipt of submissions, on the NPA proposed Tariff Methodology. This mandated interim methodology published on 13 August 2013 was applicable to the 2014/15 tariff year. Subsequently a tariff manual applicable to the tariff period 2015/16-2017/18 was published in August 2014.

The guidelines within that document were aimed at assisting the NPA with submitting an application with a three year view that will provide greater certainty in the ports sector. It also assisted stakeholders in formulating responses to the application which assisted the Regulator in making a decision. The publication of the guidelines increased Regulatory certainty.

The approach encapsulated by the tariff manual is based on the Revenue Required (RR) approach. The Regulator, while attempting to increase Regulatory certainty, must retain a degree of Regulatory discretion to respond to unforeseen economic or other events, as well as corrections, anomalies and unintended consequences of a strict and autonomic application of the methodology that may impact on the sustainability of the South African Ports system. This has been captured in the guidelines and taken into consideration. Whilst this has resulted in a deviation from the previous Manual, specifically with regards to the methodology for determining the Market Risk Premium as well as the calculation of Depreciation in the previous year, a more strict interpretation of the tariff manual has been implemented in this assessment of the NPA tariff application.

The NPA used the Tariff Manual to calculate and submit the application as set out below:

Revenue Requirement = [cost of capital x Regulatory asset base (RAB)]

+ operating cost
+ depreciation
+ taxation expense
+/- claw-back
+/- ETIMC

4. Compliance with the Directives, Regulations and National Ports Act

Although the application achieved formal compliance with the Act, Regulations and Directives, components of the application do not yet fully comply as there has not been full disclosure. The Applicant has merely included high level data on the Real Estate business. The data was adequate for purposes of calculating the over/under-recovery. However, the requirement of the Regulator, as articulated in the 2011/12 Record of Decision, is that full disclosure is required for all NPA business, i.e. both Marine and Real Estate business. The Regulator's view on this matter has not changed, although a higher level of compliance has been achieved compared to previous years.

The Applicant submitted its tariff application based on the Rate of Return methodology, as outlined in the manual (the 'Revenue Requirement' approach). The Regulator therefore decided to accept, in this application, the general methodology that has been used by the Applicant in this instance; however, in some of the parameters, the Regulator differed from the Applicant with respect to either the methodology or its application.

Further important key areas are: -

Directive 22(3)(b) requires that all operating costs, expenses and revenues incurred or generated from a port service or port facility, as well as the value of the capital stock related to such services or facilities, are to be declared in the application. Greater disclosure than in previous applications was apparent, including the submission of confidential data, allowing the Regulator to conduct a more thorough assessment.

The CAPEX programme information provided by the Applicant was sufficiently detailed to make an accurate assessment. As the CAPEX information is the subject of further extensive processes that are to be engaged by the Ports Consultative Committees (PCC's) and the National Ports Consultative Committee (NPCC), the Regulator accepts the information provided for the purposes of this tariff application as an outcome of the PCC and NPCC processes, as well as a higher level of compliance by the Applicant. In this regard, item 8 outlines future information reporting requirements by the NPA to the Regulator.

Directive 22(3)(c) requires that the amounts to be invested and revenues that are to be utilized in port development, safety, security and environmental protection, must be provided as well as the manner in which the tariffs will affect the cost of doing business in the ports. The safety, security and environmental expenditure submitted were more detailed than in past applications.

Directive 22(6) requires that the NPA shall maintain such accounting and financial systems necessary to provide the Regulator with sufficient information to verify the pricing principles and models used by the NPA to calculate tariffs. The generalized corporate level of information

was adequate for the purposes of the analysis. Furthermore, the credibility of the information provided has continued to increase markedly over the tariff periods. Notwithstanding that the generalised corporate level information was adequate, greater breakdown of cost information on port level will be required in future for tariffs to be more accurately cost reflective.

Directive 23(1) requires the Regulator to consider whether the requested tariffs reflect and balance a range of considerations:

- 23(1)(a) - ***a systematic tariff methodology that is applicable on a consistent and comparable basis***. The applicant has submitted the tariff application based on the requirements set out in the Regulatory Manual.

- 23(1)(b) - ***fairness***. Whilst the tariff structure in the South African port system does not currently reflect international best practice with regards to the allocation of costs, it is the focus of the Tariff Strategy process. By the reductions and increases granted in this and previous tariff determinations the Regulator attempts to address some of the most glaring of these imperfections.

- 23(1)(c) - ***the avoidance of discrimination, save where such discrimination is in the public interest***. By the reductions and increases granted by the Regulator in this ROD as well as previous determinations, the Regulator continues to address this.

- 23(1)(f) - ***the avoidance of cross-subsidisation, save where it is in the public interest.*** The comments with respect to the Tariff Strategy have reference under this assessment.

- 23(1)(g) - ***promotion of access to ports and efficient and effective management and operation of ports***. The information provided in the application was not sufficient to determine compliance with this provision. Although this is not clearly stated in the application, the internal processes of the applicant, including the section 56 and 57 processes in terms of the Act and the processes that the applicant is undergoing in the PCC's, address some, but not all, of the concerns that arise under this provision. The other issues that remain outstanding will be addressed in the disclosure components of the Regulatory Manual referred to above, as well as in the Regulator's compliance and monitoring processes. In this regard, item 8 outlines future information reporting requirements by the NPA to the Regulator.

5. The Application Specifics

The application submitted is based on the Required Revenue requested by the NPA. The Regulator assessed the Application on this basis, and largely used the methodology outlined in the Regulatory Manual, except where the Manual was incorrectly applied; or in the opinion of the Regulator, a deviation was necessary.

In effect the NPA used the following formula in its calculations for the required revenue:

Revenue Requirement = (cost of capital x Regulatory asset base (RAB) + operating costs + depreciation + taxation expense – claw-back +ETIMC

This approach accords with rate-of-return revenue requirement calculations by Regulators in South Africa and internationally (as modified in the ports regulatory practice over time) and has been used as the basis for assessments by the Regulator in the preceding applications.

The standard exposition is:

RR = (v – d + w)r + D + E + T +/- C +/-ETIMC

Where:

RR	=	Revenue Requirement
v	=	value of the assets used in the regulated services
d	=	accumulated depreciation on such assets
w	=	working capital
r	=	return on the capital reasonably expected
D	=	depreciation accounted for in the period of the tariff
E	=	operating expenses
T	=	taxation expense
C	=	Claw-back
ETIMC	=	Excessive Tariff Increase Margin Credit
(v – d + w)	=	Regulatory Asset Base

5.1 The Regulated Asset Base (RAB)

The RAB submitted by NPA was as follows:

Table 2: NPA Regulatory Asset Base calculation

Components	2015/16	2016/17	2017/18
R Million	Fixed Tariff	Indicative Tariff	
Opening Net Book Value	66 686	72 366	79 218
Indexing	70 589	76 548	83 741
Less: Depreciation	-1 807	-1 968	-2 201
Add: Capex	3 584	4 638	9 094
Closing Balance	72 366	79 218	90 634
Average Opening and Closing	69 526	75 792	84 926
Less: Working Capital	-2 526	-2 797	-3 394
RAB Final	**67 000**	**72 995**	**81 532**

5.2 RAB determined by the Regulator

In the previous tariff determinations, the Regulator accepted the Depreciated Optimised Replacement Cost method used by the applicant to determine a starting Regulatory asset base. The Regulator stated that it had a low level of confidence in the RAB determined through the 2008 DORC method, which gave rise to a steep increase in the asset values, but Regulatory certainty was required in the absence of any alternative. The Regulator continues to hold this view, and has commenced a process to assess the application and appropriateness of these valuations for major assets, to inform subsequent assessments of RAB.

The Regulator has previously determined that the 2010/11 ROD value establishes the starting point for trending the RAB in future tariff determinations. Nonetheless, the Regulator applied a number of adjustments (correcting for the actual CAPEX and corrected calculation of depreciation for the subsequent years, and indexed according to actual CPI for these years, and forecast CPI for the 2013/14 and 2014/15 years) to arrive at an opening balance for the 2015/16 year of R66 684 million.

In addition, the Regulator has disallowed from the Application, capex related to the development of the operator portion of the Ngqura Manganese terminal from the calculated RAB totalling R5 405 million over the period.

The RAB value for the period under review was determined using the following formulas:

$$RAB_y = \frac{1}{2}\left[RAB_{c,y} + RAB_{o,y}\right] + w_y$$

$$RAB_{c,y} = RAB_{o.y}(1 + CPI_Y) + CWIP_Y - D_y$$

Where:

RAB_y	=	value of the RAB used to determine the returns for the period y;
$RAB_{o,y}$	=	opening value of RAB for the period y;
$RAB_{c,y}$	=	closing value of RAB for the period y;
w_y	=	forecast average net working capital over the review period;
$CWIP_Y$	=	value of expected capital investment over the review period;
D_y	=	depreciation allowance for assets over the review period;
CPI_Y	=	annual rate of general inflation expected over the review period

The calculation of depreciation resulted in a depreciation allowance of R1 791 million as opposed to the NPA application of R1 807 million. Depreciation calculated by the PRSA for the outer years total R1 937 and R2 102 million respectively, with the differences mainly due to the removal of the Nqura manganese terminal operator related CAPEX and the lower inflation forecast.

Based on previous tariff assessments and adjustments thereto, RAB information in the application and the Regulator decisions for the current application as well as application of the above equations, the RAB is as per the table below:

Table 3: Regulatory Assessment of the Regulatory Asset Base

R million	**2015/16**	**2016/17**	**2017/18**
Property, plant and equipment			
Opening balance	66 684	71 579	77 223
Indexing (CPI)	3 201	4 223	4 325
Capex	3 485	3 358	5 068
Depreciation	-1 791	-1 937	-2 102
Closing balance	71 579	77 223	84 514
Average balance	69 132	74 401	80 869
Working capital	-2343	-2416	-2749
Total RAB for year	66 789	71 985	78 120

5.3 Cost of Capital

The NPA application follows the Capital Asset Pricing Methodology (CAPM) to determine the cost of capital as set out in the Regulatory Manual. The applicant used the vanilla WACC approach. The Regulatory framework does not dictate or preclude this approach. The application requested that the real vanilla WACC for the Applicant be assessed as being 5.59 % for 2015/16 and 5.78% and 6.01% respectively for the following years. Taking into account the lower inflation outlook and correcting for the Market Risk Premium, the Regulator determined that the real vanilla WACC should be 6.38 %, when applying all its determinations on the

elements below. The Regulator also determined provisional WACC variables for the outer years as 5.40% and 5.73% respectively. The differences can mainly be ascribed to the lower inflation outlook.

The formula for calculating the weighted average cost of capital under the CAPM is as follows:

$$\boldsymbol{WACC_{vanilla} = k_d . g + k_e(1 - g)}$$

Where:

k_d	=	pre-tax cost of debt
k_e	=	post tax cost of equity
g	=	gearing, which is debt over total capital

Cost of Equity

The requested real post-tax cost of equity in the application was 7.40%. The Regulator determined that the real post-tax cost of equity was 8.10%, which was determined using the subsidiary elements listed below. This resulted in a total calculated return on equity of R2 705 million available to the NPA as profit/maximum dividend.

The CAPM cost of equity methodology used by the application is as follows:

$$\boldsymbol{k_e = R_f + \beta(MR - R_f)}$$

Where:

k_e	=	cost of equity
R_f	=	risk free rate
MR	=	market return
$(MR - R_f)$	=	Market Risk Premium calculated over long term
β	=	beta coefficient

(i) Risk Free Rate

The 20 year government bond is an appropriate measure of the risk free rate, and, in particular, the R186 bond instrument (yield) as it adequately reflects the market's perception of sovereign risk and inflation going forward. The average risk free rate is calculated over a 5 year period (from August 2009 to July 2014). The Risk Free Rate used in the assessment is therefore 8.43%.

(ii) Beta Coefficient

The Regulator used an asset beta of 0.5, as set out in the Regulatory Manual that equated to an equity beta of 0.86 using the Hamada equation to re-lever the beta.

(iii) Market Risk Premium

The Regulator, in line with Regulatory consistency, and the medium term tariff methodology, calculated a market risk premium of 5.4% as published in the latest available Dimson, Marsh and Staunton (DMS) estimate of the geometric mean MRP as measured against bonds for South Africa to determine an MRP for the NPA cost of equity calculation.

(iv) Gearing

The Regulator in its assessment used a Gearing of 0.5 as set out in the Regulatory Manual.

(v) Cost of Debt

The Regulator calculated the real cost of debt (Pre-tax) to be 4.66%.

(vi) Inflation

The National Treasury inflation forecast as per the Budget Review February 2015 for the period is 4.8% for 2015/16, 5.9% for 2016/17 and 5.6% for 2017/18.

Operating Costs

The Regulator accepted the operating cost estimate for 2015/16. However, the Regulator wishes to express its concern regarding to the impact of under spending of CAPEX and continued high vacancy rates on operational expenses. The Regulator will also address any over allowance on operational expenses through the claw-back mechanism in the next tariff year.

The Authority's total operational cost amounts to R5 020 million including Group overhead costs relating to the NPA. The split of costs into different operations of the Authority's business such as marine costs and lighthouse costs has not been provided. Whilst the Regulator analysed the operational expenditure of the NPA in detail, any under spending during the tariff period under consideration will as per existing practice be clawed back, whilst any over run on costs must be motivated in detail.

The Regulator allowed the inclusion of the R619 million group costs in the total allowed expenses subject to the conditions in the manual. Whilst the Regulator allows the group cost component on the basis that the NPA as a division of Transnet will continue to depend on centralised services, the Regulator will continue to monitor this allowance and claw back any under spending that may occur.

Specifically, with regards to the group cost component of the NPA's operational expenses, the Regulator considered the following in allowing the request: Was the allocation from the NPA to Group in terms of the applicable policy? The Regulator deemed it to comply with the policy as submitted to the Regulator. Are the share allocations in the policy a fair reflection of the services rendered by the Group to the NPA? Based on available information, the Regulator is largely satisfied with the fairness of the share allocations in the policy.
The Regulator will in due course however address the applicability of some of the line items in the policy and if found that further assessment is necessary, this will be addressed in a set of Regulatory accounts over the medium term.

The Regulator thus approves the Group cost allowance for 2014/15 and gives conditional approval for 2015/16-2017/18 tariff years based on the conditions set out in section 6.5 of the Regulatory manual, which allows for future claw-back if deemed necessary.

Depreciation

The calculation of depreciation resulted in a depreciation allowance of R1 791 million as opposed to the NPA application of R1 807 million. Depreciation calculated by the PRSA for the outer years total R1 937 and R2 102 million respectively, with the differences mainly due to the removal of the Ngqura manganese terminal operator related capex (non-NPA capex) and a lower inflation forecast.

Taxation Expense

The Regulator accepted the corporate tax rate of 28% for the 2014/15 Tariff Year. The Regulator used the pass-through tax approach, where the vanilla WACC was applied to the average RAB for the period under consideration, less the interest cost of debt and the capital expenditure payments impact. The corporate tax rate was used to determine the tax liability, which was treated as an expense in the RR calculation.

Tax allowance = (Net revenue before tax allowance)/(1-t)*t

'Net revenue before tax allowance' is the revenue after all costs, including interest, ETIMC and depreciation, have been accounted for. This resulted in a total taxation expense of R768 million for 2015/16.

Volume adjustments

The Regulator adjusted the volume forecast for the 2014/15 financial year upwards taking into account the latest estimates available (including actual data for 10 of 12 months and latest estimates for the full year). This resulted in a revised tariff book revenue forecast of R8 266 million for 2015/16 (from an estimated R7 783 million as per the application).

The Regulator has taken a position to exclude the impact of all bilateral contracts between the NPA and port users, resulting in an increase in expected volume based revenue of R134 million for 2014/15, R151 million for 2015/16 and R166 million for 2016/17. This has been taken into account, resulting in a lower expected difference between the required revenue and the expected volume based revenue increases, resulting in a lower tariff.

Claw-back

As the 2013/14 tariff year is now complete, the Regulator can make the final adjustments to the impacts of any forecasts and recoveries for that year, resulting in a revised total claw back of R675 million.

An interim claw back (in favour of the NPA) was made in the 2014/2015 tariff year(R 51 million) resulting in a residual claw back of R726 million. The return on the residual claw back in terms of the WACC rate for that period totals R29 million. The total residual claw back for 2013/14 is therefore R755 million.

The expected claw back calculated for the 2014/15 FY is –R348 million. A provisional claw back of R174 million as well as the residual claw-back of R755 million for FY 2013/14 results in a total claw back of R581 million in the 2015/16 tariff year (R174 million to be clawed back in 2016/17). (Please note: Differences due to rounding)

Table 4: Claw-back calculation

Transaction	R Million
Revised Total Claw Back 2013/14	-675
Interim Claw Back 2013/14 (Clawed Back in 2014/15)	-51
Total Claw Back for 2013/14 (including interim claw bac	-726
Estimated claw Back 2014/15	348
50% Claw Back 2015/16	174
2015/16 Claw Back calculation	
Final Claw Back 2013/14	-726
Return on Claw Back 2013/14	-29
Provisional claw back 2014/15	174
Net Claw Back 2015/16	**-581**

Note: (-) indicates claw back to users (+) indicates claw back to NPA

ETIMC

The Regulator regulates in the long-term interest of the industry. This requires that the Regulator not only confine itself to the immediate tariff decision, but also consider ways to ease any future shocks or tariff spikes to the system which can be managed sustainably within the space that is available for such intervention. The Regulator considers it prudent to continue to retain the Excessive Tariff Increase Margin Credit (ETIMC) inside of the NPA to offset against future large, but justified, tariff increases resulting from the capital expenditure increases envisaged in the NPA's Long Term Port Planning Framework; but not as yet articulated to a level of detail and phasing for accurate prediction.

The ETIMC retained for the 2013/14 period totalled R1 378 million. Table 5 sets out the calculation of the ETIMC and the resultant value at the end of the tariff year.

Table 5: ETIMC calculation

Transaction type	R million
2012/13 ETIMC retained	900
2012/13 WACC return on ETIMC (average ETIMC across year)	20
2013/14 ETIMC opening total	920
2013/14 Estimated ETIMC retained in 2013/14	1 378
2013/14 ETIMC closing total	2298
2013/14 Average ETIMC	1609
2013/14 WACC return on Average ETIMC	60
2013/14 ETIMC closing balance	2 358
2014/15 Average ETIMC	2 358
2014/15 WACC return on average ETIMC	*108.3*
2014/15 ETIMC closing balance	2 466
2015/16 ETIMC Utilised	-150
2015/16 WACC Return on ETIMC	108.5
2015/16 ETIMC Total	**2 424.5**

The Regulator considers it prudent to utilise R150 million of the ETIMC facility (approximately 6.08% of the available facility) during the current tariff year as the tariff changes based on current calculations is deemed to excessively exceed inflation expectations on an average weighted level over the period.

It is important to note that the expected tariff increase for the outer years may not require the use of the ETIMC facility to the extent currently envisaged. The ability of the NPA to implement their allowed CAPEX, maintenance and other operational expenses together with realised volumes may materially impact on the final tariffs.

6. Required Revenue and Tariff Increase

The application of the above amendments and adjustments to the NPA 2015/16 tariff application has the following result:

Table 6: Assessment Results

Transaction Type	R Million
Return on Capital	4 261
Depreciation	1 791
Operating Expenses	5 020
Tax Expense	768
Claw Back	-581
ETIMC	-150
NPA Required Revenue 2015/16	11 109
Real Estate Business Income	2 449
Marine Business Income	8 266
Total Estimated Revenue	10 715
Revenue Shortfall(-)/Surplus 2015/16	-394

The marine business income that is forecast above is the current tariff book marine revenue modelled for a weighted average volume growth rate of 4.4% for all cargo types and marine services for the period.

The following assumptions are included in the tariff assessment:

- **Risk Free Rate** **8.43%**
- **Market Risk Premium** **5.4%**
- **Gearing** **0.5**
- **Beta Coefficient** **0.5**
- **Volume growth 2014/15** **4.3% (4.0% in outer years)**
- **Inflation** **4.8%**

The NPA did not request specific tariff decreases and increases in addition to the general adjusted tariff increase of 9.47%. Based on the Regulator's own research which raised significant concerns about specific anomalies regarding tariff imbalances evident in the tariff book; as well as the cost levels facing other users, and the impact that the recent depreciation of the South African Rand has on costs; the Regulator decided to approve the following specific reductions applicable to the tariffs as set out in the tariff book:

All cargo dues for 2015/16 are to increase by 3.55%, except, Dry Bulk Cargo Dues for Coal, Iron Ore and Manganese which are to increase by 6.00%. Marine Services and related tariffs (sections 1-8 of the tariff book excluding section 7 that deals with cargo dues) are to increase by 6.00%.

The tariff changes were informed by the ongoing research conducted by the Regulator which benchmarks South African port prices with global samples. The relative movement of tariffs is similar to the changes effected in the 2013/14 and 2014/15 decisions. The adjustments do take a lower inflation, as well as the expected under recovery in 2014/15, into account and due to the expected subdued economic activity over the tariff period, the Regulator will if required, use the ETIMC to maintain overall average tariffs close to the inflation target band as defined by the South African Reserve Bank mandate.

Because of the ongoing tariff strategy process and taking into consideration the various comments of stakeholders, the Regulator determined that the specific changes for certain commodities will be implemented. It is the Regulator's view that in due course the comprehensive restructuring of port tariffs will more accurately deal with the price anomalies evident in the tariff structure to further realign the tariff book.

7. Operation Phakisa

The Regulator in principle supports the intention and objectives of Operation Phakisa as part of the broader Government objective to unlock South Africa's economic potential, in particular the development of marine transport and manufacturing activities, such as coastal shipping, trans-shipment, boat building, repair and refurbishment.

Whilst the NPA has included items for repair infrastructure and feasibility studies for future projects, the application stated that it did not include any components of the accelerated infrastructure programs related to Operation Phakisa.

The Regulator is confident that any other urgent expenditure associated with the program will be sufficiently covered by the return on equity of over R2.7 billion allowed as profit to the NPA.

8. Information and reporting requirements

8.1. Quarterly Reporting

The Regulator continues to expand its monitoring role and as such requires quarterly progress reports as per Regulator templates, from the NPA on the following:

8.1.1. All capex projects (infrastructure and capital acquisitions) underway (to include, but not limited to information pertaining to project stage, tender specifics, construction progress etc.)

8.1.2. All acquisition of land and other capital assets (including motivation thereof)

8.1.3. All disposal/or removal of land and assets (including motivation thereof)

8.1.4. Copies of all new agreements and licences entered into or issued in the quarter as well as the supporting documentation thereof, including sections 79, 72, 56, 57, Lease agreements

8.1.5. All applicable BBBEE certificates for the above mentioned licences and agreements

8.1.6. Data, results and progress as applicable to the implementation and monitoring of operator performance as per TOPS/ MOPS/ ROPS/ HOPS

8.1.7. Key performance indicators relating to port traffic and volumes and maintenance programme per port.

All quarterly progress information must be submitted to the Regulator by no later than the end of the month after the end of the applicable quarter, starting from the first quarter of 2015/16. The Regulator will provide all relevant reporting templates by 16 March 2015 and reserves the right to amend these on an ongoing basis. The Regulator remains bound by the confidentiality provision of the National Ports Act.

8.2. Historical Information required

8.2.1. Historical overview of infrastructure capex projects, capital acquisitions and land acquisitions and disposals and as per Regulator template, since regulation started.

8.2.2. Copies of all agreements and licences currently in place as well as the supporting documentation thereof, including sections 79, 72, 56, 57, Lease agreements.

8.2.3. All applicable BBBEE certificates for the above mentioned licences and agreements

All historical information referred to above must be submitted to the Regulator by no later than the end of the first quarter of 2015/16. The Regulator remains bound by the confidentiality provision of the National Ports Act.

8.3. Annual Financial Statements

As per current practice, a full set of annual financial statements must accompany all future applications to the Regulator.

Please note: All information as stipulated in section 8 must be provided to the Regulator in electronic format.

25 / 02 / 2015

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Ms. Gloria Serobe

Chairman of the Ports Regulator of South Africa Date