



THE SOUTH AFRICAN ASSOCIATION OF FREIGHT FORWARDERS

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Friday, 15 September 2017

The Chairman
Ports Regulator
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Dear Sirs

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

As invited, we are pleased to submit our comments in respect of the tariff application submitted by Transnet National Ports Authority, Our commentary is attached, and we would be grateful for your confirmation of receipt.

Yours faithfully
The South African Association of Freight Forwarders

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David Logan
Chief Executive Officer



TNPA TARIFF APPLICATION – 2018/2019, COMMENTS FROM THE SOUTH AFRICAN ASSOCIATION OF FREIGHT FORWARDERS

1. COMPLIANCE

Generally speaking, TNPA has complied with its obligations in terms of the Act and previous ROD's. There are still difficulties in terms of the transparency of its disclosure of information. The consultation on capex has been satisfactory, despite the fact that PCC meetings have not been held as regularly as prescribed by the Act. Remaining areas of concern include continued uncertainty as to the accuracy of the RAB, and the effectiveness or otherwise of TNPA's oversight role as it applies to areas under its control, with particular reference to terminals. It is also felt that the current tariff methodology is flawed and does not produce results that accurately predict the impact of its tariff increases.

2. RESPONSE TO ISSUES RAISED BY PCC'S

A number of issues have been raised at PCC meetings which, while recorded in detail, have not resulted in any action. Whilst it is accepted that it may not be possible to comply with requests made at that level, it is surely not too much to expect that some response is supplied. This is exacerbated by the fact that scheduled NPCC meetings have not been held, with the result that such issues have not been escalated as prescribed.

3. REGULATED ASSET BASE

It is widely acknowledged that the figure used in the revenue requirement calculations is very likely incorrect. To the best of our knowledge, there has been little progress in terms of the valuation process instituted by the Regulator, and until such time that this is completed, the RAB remains suspect. Since it has such a material impact on the tariff application, this state of affairs should surely not be allowed to continue. Particular regard should be had to the arbitrary revaluation of assets from R 12 billion to R 48 billion some years ago. Since those assets do not represent actual expenditure made by TNPA, we do not believe that there is any justification for seeking a return on them, and for the same reason, depreciation as presented in the application is questionable.

4. DEBT RISK

There is an international perception, for reasons which we do not need to enumerate here, that that South Africa is not an attractive investment option. This perception is solidly based mainly on the following factors:

- A gradual erosion of the institutional framework
- Low economic growth and high unemployment
- Persistent structural bottlenecks



- Accumulation of public debt and Government contingent liabilities.

This leads us to believe that the emphasis placed on debt risk in the application is exaggerated, possibly because TNPA's risk is not insulated (as we think it should be) from that of the broader Transnet Group. See also our comments in 10 below.

5. REVENUE REQUIREMENT

It remains a problem that the structure of the methodology remains incomprehensible in the sense that its opacity leads to speculation (possibly unfounded) that a greater or lesser degree of cross-subsidisation is taking place as between TNPA and other Transnet Group entities.

6. REAL ESTATE

Much as the real estate business of TNPA has been separated from the operational divisions in the presentation of the tariff application, we still believe that there are problems in this regard. On the one hand there is the possibility that TPT pays less than a fair market rental, and on the other hand, asking rentals for properties under TNPA control seem to be excessive, as they are (wrongly in our view) based on commercial rentals in areas immediately adjacent to the port.

7. METHODOLOGY

The introduction of a three year forward indication of expected tariff increases has in our opinion been meaningless. The general opinion amongst port users is that the second and third years can be disregarded, as they bear no relation to what is eventually awarded by the Regulator. The stated intention of providing users with some certainty for planning purposes has therefore not been achieved. Furthermore, it appears to us that very little progress has been made in terms of producing a revised methodology that will accurately reflect the needs of the port system while providing users with some certainty.

8. APPLICATION OF INFLATION

It seems that TNPA arbitrarily applies a "mark-up" of 3% over the published inflation rate. As far as we are aware, there is no scientifically justifiable reason for this. It has been suggested that if this is a way of allowing for emolument increases that are above the inflation rate, then it is a very short-sighted policy indeed.

9. DIFFERENTIAL PRICING

This concept can be discussed in three areas – regional differences, commodity differences and service differences as follows:

- Regional – If for example Nqura is to be promoted as a transshipment hub, its services should be priced accordingly.



- Commodities – while there is some justification for differential pricing, we cannot see why we should be moving in the direction of *ad valorem* wharfage, which was discarded many years ago for very good reasons. And we remain unconvinced that our ports are under-priced for certain bulk commodities, so there is a possibility that such commodities will provide some cross subsidisation for other traffic, notably motor vehicles and containers.
- Services – here again there appears to be a belief that our marine services are markedly cheaper than those of global comparators, thereby justifying increases that are significantly higher than the inflation rate. We are not convinced, but no doubt the marine carriers will have their own comments on this. Suffice it to say that there is a danger that higher tariffs in this area will lead to decreased port calls, with a corresponding decrease in marine revenue.

10. OVERSIGHT AND CORPORATISATION

We believe that TNPA has failed in its duty to regulate the pricing of its sister company, TPT, which continues to issue tariff increases in an arbitrary fashion, not being subject to any outside regulation or public scrutiny. The long-suggested corporatisation of TNPA would seem to be long overdue for this reason.

In this regard, we can refer to the National Ports Act 12 of 2005. Chapter 2 Paragraph 3 (2) of the Act reads:

“As soon as this Act takes effect the Shareholding Minister must ensure that the necessary steps are taken for the incorporation of the National Ports Authority of South Africa as a company”

We have no doubt that by securing the independence of the Port Authority in this manner, much will be achieved in terms of easing users’ concerns around cross-subsidisation and risk assessment.

11. RETURN ON ASSETS

TNPA appears to be aiming for returns that are far higher than is the norm in the global industry. This raises again the possibility of cross-subsidisation, and here one only has to think about the extremely high contribution that TNPA makes to Transnet overheads. By the same token, the depreciation policy is in need of review, since in the current methodology, it has a significant impact on the tariff application.



11. WEGO

The basic concept of WEGO is supported, but clearly its successful application will depend on the agreement of KPI's which are meaningful, in the sense that performance in excess of them will result in noticeable and quantifiable benefits for port users, such that these benefits outweigh any additional costs levied for achievement. So if the baseline is simply the previous year's achievements, the credibility of the system will be in question. We believe that for WEGO to be meaningful, it should be measured against a set of KPI's which have been rigorously evaluated and agreed. In this respect, we are of the opinion that KPI's are selected such that they relate directly to port activity. For example, if a TOPS standard is 35 moves per crane hour, that in itself is easy to achieve. But a more significant number for ship operators is the number of moves per ship working hour, since it is fairly easy to achieve the target for a single crane, but in doing so, the productivity of the overall operation might be impaired. In this connection, it is critical that the KPI's and performance standards should be integrated. Very efficient waterside operations count for nothing if there is landside congestion – the Port of Durban provides a prime example.

12. CORPORATE GOVERNANCE

While we have no opinion on the merits of allegations levelled at Transnet regarding irregularities in its procurement process, we do believe that it is appropriate to point out that the vast number of revelations in this regard in recent months, has created a perception that revenues earned by Transnet and its operating divisions have been diverted for suspicious purposes. This in turn leads port users to question whether any increases in tariff can be justified, since the diverted funds, if they actually exist, would have been better applied to offset price increases.

13. COMPETITIVENESS OF SOUTH AFRICAN PORTS

We acknowledge that significant progress has been made in narrowing the gap between TNPA's pricing and that of its foreign comparators. However, the gap remains significant, and the progress that has been made will to a large extent be nullified and even reversed by increases of the magnitude reflected in this application.

14. CONCLUSION

It will be noted that our submission has not focussed in any way on the detailed calculations and statistics contained in the application. While we find that the detail in the application is impressive and well researched, it will be apparent that we believe the methodology and Revenue Requirement model are fundamentally flawed. For that reason it seems clear to us that there is little point in commenting on a process which it seems will inevitably lead to an application for increases that bear no relation to reality. It is our view that the Records of Decision on previous applications bear this out, as they have consistently awarded increases (if any) that are substantially lower than what was requested. At the same time, the level of profitability achieved



has been impressive, so one is left wondering what extra profits might have been achieved if the original requests had been granted.

In our belief, we can find no justification for the award of any increase. At most, it might be justifiable to award some contribution from the accumulated excess margin. But the more pressing need seems to be enhanced efficiencies which should ensure that no volumes are lost to competitors, and may even lead to growth in excess of what has been targeted.

We are grateful for the opportunity to submit this commentary, and we reiterate our confidence in the PRSA's ability to deliver a balanced and equitable decision.

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M R WALWYN

14 September 2017