THE SOUTH AFRICAN ASSOCIATION OF FREIGHT FORWARDERS

T: +27 11 455 1726 • F: +27 11 455 1709 • saaff@saaff.org.za
12 Skeen Boulevard, Bedfordview, Johannesburg
PO Box 2510, Bedfordview, 2008 • www.saaff.org.za

Submission to the National Ports Regulator

SUBJECT: NATIONAL PORT AUTHORITY TARIFF APPLICATION 2016 / 2017 FINANCIAL YEAR & INDICATIVE TARIFF INCREASES FOR 2017 / 2018 & 2018 / 2019

PREAMBLE:

The South African Association of Freight Forwarders (the Association) makes this submission on behalf of its members and its member's clients.

As this is the 7th annual submission to the Regulator on NPA tariff application by the Association it is not felt necessary to again include annexures relating either to the Freight Forwarding Industry globally or SAAFF's position as the sole voice of the industry in South Africa,

STRUCTURE OF SUBMISSION:

Due to the establishment of a "fixed" Tariff Methodology for the financial years 2015/16 to 2017/18 and the issue of the Regulatory Manual in 2014 this submission will not address issues relating to the Methodology but rather those matters pertaining, inter-alia, to operating expenses, volumes, actual and forecast, and the Regulated Asset Base. From the current application it is clear that one impact of the Methodology has been that the Authority's approach to tariff levels is now more in line with the Regulators requirements and industry needs, though some anomalies still exist which this submission will attempt to address.

SUBMISSION:

Regulatory Asset Base (RAB)

The most critical element in arriving at a valid revenue requirement is the assessed value of the assets on which a reasonable return is appropriate. Without an accurate valuation attempts to arrive at a fair return are, at best, estimates. In recent submissions the Association and others have pressed the Regulator to reassess the RAB valuations. It is appreciated that such an exercise will be costly and probably beyond the resources of the Regulator at present however every effort should be made to obtain sufficient funds to finance such an exercise, certainly before the expiry of the current three year tariff programme in 2018. If the RAB is currently overstated, as we believe is probably the case, then the impact on TNPA's calculation of returns is significant and material.

Multi Year Tariff Application and Tariff Forecasts:

The Association believes that the providing industry with assessments of likely tariff levels over a three year period should have value and understands that they are only estimates and should be treated with care. However the extraordinary difference of 1,155 billion between the estimated revenue requirements for 2016 / 17 year, as indicated in last year's application (13,050 billion), versus the current estimate of 11,895 billion questions the value of this process. Though the bulk of the difference appears to be in the 990 million swing in clawback, differences of this magnitude negate any possible value of these forecasts to port users.

The Association notes that for year 2017 /18 the indicative tariff estimates requires marine revenue at 1.5 billion above the current application resulting in a possible tariff increase of 12.74%, more than double current CPI and far in excess of the Regulators commitment regarding annual increase levels.

Types of Regulation:

The Association points out that Diagram 3 on page 25 indicates that Agents, (ships, clearing and forwarding) require to be licensed. In fact, ships agents do indeed require to be licensed, while clearing and forwarding agents do not.

Cargo Volume Forecast:

Paragraph 6.2.1 and tables 9 & 22 of the application provide a comprehensive review of the Authority's projections for volume growth. The sluggish performance of both the South African and global economies is reflected in the low level of marine revenue growth, forecast at 2.4%. With the limited volume statistics for financial 2015 / 16 presently available to the Association the Authority's estimates would appear to be reasonable in the current circumstances.

One anomaly does stand out; revenue rich import full TEU's through the port of Durban year to date, (August 2015), have increased over the same period 2014 by 9.65% considerably more than the forecast 3% growth nationally for financial 2015 /16. Whilst exports and other cargo modes are not seeing such growth we trust that prior to reaching a final ROD the Regulator will have available half year volume statistics to enable a closer examination of potential growth through 2015 / 16. This is particularly important in view of the history of under-estimation of volume growth in recent years.

It is in a low growth scenario such as is currently the case where the "Revenue Requirement" methodology can result in tariff increase levels which impact negatively on port competitiveness and South Africa's high freight logistics costs. This Association and all port users continue to rely on the Regulator to ensure that our ports become more competitive and that tariff increases remain below the consumer price index.

Operating Expenditure:

Overall the Authority's commitment to cost control has to be questioned with annual operating expenses consistently increasing by around 14% for some years. In the opinion of the Association there is need for greater focus on cost control. The contribution by TNPA to

Transnet corporate costs needs to be questioned, and this again raises the possibility of corporatisation of TNPA.

Labour: Interrogating the elements in the application relating to labour cost and head count without examining labour efficiency is problematic. The Association's expectations are that oversight of the Marine Operations Performance Standards (MOPS) will examine efficiencies and that head count increases are necessary and not simply a means of disguising inefficient operations. Whilst the Authority is responsible for marine operations there is a clear need for the oversight of MOPS be the responsibility of an independent body.

Energy: Table 48 highlights the escalation in the Authority's energy expenditure over recent years largely due to energy cost increases. There is no indication of actual consumption of energy or the impact it may have on expenditure. In paragraph 6.3.2 the Authority mentions a South African manufacturing company that has successfully invested in solar energy and consequently substantially reduced its energy expenditure. Future applications should include an indication of efforts the Authority is making to develop alternative energy sources.

Sundry Operating Costs: As in past submissions the Association questions whether including substantial revenue items, (R707) million forecast 2016/17, under operating costs is appropriate.

Bilateral Contracts

In the Record of Decision (ROD) for 2015/16 the Regulator took a position to *"exclude the impact of all bilateral contracts between the NPA and port users"* The Association's understanding of this decision is that any revenue shortfall versus normal tariff rates as a result of bilateral agreements would be for the account of the Authority and not for port users in general, meaning that revenue would, for the purposes of tariff calculation, be increased by such shortfall, (R151 million in 2015/16). In the Authority's executive summary the following statement appears "*The Authority has adopted the aforementioned approach of the Regulator on the assumption that the recovery of the revenues based on tariff book rates would be legally enforceable"* The Association understand this to mean that the intention is to attempt to renegotiate such agreements and if unsuccessful add back the relevant revenue shortfall and effectively require all port users to absorb such shortfall via tariff. It is not the Association's understanding that this is the Regulator's intention. Rather we believe that authorised tariff as per ROD must apply to all port users and any negative deviation negotiated with individual clients should be absorbed by the Authority. Further clarity on this matter is requested.

Capital Expenditure:

The Association understands that capital expenditure items are reviewed by the Port Consultative Committees prior to approval. It does question whether these committees are sufficiently representative of port users and whether in depth examination of each project can be interrogated satisfactorily at a committee level.

Requested Tariff Increase 2016 / 2017:

The Association supports the realignment of the tariff structure to more accurately reflect costs applicable to the three major revenue sources; Cargo, Carriers and Tenants. Though the bulk of port costs are ultimately absorbed by cargo owners their correct distribution should result in the Authority's management recognising the importance of areas which, if not receiving a proper share of revenue, tend to be overlooked. A recent example is the slow reaction to sand build up in the port of Durban resulting in draft restrictions impacting on vessels cargo uplift.

The application for revenue of R9.295m and a tariff increase of 5.9% is within current CPI and reflects a more reasonable approach to tariff increase by the Authority than in previous years. Only after half year volume levels for the current year are available will a better assessment of possible growth be available.

There is no clarity on the need to increase the revenue requirement by the R67m transfer to the ETIMC. Without this additional cost the revenue required would drop to R9.228 and the tariff increase to 5.1%. A reassessment of volume growth to say 3% would have a similar impact and bring the tariff increase to 4.5%.

The previous comments regarding the indicative tariff increases for years 2017 through 2019, 12.7% and 7.63% respectively, remain, these need to be reassessed considering the commitment to increases levels within CPI. Once again we must repeat our view that resolution of the RAB valuations is an urgent priority. We also understand that there may be changes in the Authority's capital requirements due to changing market conditions. We trust that any such changes will be clearly advised, and in time for port users to assess their impact on tariffs.

Submission Conclusion:

Once again we are confident that the Regulator will ensure that tariff increases stay within the current inflation environment and do not negatively impact on the economy or act as a constraint on South Africa's global trade.

D.H.Watts,

Consultant, Maritime Affairs,

South African Association of Freight Forwarders 12th October 2015