



# **PRSA 2020/21 Annual Report**

## **Briefing to the Portfolio Committee on Transport**

Ms. Jowie Mulaudzi, CEO Ports Regulator of South Africa;

11 November 2021

Virtual PLATFORM



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# 1. BACKGROUND

## Vision

The Ports Regulator of South Africa will be regarded nationally and internationally as a world-class institution which sets the standards for economic regulation in commercial maritime ports.

## Mission

The mission of the Ports Regulator is to:

- Exercise economic regulation of the South African ports system consistent with Government's strategic objectives;
- Support the development of the ports industry and system;
- Promote equity of access to ports and to facilities and services provided in ports; and
- Monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, 12 of 2005

## Values

- P – Protect the values of human dignity, equality and freedom
- R – Respect and relevant
- S – Service Delivery and Stakeholder Focus
- A – Accountability

## Legislative and other Mandate

- Commercial Ports Policy (2002) and National Ports Act, Act 12 of 2005
- Public Finance Management Act, 1999 as amended
- Comprehensive Maritime Transport Policy of 2017

## Recent Court rulings

- Eskom v NERSA and others – tariff methodology
- Sunrise Energy v Avedia Energy and other at the Western Cape High court
- Afribusiness v Minister of Finance

## National Development Plan

- Reduce inflation of administered prices and
- Improve efficiencies

## 2019 – 2024 MTSF Goals

- Increase competitiveness and access to transport modal networks through effective regulation – establishment of STER
- Reduction of costs for priority sectors by increasing the efficiency of ports through corporatisation of the NPA
- 4% percent growth of exports for defined national priorities (Automotive, manufacturing and Agro-processing)
- Increased levels of investment by public entities and entities increased contribution to economic growth

## Minister's Priorities

- 3/5 pillars – enhancing SA Ship Registration Regime; initiatives on coastal shipping and main streaming of participation of blacks, women, youth and people with disabilities in the economy

# PRSA STRATEGIC OUTCOMES ORIENTED GOALS

## STRATEGIC GOAL 1

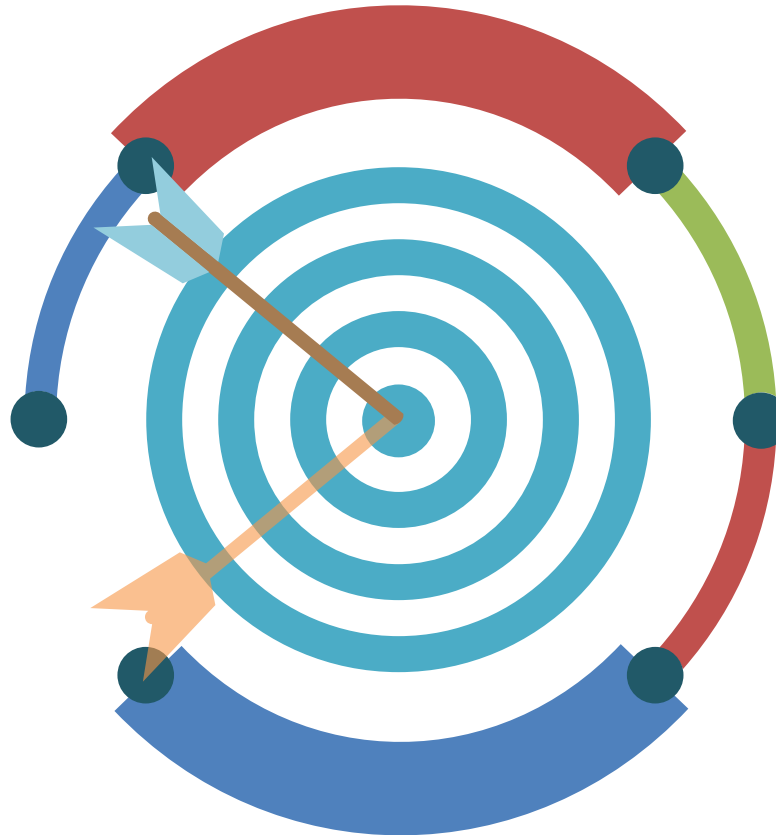
Ensure implementation of all elements of the regulatory framework within its mandate.

## STRATEGIC GOAL 2

Enhance capacity to deal with all the output requirements of the organisation.

## STRATEGIC GOAL 3

Continue to maintain its reputation as an organisation with integrity focused on delivery and excellence.



## STRATEGIC GOAL 4

Ensure that the National Ports Authority complies with the Act

## STRATEGIC GOAL 5

Consider the proposed tariff of the Authority and regulate the provision of adequate, affordable and efficient port services and facilities to ensure enhanced competition and investment

## Corporate Governance

Ports Regulator subscribes to the principles and practices of King IV to achieve an ethical culture, good performance, effective control and legitimacy

# PRSA Programmes aligned to strategic goals

## PROGRAMME 1

### Administration and corporate support to the organisation

Provide corporate support to the core programmes of the Regulator and enable PRSA to deliver on its mandate and ensure compliance with all government prescripts (IT, HR, SCM, Finance)

**(Goal 2)**

## PROGRAMME 2

### Economic Regulation

Consider proposed tariffs and regulate the provision of adequate, affordable and efficient port services and facilities to enhance competition and investment; ensure implementation of all elements of the regulatory framework

**(Goals: 1, 3 & 5)**

## PROGRAMME 3

### Industry Development

Maintain the PRSA reputation as an organisation with integrity focused on delivery and excellence through stakeholder engagements and public consultations

**(Goals:1, 3 & 5)**

## PROGRAMME 4

### Tribunal

- Hear appeals and complaints (s46& s47) by port users, investigate complaints (s 48) in line with 2009 Directives
- **(Goals: 4 & 5)**

## PROGRAMME 5

### Compliance Monitoring

Ensure that the National Ports Authority complies with the National Ports Act; compliance of the organisation with relevant and applicable legislation, regulations, standards and codes

**(Goals: 4 & 5)**

## 2. SITUATIONAL ANALYSIS



# Regulatory service delivery environment: 2020/21

- COVID-19 Effects of regulated entity: the 2020/21 tariff decision had to respond to the effects of COVID-19 on the NPA and port users
- Multiyear tariff methodology applicable up to 2023/24 Tariff period *to be reviewed in 2022/23*.
- Tariff strategy to redress tariff imbalances over a 10 year period (start date 2015) resets the incidence of tariffs between cargo owners, shipping lines and tenants; sets base rates for the different cargo handling types and sets a framework for addressing cross-subsidisation within port *infrastructure, facilities and services pricing*.
- Port operational efficiency – implementation of WEGO program to (dis)incentivise the NPA as port landlord and regulator of terminal operators through up to 7.5% loss/gain on profits for up to 10% loss/gain in operational efficiencies
- National Ports Authority's CAPEX program – Regulator allows NPA all applied for CAPEX and have had to claw-back (reduce tariff in the following year in lieu of non-utilised approved CAPEX) on average R3bn per annum due to Ports Authority's inability to spend. Closely monitoring changes implemented by the Ports Authority and the impact thereon on ability to spend on CAPEX.
- Appeals and complaints – Tribunal backlog had to be address with appointment of members in June 2020 with budget adjustments for members to address the backlog.
- Stakeholder engagements and industry development – effective use of PCC to keep abreast with port user's concerns; to socialise regulatory frameworks and outputs (research reports)

# Internal organisational environment

- Regulator **members were appointed** in June 2020
- Regulator managed the process for **appointing CEO** as the incumbent contract was expiring at end October 2020. Process was finalised and appointment was made effective 01 January 2021.
- Measure were put in place for members, staff and the organisation **to operate optimally under COVID-19**: a Business Continuity Plan was adopted and used to manage during the various COVID-19 alert levels. Two staff members directly affected and recovered during the 2020/21 FY.
- There were **no material governance issues** raised during the FY with Audit and Risk Committee providing close oversight on the organisation and its use of resources.
- The Regulator's funding is still confined to mainly transfers from the fiscus. Annual baseline allocation for the entity for 2020/21 FY was R38,8m. The DOT is still to process the **proposed amendments to section 42 of the National Ports Act** to enable the Regulator to raise a charge directly on regulated entity to augment its funding.
- Monitoring compliance of the National Ports Authority with the National Ports Act – negotiated compliance by the Ports Authority with the PRSA lacking **powers to enforce** its non-tariff decisions and compliance findings. Proposed amendments to the National Ports Act have been made to the DOT to address this legislative gap.
- **Transitional arrangements/absorption** into the Single Transport Economic Regulator

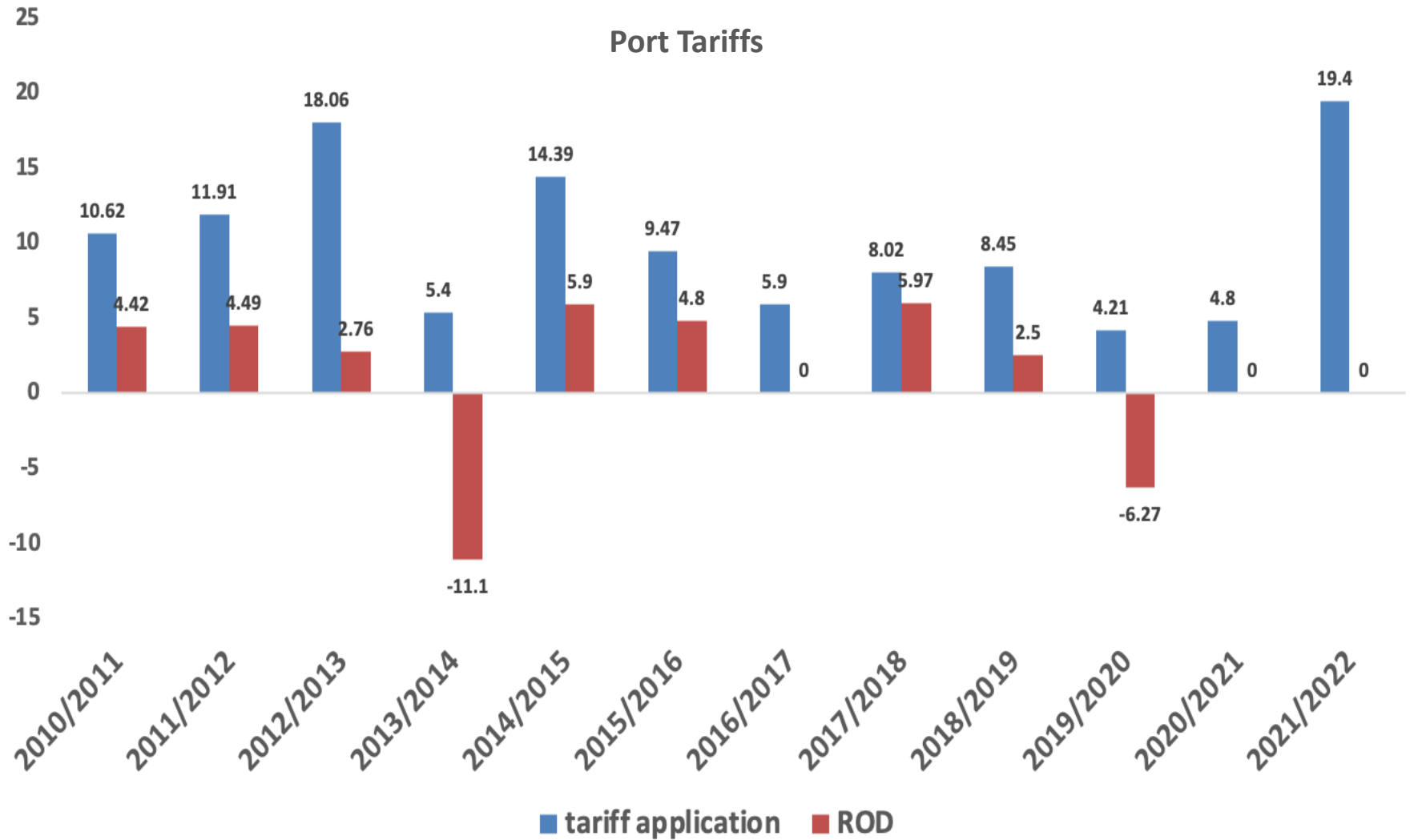
# Challenges faced in executing the mandate FY 2020/21

- **Appointment and filling of vacancies at Board level** – two vacancies, including Chairperson
- **Budgetary constraints** to expand mandate as per Ports Act and form the nucleus of STER as required in the Transport Economic Regulation Bill.
- Minimal involvement and input into **Transitional arrangements** for the STER affecting ability to maintain organisational certainty (staff) and plan appropriately for the medium term.
- Need to strengthen the Regulator through enabling a new self-funding model that reduces reliance on the fiscus. This is in line with the Transport Economic Regulation Bill, and this transition will allow the PRSA to be capacitated ahead of the establishment of the STER.
- **Approval of revised organogram** submitted to the Minister of Transport is vital in for the Regulator to implement its full mandate in line with the National Ports Act of 2005 and in preparation for the STER.
- **Capacity** – 22 of 27 organogram posts filled – too small for the magnitude of the task, as compared to other SA Regulators. PRSA board in 2018 recommended an establishment of 60 people for approval by the Minister of Transport.

# Ports Regulator 2020/21 Highlights

- **Tariff trajectory**
  - Savings of R8,9bn between tariff applied for and granted between 2010/11 and 2020/21
  - 2020/21 Tariff decision: 0% tariff overall tariff increase to buffer the effects of COVID-19 on businesses operating within ports without compromising NPAs financial sustainability by using savings from ETIMC
- **Incentives: respond further to, ease some of the pressures brought on by COVID-19 and increase competitiveness in related port segments & address tariff imbalances**
  - 30% reduction in **license fees** payable over duration of licence (stevedoring, bunkering, vessel registration agents, diving and waste disposal services).
  - 60% reduction of cargo dues for **bunkering vessels** to support port calls by passing vessels
  - Up to 30% reduction in cargo dues for **SA Flagged vessels** – support for the DOT’s CMTP policy ambitions to grow the register and also provide training opportunities for SA seafarers
  - 10% and 3% reduction of cargo dues for **export and import containers** respectively.
  - 10% **increase in cargo dues** for coal and magnetite to redress low tariffs for dry bulk.
- **Port efficiency:** R64m reduction of NPAs profits as a penalty for deterioration in port terminal performance in 2020/21 compared to previous best performance since establishment of WEGO in 2016.
- Approval of full **CAPEX program** applied for to ensure continue support for Operation Phakisa projects and overall infrastructure development which must support the needed economic recovery and growth.
- Members restarted the **tribunal processes**, operating on virtual platform; 6 matter were addressed with 1 ROD issued and other matters were postponed or settled between the parties.
- Achieved 97,14% of set targets and obtain clean audit

## Port Tariffs



Pragmatic approach to regulation resulted in the PRSA able to effectively deal with the impact of Pandemic on volumes, Cyber Attack and KZN unrests

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The Regulator has, in the past, considered it prudent to avoid excessive future tariff changes by retaining and increasing the NPA's ETIMC, in order to allow the smoothing of unaffordable tariff spikes over multiple periods in the future or to apply a countercyclical tariff decision in time of depressed economic activity.

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When the Covid pandemic started the ETIMC was R2.8 bn

Regulator used R1.2 bn for the current year to bring tariffs from 19.74% to 0%

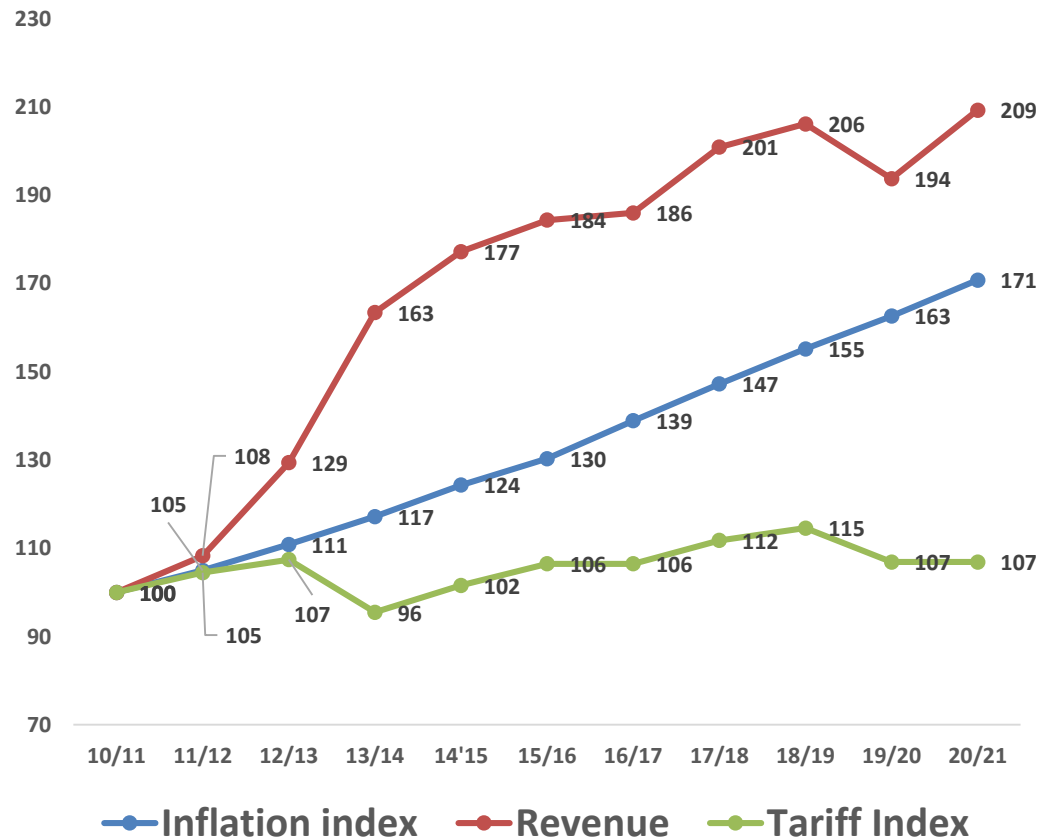
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This year the tariff adjustment as requested by the Authority for FY 2022/23 is 23.96%.

ETIMC available currently sits at about R1.75bn

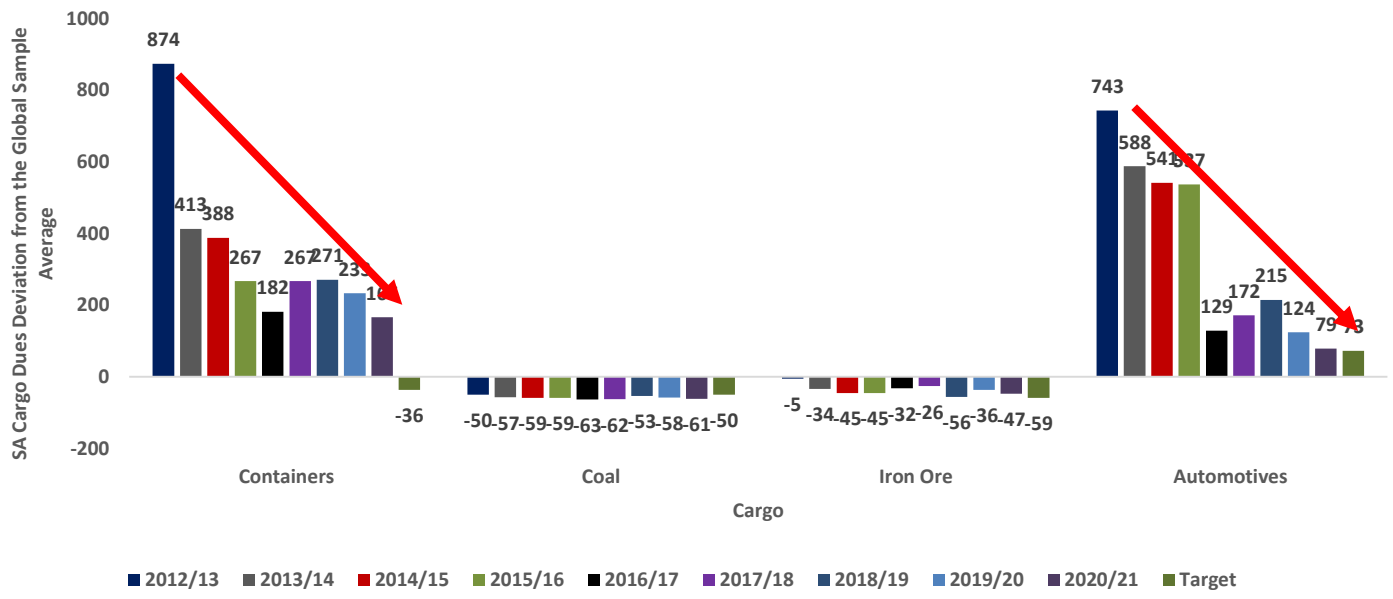
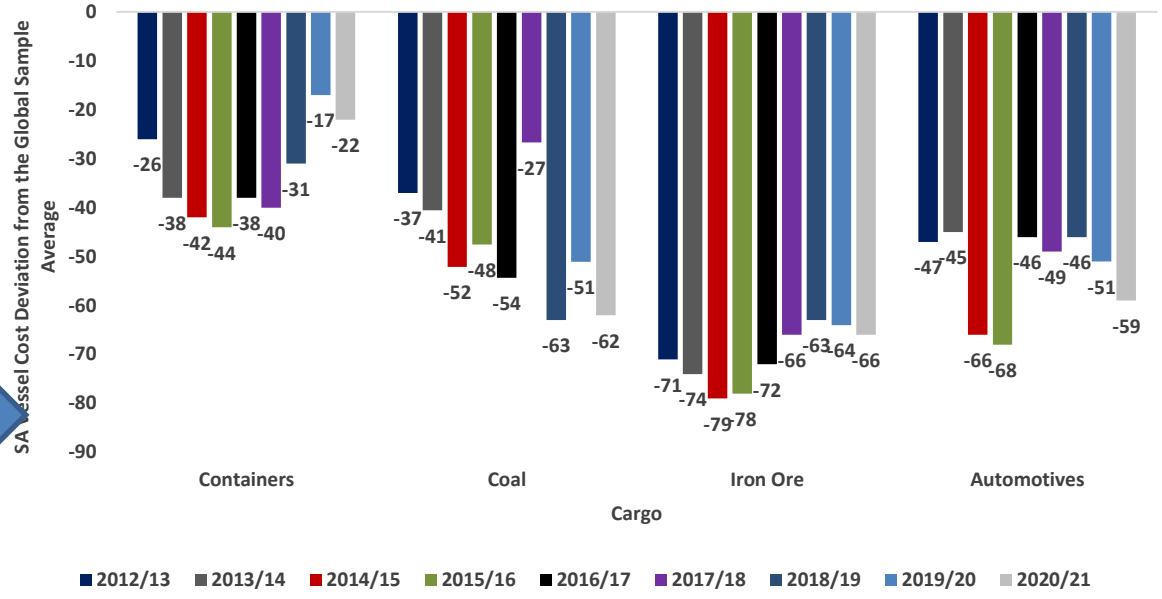
Enough to bring tariffs to inflation related levels.

The approach of the PRSA to competition, regulation and price setting resulted in lower real tariffs and a sustainable Ports Authority



Trends with SA port pricing relative to global sample – implications on/impact of regulatory intervention?

SA Vessel costs vs. global sample. SA below global sample

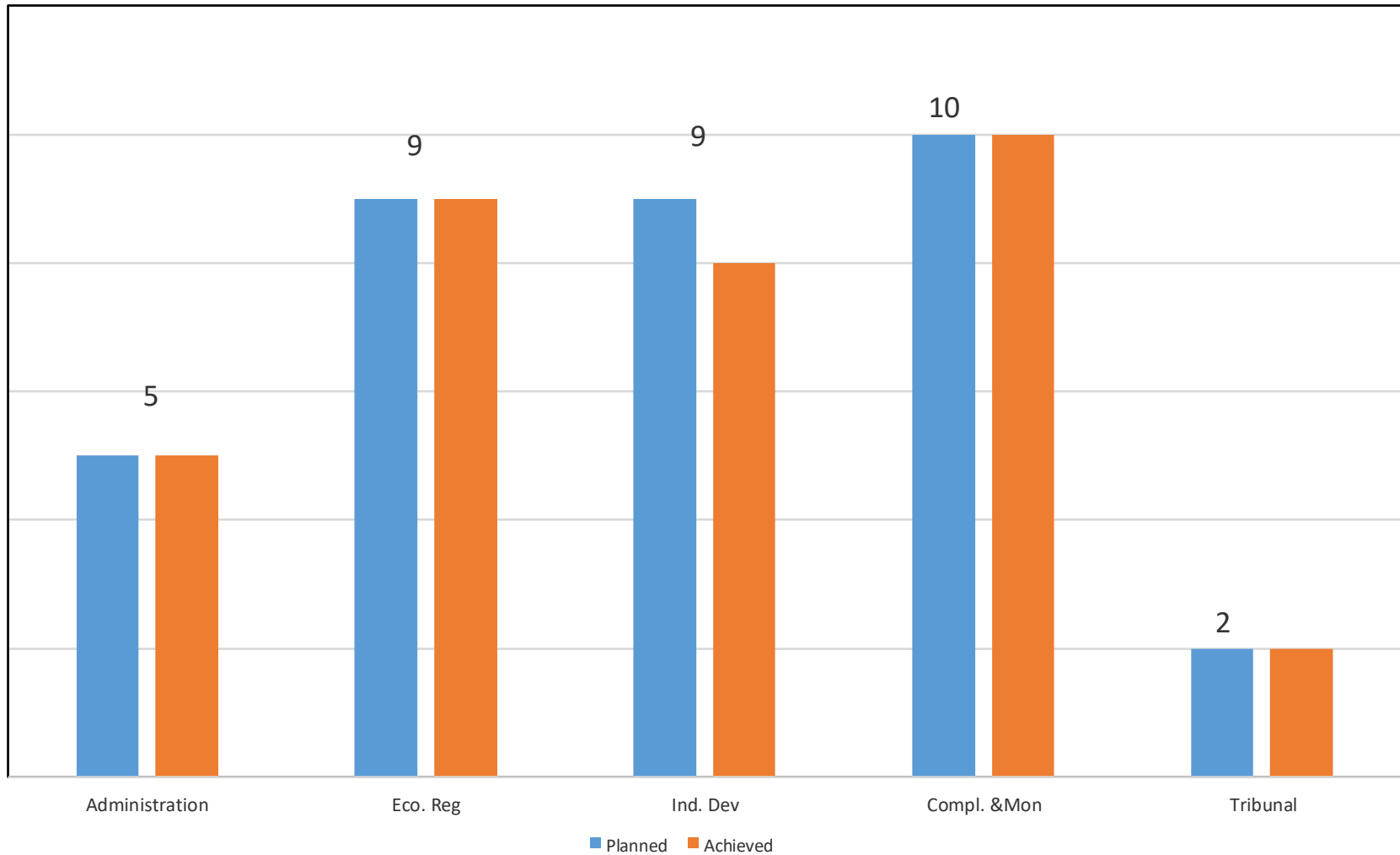


SA port pricing trends: cargo dues



# **3. PRSA PERFORMANCE PER PROGRAM 2020/21**

# Performance Summary per programme



# Organisation Performance Summary

PERFORMANCE CATEGORY	COLOUR KEY	NUMBER OF ITEMS	PERCENTAGE
Not Achieved		1	2.86%
Partially Achieved		0	0.00%
Achieved		34	97.14%
Not Applicable in Quarter	No Colour	0	0.00%
<b>Totals</b>		35	

# Achievements and challenges: Programme 1- Administration

## Achievements

- 100% of performance targets met
- 4 out of 5 senior management posts filled
- Appointment of CEO
- **B-BBEE target of 75% discretionary expenditure** from suppliers with a B-BBEE rating of 2 for 2020/2021 met
- **Women participation:** 12 women out of 18 total employees (67% women) (2020/21)
- **Bursaries, scholarships and Internships**  
Two (2) staff members (women) were accepted during the year into the (IELDP) into the Workplace skills plan with TETA

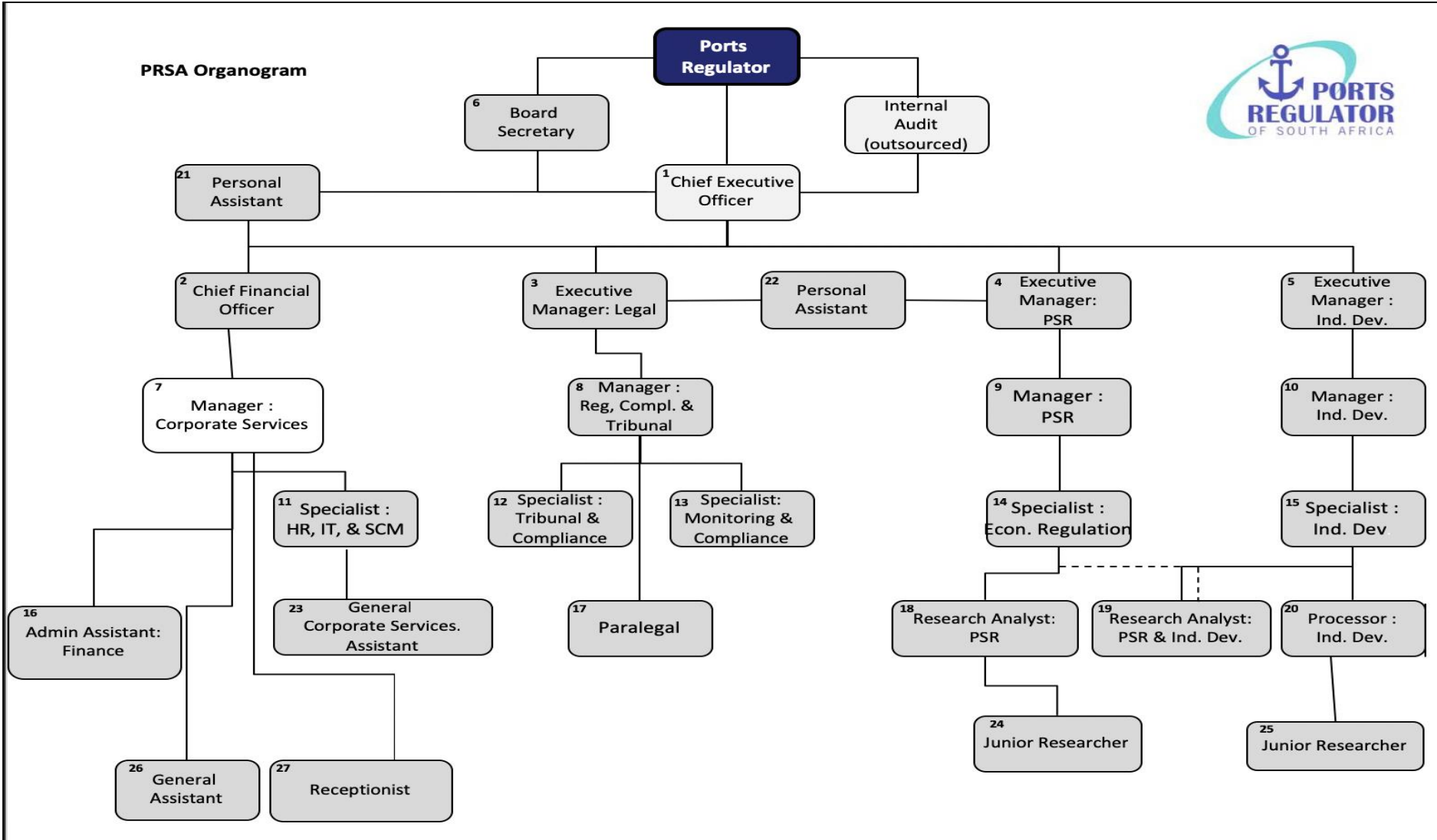
## Challenges

- Outstanding **approval of expanded organogram (grow from complement of 27 to 60)** to capacitate the organisation to extend current activities within its mandate and for role in the Economic Transport Regulator
- **Programmes directly aimed at youth, women, enterprise and supplier development** (incl. due to the nature of its work and funding constraints).
- Vacancies in Regulator members may affect effective governance of the organisation.

# Ports Regulator Organogram



PRSA Organogram



# Achievements and challenges: Programme 2

## Achievements:

- **Timely and well received Tariff Record of Decision** i.e. an overall **0% adjustment** to NPAs tariffs **differentiated with a 10% reduction of cargo dues** for export containers
  - Continued support for SA flagged vessels
  - 35% discount for bunkering
  - 30% decrease in license fees and easier payment terms
- **Targeted port efficiency incentive** through the Weighted Efficiency Gains from Operations – Reduction of National Ports Authority's profits by R64m due to declined terminal operator results compared to previous best performance (Estimated reduction in NPA profits of R151 million for year ended 31 March 2021).
- **Research output:**
  - 9<sup>th</sup> iteration of the Global Port Tariff Comparison Study
  - Ports Sector Review
  - Research focused on expanding internal capacity, preparing for STER and adding to public body of knowledge

## Challenges and operating environment:

- **Small staff complement** relative to required focus areas: lease/rentals program;
- Tariff setting and regulatory processes in the context of **corporatisation of the NPA**
- **Dealing with the impact of Covid-19 on Tariff revenue**

# Achievements and challenges: Programme 3

## Achievements:

- **High levels of engagement, participation and support** by stakeholders.
  - **4 Quarterly reports on stakeholder engagements.**
  - **Measure perceptions** of port user, stakeholder, interested and affected parties on regulatory process and outputs.
- **Research, monitor & reports**
  - NPA's **port operational performance measured**: Analysis of TOPS port performance and target setting for past 3 years completed, published and socialised at PCC KPI sub-committee meetings.
  - **WEGO Record of Decision**: Port user and NPAs inputs on WEGO 2019/20 KPIs and weights.
  - **Support to DOT**: Research on coastal shipping regimes towards a coastal shipping strategy with benchmarking of regional coastal shipping strategies.
- Quarterly monitoring of NPAs **expenditure on capital programme** (CAPEX)
- **B-BBEE & transformation** in SA ports
- **Public Regulatory Review**: evaluating stakeholder's perception about the quality of the Regulator's work and decisions.
- **Framework for Knowledge Management System**: developed and approved.

## Challenges:

- **Small staff complement** relative to required focus areas: review of NPAs readiness to implement with capex program applied for;
- Affect the setting of operational performance targets relative to port capacities/norms
- Lack of effective framework to drive transformation in the port system with outdated regulations.

## 2020 Stakeholder ratings of the PRSA: neutrality or independence; responsiveness, and on quality of decisions.

<b>NEUTRALITY OR INDEPENDENCE</b>	<b>TARIFF</b>	<b>TRIBUNAL</b>
The Regulator's conduct or decision appeared neutral	73, 17%	63, 41%
The Regulator's conduct and decisions appeared slightly biased	13, 82%	13,82%
The Regulator's conduct and decisions appeared biased	7, 32%	4,88%
N/A	5,69%	17, 89%

<b>RESPONSIVENESS OF THE PRSA</b>	<b>TARIFF</b>	<b>TRIBUNAL</b>
Responded within a reasonable time period	51, 22%	43,90%
Responded within legislated timeframes	43, 09%	39,84%
Did not respond within a reasonable time period	4, 07%	11, 38%
Did not respond at all	1, 63%	4, 88%

<b>QUALITY OF DECISIONS</b>	<b>TARIFF</b>	<b>TRIBUNAL</b>
The decision was of a high quality	41,46%	27,64%
The decision was of a satisfactory quality	44,72%	43,90%
The decision was poorly taken	5,69%	6,5%
N/A	8,13%	21,95%



# Achievements and challenges: Programme 4

## Achievement(s)

- Research project on implementation of s67(1)(c) re: re-negotiation of long term lease agreements to ensure leases include transformation requirement. Findings: mapped out the extent of the sec 67 agreements and lack of intervention by NPA to addressed.

## Challenges

- **Lack of empowerment/enforcement** provisions in the National Ports Act (lack of punitive powers for both Hearing Panels (Tribunals) and Compliance Function);
- **Outdated 2007 National Ports Regulations** hampers real interventions to drive transformation and empowerment in port operations;
- **Insufficient capacity** to execute full compliance mandate and conduct investigations, as per the National Ports Act, Act 12 of 2005;
- **Lack of cooperation** by the National Ports Authority in timeously extracting compliance related documentation

# Key Achievements and challenges: Programme 5

## Achievement(s)

- Finalisation of six (6) Tribunal matters, through settlement between the parties and issuance of RoDs
- Filling of three (3) vacant positions

## Challenges

- Delays in complaint investigations and finalisation of matters due to limited human resources and limited engagements with appellants/complainants

# **4. FINANCIAL PERFORMANCE AND AUDIT OUTCOMES AS AT 31 MARCH 2021**

# Statement of Financial Performance as at 31 March 2021

	2021	2020
	R'000	R'000
<b>REVENUE</b>		
<i>Revenue from non-exchange transactions</i>	<b>38 822</b>	<b>36 774</b>
Government grants and subsidies	38 822	36 774
<i>Revenue from exchange transactions</i>	<b>10</b>	<b>277</b>
Sale of goods and rendering of services	10	-
Other income	-	277
<b>TOTAL REVENUE</b>	<b>38 832</b>	<b>37 051</b>
<b>EXPENDITURE</b>		
Administration expenses	993	1 607
Amortisation and depreciation	382	534
Staff costs	18 212	17 548
Audit fees	440	370
Legal fees	4 435	248
Operating Lease	1 812	1 631
Other operating expenses	3 504	4 538
Regulator members' remuneration	2 336	158
<b>TOTAL EXPENDITURE</b>	<b>33 114</b>	<b>26 634</b>
Finance income	1 098	1 399
<b>OTHER GAINS/ (LOSSES)</b>		
Gain / (loss) on disposal of assets	(13)	-
<b>SURPLUS/ (DEFICIT) FOR THE PERIOD</b>	<b>6 803</b>	<b>11 816</b>

# MTEF Budget (2021/22 -2024/25)

Programme	2021/22	2022/23	2023/24	2024/25
Administration	14 772	15 691	16 704	17 769
Economic Regulation	6 359	6 789	7 197	7 574
Legal Services	10 983	11 940	9 735	8 679
Industry Development	7 272	6 929	7 160	7 309
Governance	2 690	2 936	3 118	2 809
<b>Total</b>	<b>42 076</b>	<b>44 285</b>	<b>43 914</b>	<b>44 140</b>

Economic Classification	2021/22	2022/03	2023/24	2024/25
Compensation of Employees	26 630	27 818	29 302	30 779
Goods and services	15 014	16 049	14 213	12 907
Depreciation	432	418	399	454
<b>Total</b>	<b>42 076</b>	<b>44 285</b>	<b>43 914</b>	<b>44 140</b>

# AUDIT OUTCOMES

# Audit Opinion 6 Year Period



## 2020/2021 Audit Outcomes

- The 2020/21 audit was conducted between May 2021 and July 2021 which was back to the normal timelines as previously in 2019/20 it was performed 2 months later as a result of COVID-19.
- The Ports Regulator obtained a clean audit opinion from Auditor General for 2020/21 FY which meant that there were no material findings on compliance, annual financial statements and performance information..
- The secretariat prepares and submits on a quarterly basis an audit outcomes action plan which is submitted to Department of Transport as well as being monitored by internal auditors and Audit & Risk Committee. This action plan is to monitor findings from both AGSA and internal auditors.
- The non-material findings from Auditor General are part of the audit outcomes action plan to monitor and ensure that the recommendations from Auditor General are being implemented accordingly and to ensure that such findings do not materialise in future.
- The audit outcomes action plan will be used to monitor progress on the implementation of the recommendations from AG to ensure that the findings do not repeat in future.



# Consequence Management

- The irregular expenditure framework required the Accounting officer/Accounting Authority to take disciplinary actions against employees who have caused irregular expenditure in previous years.
- A determination test was performed for the irregular expenditure incurred in previous years (2018/19 and 2019/20) and it was determined that there was no corruption or fraud that took place on the transactions that led to irregular expenditure, also it was confirmed that the entity did receive value for money and did not suffer any losses as a result of the said transactions.
- The determination test indicated the employee who should be held accountable for the entity incurring irregular expenditure.
- Disciplinary action against such identified employee was taken by the Accounting Officer.
- The secretariat submitted an application to National Treasury for Condonation of irregular expenditure. National Treasury approved the Condonation in January 2021.

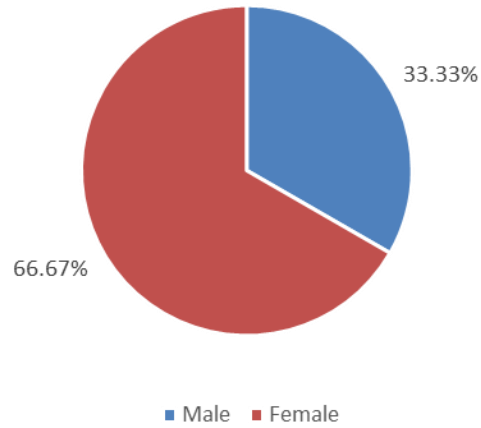
# 5. CORPORATE SERVICES

## BBBEE, Woman and Youth Empowerment

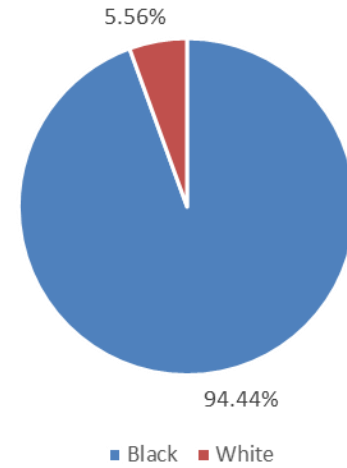
- The Ports Regulator met its BBBEE target of 75% discretionary expenditure to be from suppliers with a BEE rating of 2 for 2020/2021.
- PRSA has a total of 12 women out of 18 total employees (66.67% women) (2020/21)
- The Ports Regulator has not yet developed large programmes that are directly aimed at youth, supplier and women empowerment due to the nature of the organisation and funding constraints.
- It must be noted as well that the tariff determinations that are made are aimed at making the port tariffs as competitive as possible and increase accessibility to new entrants to the industry as one of the entity values, this is done through the equity of access mandate.
- It must be noted that in terms of BBBEE targets, women and youth empowerment are taken into account when evaluating bids and quotes for procurement of goods and services.

# Employment Equity

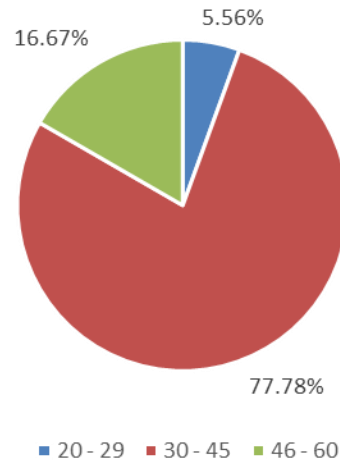
### Gender Diversity



### Race Diversity



### Age Diversity



## B-BBEE Expenditure

B-BBEE as a percentage of Procurement category	2020/2021	2019/2020	2018/2019
Discretionary Expenditure	91.03%	89.87%	83.66%
Total Expenditure	36.79%	33.52%	51.00%

## Bursaries, Scholarships and internships

- The Ports Regulator did not award any scholarships and/or bursary for the 2020/2021 financial year due to funding constraints.
- However financial assistance was provided to employees to further their studies.
- Training and development for the year took place as per the Workplace Skills Plan as submitted to TETA, all the training was funded by the Ports Regulator to upskill the workforce.

# COVID-19 Impact on PRSA

- **COVID-19 on organisation's finances:**

- There were no COVID-19 effects on the financial position/performance of the Regulator and the procurement of PPE took place during the 2020/21 FY to ensure that the employees are provided with safety resources to minimise the risk.
- The COVID-19 resulted in the entity having under expenditure of the allocated budget as the budget for other activities could not be spent due to lockdown restrictions, this required adapting to virtual platforms. This applies to mostly stakeholder engagements such as tariff roadshows, PCC & NPCC meetings, Regulator oversight meetings, Tribunal hearings etc.

- **COVID-19 Risk management:**

- Covid-19 Business Continuity Plan was developed, approved, implemented and monitored and reviewed as and when necessary to ensure relevance to operating environment.
- Migration to virtual platform allowed Regulator to exercise oversight meetings on quarterly meetings for 2020/21. The virtual platform was also utilised for other engagements including tariff assessment roadshows, 2019/20 AGM, Tribunal hearings as well as other stakeholder engagements.
- Office disinfected and cleaned, visitors register used to track people visiting the office, risk assessment performed and submitted to COVID-19 Committee before employees get back to the office.

# COVID-19 Impact on PRSA

- **COVID-19 Effects on processes:**

- Recruitment processes were significantly affected but management ensured that most of the funded vacant positions were filled within the financial year and current financial year.
- Procurement processes were slightly delayed in particular for BEC and BAC meetings to consider received bids, however management ensured that the delays are as minimal as possible since such meetings are not ideal on virtual platform.
- There were no delays on the Regularity Audit by the AG as the audit was started in May 2021 and was concluded on 30 July 2021 when the audit report was issued.



**Ke ya leboga**

**Ke a leboha**

**Ke a leboga**

**Ngiyabonga**

**Ndiyabulela**

**Ngiyathokoza**

**Ngiyabonga**

**Inkomu**

**Ndi khou livhuha**

**Thank you**

**Dankie**

Go to <http://www.portsregulator.org> for documents including Records of Decision, Regulatory Manual, consultation submission and reports and other useful documents