



REFORMING PORTS FOR RIVALRY IN SOUTH AFRICA

Reforming ports for rivalry in South Africa

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ABSTRACT

The National Ports Authority (NPA) has concessioned a number of monopoly port terminals in joint ventures, often involving another Transnet entity, for 25-year lease periods. At least three of the NPA's decisions have been contested in courts by rival bidders. In circumstances where international experience shows that ports at the scale of South Africa's can host a number of terminal operators, the NPA risks harming the interests of consumers. This is because monopolies typically charge higher prices, provide lower-quality services, and innovate less. An important short-term intervention is for the Minister of Transport, the Private Sector Participation (PSP) Unit, or the newly established Transport Economic Regulator, which incorporates the Ports Regulator, to review any such monopoly concession arrangements and ensure the NPA promotes intraport rivalry at South African ports. In the absence of this, the Minister or PSP Unit might consider requesting the Minister of Trade, Industry, and Competition, or the Competition Commission, to initiate a market enquiry in terms of the Competition Act, which can result in the structural separation of terminal operators at individual ports. In the longer term, it may be possible to separate ports to deliver interport competition in South Africa, as was the case prior to 1910, when rival ports competed fiercely for cargo.

Key words: ports, monopoly, privatization, regulation, structural separation, markets, competition

JEL classification: L12, L43, L91

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1 INTRODUCTION

The port sector in South Africa is currently undergoing significant reforms, with port concessions and joint ventures taking place at a number of ports. The Department of Transport recently announced a dedicated Private Sector Participation (PSP) Unit to enhance state capacity and provide support to Transnet and the Passenger Rail Association of South Africa in the procurement of potential PSP projects (Government of South Africa 2025). This followed the South African government cabinet approval of a PSP framework in 2023, envisioned in the White Paper on national rail policy to guide private sector involvement across the logistics sector value chain.

This reform process is being undertaken at least partly in response to highly inefficient outcomes at ports in South Africa. For instance, the Cape Town container terminal was ranked least efficient in the world out of 405 ports ranked in 2024 (World Bank 2024). Durban was ranked 398, and Port Elizabeth was ranked 391. Reforming ports is important from an economic development perspective, since reducing transport costs from being in the 75th percentile to the 25th percentile of countries ranked by efficiency increases bilateral trade by 25% (Clark et al. 2004). Clark et al. (2004) find that improving port efficiencies from the 75th to the 25th percentile reduces transport costs by 12%.

However, there is a question as to whether the reform process being carried out in South Africa will result in outcomes that are in the best long-term interests of port customers and ultimately consumers in South Africa, since the ports are largely being concessioned to only one joint venture partner by the Transnet Ports Authority (TNPA) in each case, often to joint ventures involving another Transnet entity rather than to competing firms at each port. This approach by Transnet is linked to the fact that a critical feature of the Ports Act 2005, namely the separation of the National Ports Authority (NPA) from Transnet, has not yet occurred. Transnet's approach in this regard follows a long history in South Africa of private sector involvement in monopoly state-owned enterprises, leading to decades of abuse-of-dominance disputes before the competition authorities and in the courts (Robb 2014).

There are several questions that arise where port reform is concerned. For instance, is there room for several container, bulk cargo, break-bulk, or liquid cargo terminal operators? Will such rivalry sufficiently mitigate Transnet's current market power? Is the NPA sufficiently independent of Transnet, both currently and in the future post-corporatization, to facilitate the expansion of rivalry among terminal operators? Should there be individual port authorities at each port to foster interport rivalry? What role might yardstick competition play (including by means of efficiency benchmarking)? Is a regulatory framework needed for PSP arrangements? What role should the Transport Economic Regulator (TER) play?

The rest of this paper is structured as follows. Section 2 describes the background to the ports sector in general. Section 3 considers possibilities for rivalry within port terminal operations. Section 4 provides conclusions.

2 BACKGROUND

2.1 Ports in South Africa

South Africa has eight commercial ports that handle a variety of dry bulk, break-bulk, liquid bulk, roll-on roll-off (vehicles), and containerized cargo (Figure 1). The ports are managed by TNPA, which is currently one of six operating divisions of Transnet but has a separate board of directors, appointed to propose means by which TNPA can be corporatized in a separate legal entity owned by Transnet. Most terminal operations are managed by Transnet Port Terminals (TPT), a separate operating division downstream from TNPA.

Ports in South Africa are to some extent specialized. For instance, Mossel Bay, Richard's Bay, and Saldanha Bay largely handle bulk cargo, and Ngqura focuses on containers and break-bulk cargo (Figure 1). The ports of Durban and Cape Town handle the majority of liquid bulk cargo. Durban, East London, and Port Elizabeth handle vehicles.

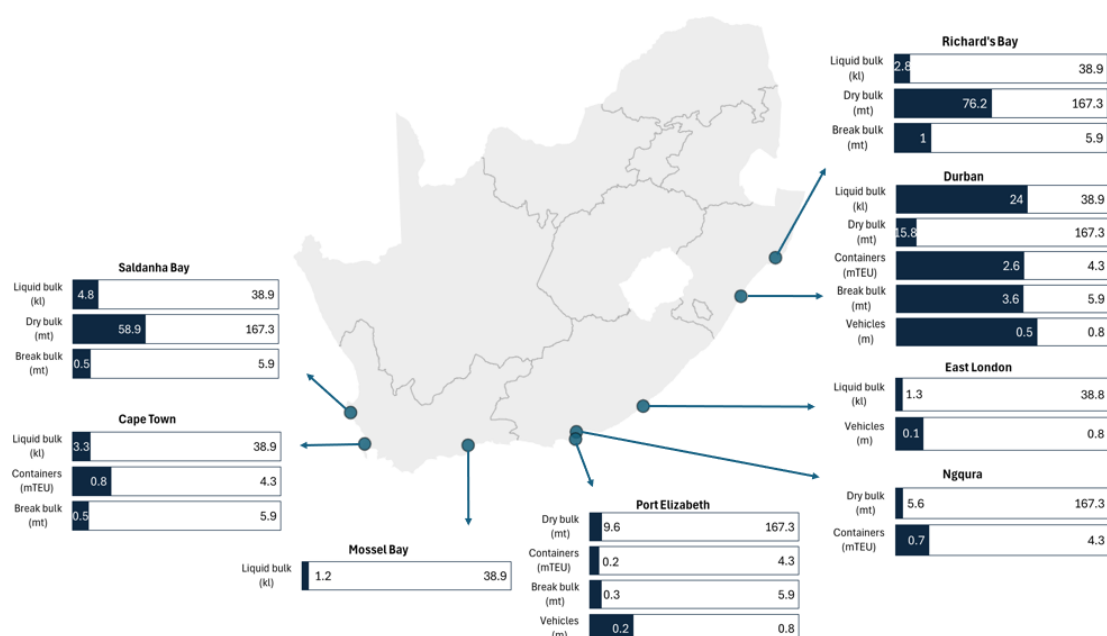


Figure 1: Ports in South Africa: share of total volumes handled by cargo type for each port, 2023–24

Source: authors' illustration based on data from Transnet (2025).

There is considerable available capacity at ports in South Africa overall, which suggests there is scope for rivalry at least in principle (Table 1). For example, while South African ports can handle almost 415 million tonnes of liquid bulk (design capacity), installed capacity is less than 40 million tonnes, and actual utilized capacity is only 23.5 million tonnes. This suggests there is significant physical port capacity available for rivalry in respect of liquid bulk at least. This is discussed in more detail in later sections of this paper.

Table 1: Theoretical capacity, installed capacity, volumes, latent capacity

Cargo type	Terminal area (sqm)	Berths	Theoretical/ design capacity (m)	Installed capacity (m)	Volumes handled (m) 2023–24
Automotive	681,022	6	2.10	0.80	0.77
Container	2,031,605	21	7.15	5.47	5.93
Dry bulk	1,755,002	36	198.10	195.08	164.58
Break-bulk	2,240,103	31	15.42	15.00	4.26
Liquid bulk	2,821,537	17	414.60	39.02	38.44

Note: Transnet 2023–24 volumes applied, except that dry bulk uses Ports Regulator (2024b) estimates for 2021–22 rather than TNPA, since dry bulk at Richard’s Bay is not available in disaggregated form from TNPA.

Source: authors’ compilation based on data from Ports Regulator (2024b) and Transnet (2025).

Note that theoretical or design capacity refers to the maximum throughput that could be achieved assuming acceptable levels of congestion, optimal operator efficiencies, and *optimal* equipment selection. Installed capacity refers to the maximum throughput that could be achieved assuming acceptable levels of congestion, optimal operator efficiencies, and *current* equipment selection. The difference between the theoretical capacity and the installed capacity is the latent capacity, excess, or spare capacity.

TPT as the state-owned port operator has 24% of operator licences but occupies 63% of South Africa’s terminal area (Department of Transport 2023). While there is a significant degree of PSP in the handling of dry and liquid bulk cargo, TPT has monopolies or near-monopolies in the handling of vehicles, containers, and break-bulk cargo (Table 2).

Table 2: Market shares

Cargo-handling service	TPT	Private sector
Bulk	37%	63%
Break-bulk	78%	22%
Containers	97%	3%
Vehicles (ro-ro)	100%	

Source: authors’ compilation based on data from Ports Regulator (2010).

2.2 Integrated supply chains: South African ports, shipping lines, hinterlands, and rivalry

Rivalry can take place within the same port (intraport competition), between ports within a multiport gateway region (groups of ports in close proximity, competing for the same port calls), between ports within the same port range (ports sharing the same seashore and hinterland), and between port ranges (Notteboom et al. 2022). In order to understand rivalry, it is important to understand the seashores and hinterlands served by ports in South Africa and thus the integrated supply chains. There are several key economic hinterlands in South Africa served by ports: predominantly, sources of demand for goods in the large cities, and sources of supply of minerals. The OECD (2014) groups South Africa's ports into three port ranges:

- Western: Cape Town, Mossel Bay, Saldanha Bay.
- Central: Ngqura, Port Elizabeth; and
- Eastern: Durban, East London, Richard's Bay.

Bichou (2021) finds that ports in South Africa are insufficiently integrated with hinterlands, and that this is an important area for development in the coming years. The key hinterlands from a demand perspective are KwaZulu-Natal, Gauteng (which alone accounts for 33% of South Africa's gross domestic product, according to StatsSA (2024)), and beyond, including neighbouring Southern African Development Community countries, served largely by Durban. Maputo, the closest port to Gauteng, also serves this hinterland. Maputo was an important source of liquid fuels prior to the establishment of offshore oil discharge facilities in Durban (Ports Regulator 2010). Richard's Bay may also in future serve this hinterland to some extent as new terminals are developed, including a forthcoming container terminal. There may also be a role for Walvis Bay to play in this hinterland in future through the trans-Kalahari corridor (Ports Regulator 2010). For instance, a container terminal has recently been built at Walvis Bay (Ports Regulator 2023).

Cape Town and surrounding areas are served by the port of Cape Town, Mossel Bay, and to some extent Saldanha Bay, such as in respect of liquified petroleum gas (LPG) imports. There are also iron ore mines in the Northern Cape served by Saldanha Bay, and coal mines in Mpumalanga served by Richard's Bay. Vehicle manufacturing in the Eastern Cape is served by East London and Port Elizabeth, while the port of Durban serves vehicle manufacturers in Gauteng.

Shippers often own their own port facilities, in order to avoid the exertion of market power by port terminal providers (Notteboom et al. 2022) (Table 3). Shipping lines that own terminal operators therefore play an important role in integrated supply chains. There is a range of shipping lines serving South Africa, including Deutsche Afrika-Linien, Evergreen, Grindrod, K Line, Maersk, Maritime Carrier Shipping, Mediterranean Shipping Company, Mitsui OSK Lines, NileDutch, and Pacific International Lines (Ingpen 2015).

Table 3: Terminals owned by shipping lines

Shipping line	Terminal operations
CMA CGM	Terminal Link and CMA terminals (45 terminals)
COSCO	COSCO shipping ports (36 ports)
Evergreen	4 terminal operators (for transshipment)
Hapag-Lloyd	Terminals at 2 ports
Maersk	AP Moller terminals (numerous)
Mediterranean Shipping Company	Terminal Investments Ltd (40 container terminals)
ONE	Mitsui OSK Line has 13 terminals, NYK has 13 terminal operators, K Line operates 5 terminals

Source: authors' compilation based on data from De Langen (2021).

It is thus important to consider links between shipping companies and terminal operators when evaluating intra- and interport competition. This is especially important for regional and global markets for transshipment hubs, in which shipping lines have a variety of ports to choose from (Bichou 2021). Introducing greater interport rivalry in South Africa would put it in a better position to compete for such traffic. Transshipment traffic, for instance, played an important role at Durban port at least in 2012, when almost 0.5 million 20-foot equivalents (TEU) out of 4.7 million TEU were handled for transshipment purposes (OECD 2014). Only 36% of these volumes were transhipped to other ports in South Africa, whereas regional feeders to East and West Africa accounted for 14% and 35% respectively. Global relay accounted for a further 13% of transshipment activities (OECD 2014). There is an opportunity for transshipment volumes at the port of Ngqura in the future.

The connections between shipping lines, ports, and their hinterlands need to be considered together when one is considering the potential for rivalry. For instance, while it would be helpful to have greater competition between terminal operators at the port of Durban, if rival terminal operators do not have relationships with shipping lines, and if onward rail and pipeline connections to hinterlands are not supplied competitively, the full benefits of competitive terminal operators may not be realized. It is thus important to consider to what degree the hinterland is captive or contestable (Notteboom et al. 2022).

It is important to note that the proposal to prevent international lines from stopping at more than one South African port, in an effort to promote cabotage (Goddard 2025), runs entirely counter to the promotion of competition along integrated supply chains. There is the potential for all of the seven container shipping lines in Table 3 to have related terminal operations in South Africa. While they may be dispersed across the large container ports of Cape Town, Durban, and Gqeberha, they would be in a position to leverage their container terminal capacity at one port to obtain reasonable deals at other ports in South Africa.

2.3 Trends: total volumes handled by cargo type by port from 2013–14 to 2024–25

Cargo volumes at South African ports have been steadily declining over time (Figures 2–6). This

is consistent with the overall very low levels of efficiency at the ports, as explained below.

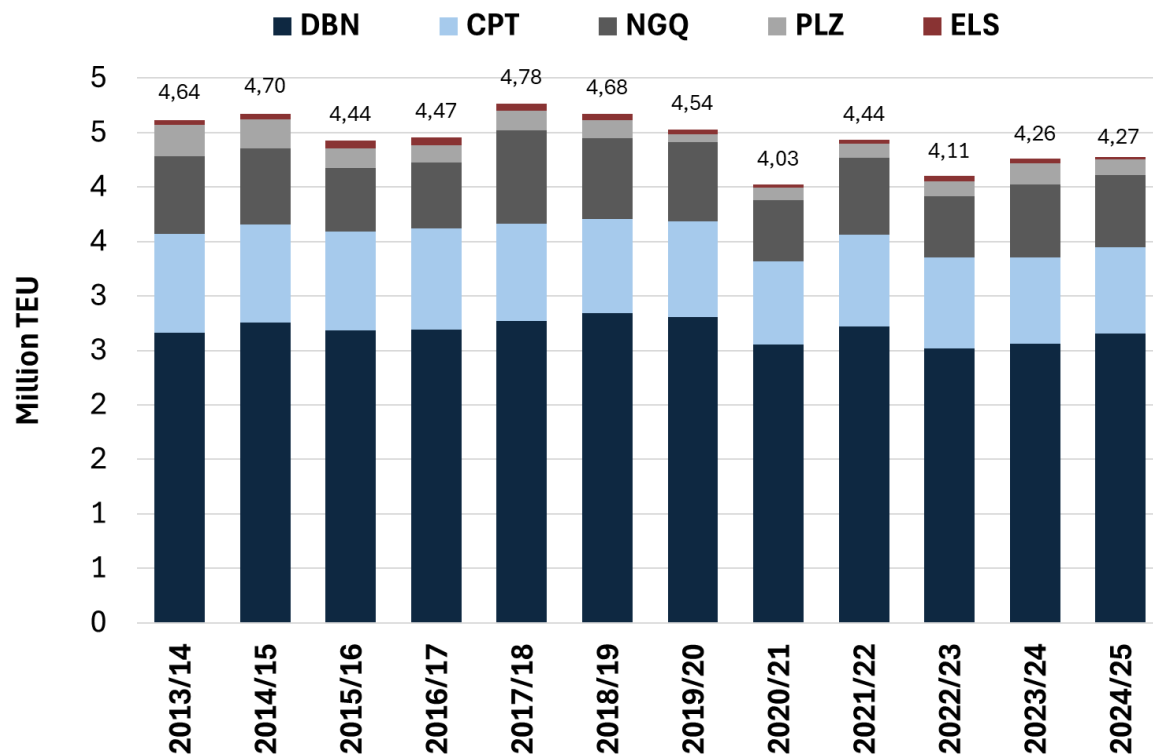


Figure 2: Total container volumes by port

Source: authors' illustration based on data from Transnet (2025).

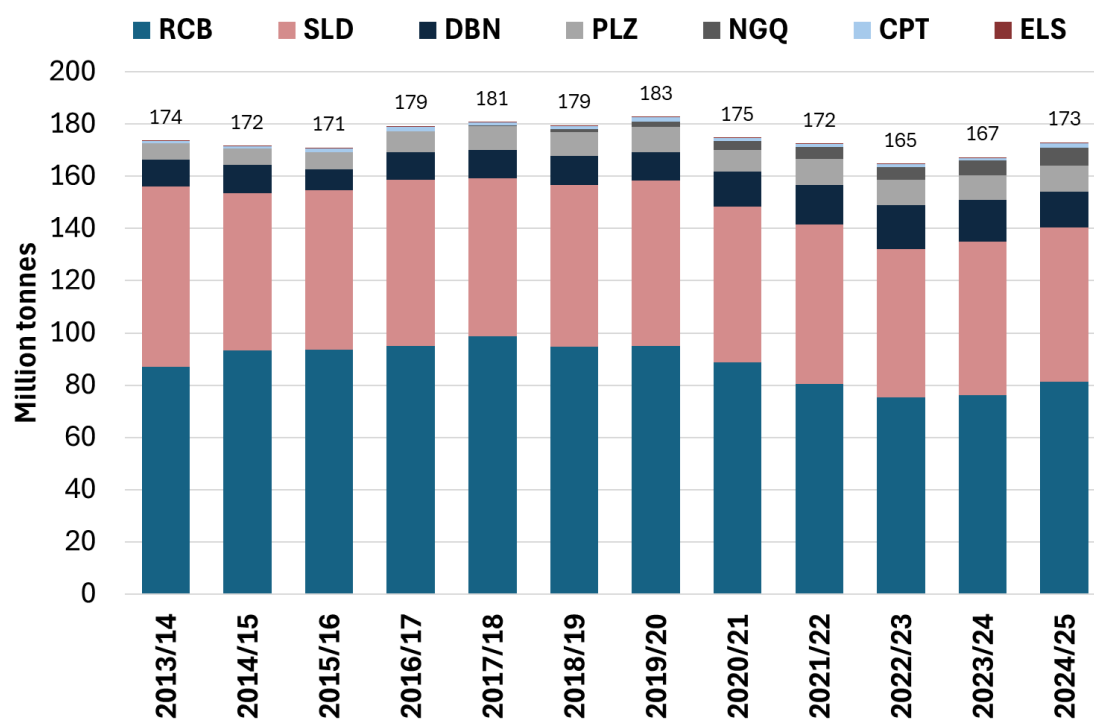


Figure 3: Total dry bulk volumes by port

Source: authors' illustration based on data from Transnet (2025).

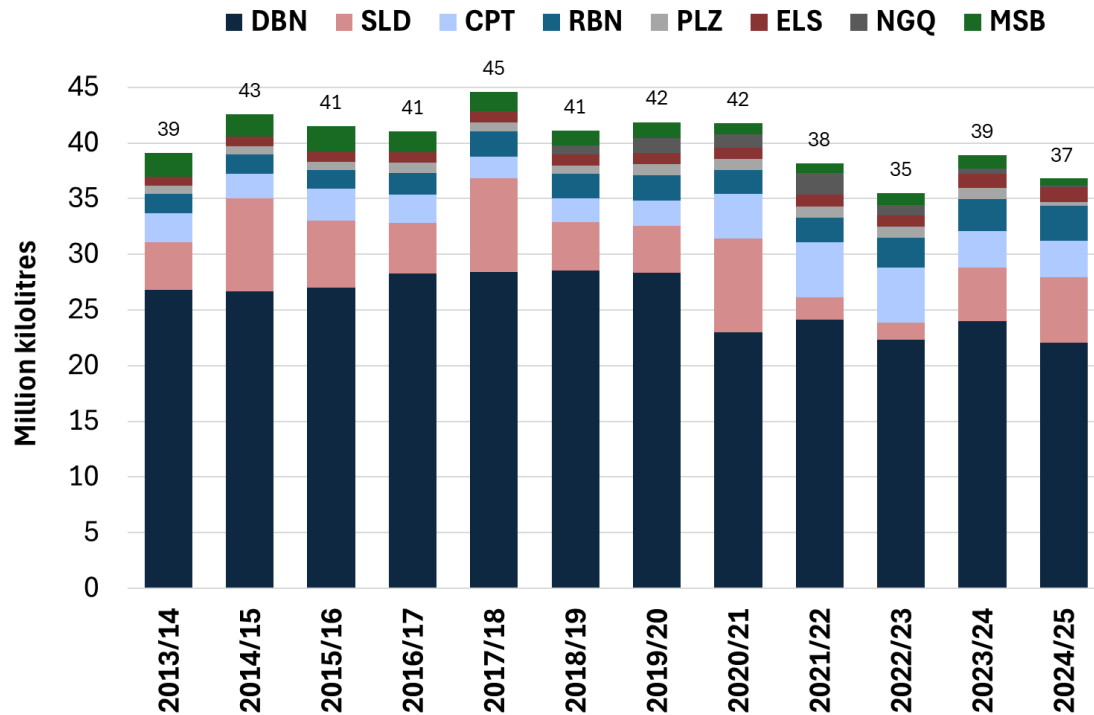


Figure 4: Total liquid bulk volumes by port

Source: authors' illustration based on data from Transnet (2025).

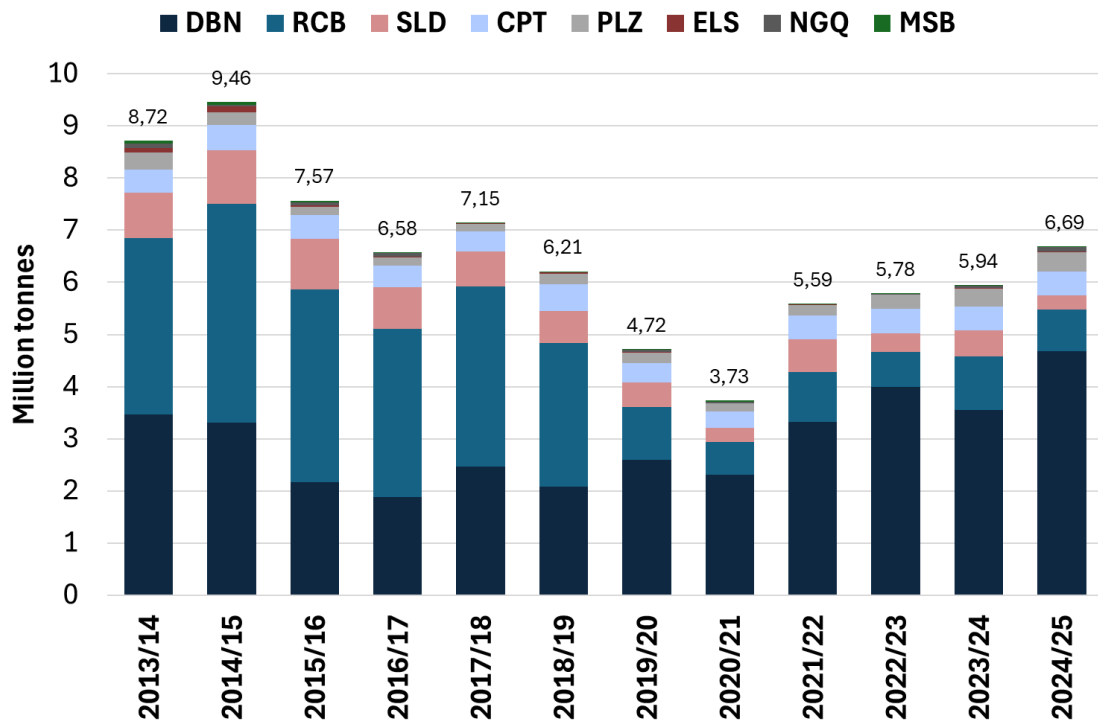


Figure 5: Total break-bulk volumes by port

Source: authors' illustration based on data from Transnet (2025).

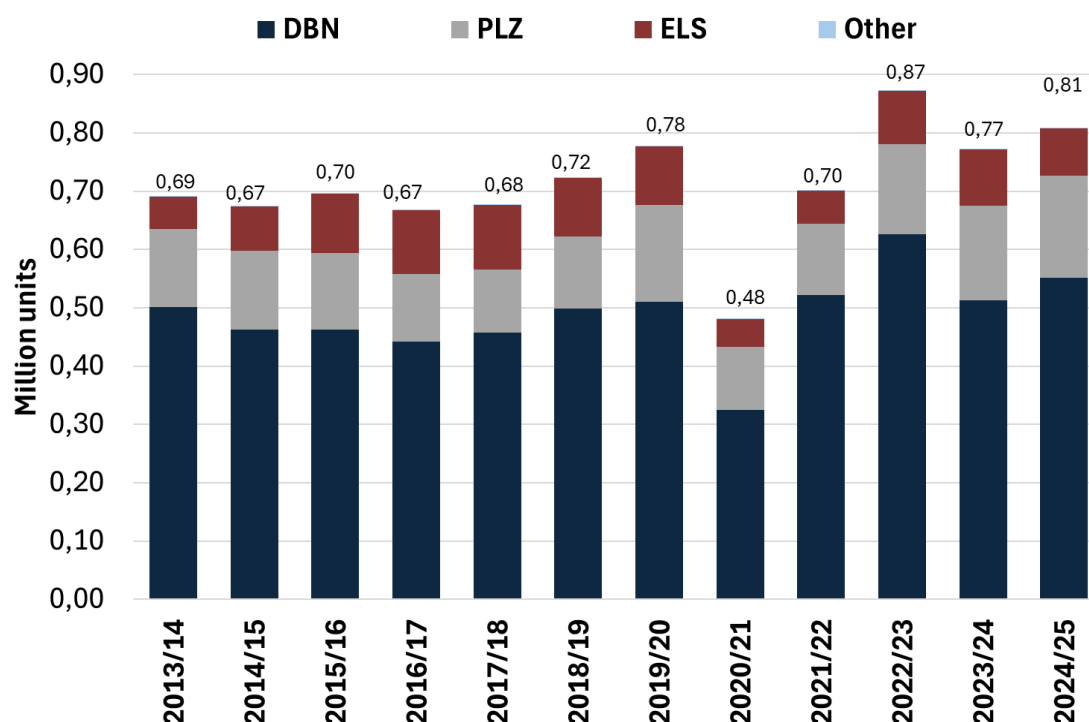


Figure 6: Total vehicles handled by port

Source: authors' illustration based on data from Transnet (2025).

2.4 Trends in prices

While volumes at South African ports have not increased significantly over time, base tariffs for handling containers have declined somewhat (Figure 7). Dry and liquid bulk tariffs have remained more stable over time, whereas break-bulk tariffs have been more volatile. Port-related tariffs in South Africa are high and have been so for some time, resulting in substantial cross-subsidies from ports to other Transnet operating divisions (Pieterse et al. 2016), as discussed in more detail below.

The Ports Regulator has for some time adjusted the ports tariff structure away from a value-based structure towards an infrastructure-based structure, which is more reflective of costs. The value-based pricing system led to disputes historically. For example, Columbus Stainless complained about higher-value stainless steel attracting higher port tariffs than lower-value ordinary steel, even though the costs to serve both variants were the same at the ports (OECD 2014). The shift towards a cost-based framework has resulted in port tariffs moving towards global averages more recently, even if port tariffs still remain above average (Ports Regulator 2025).

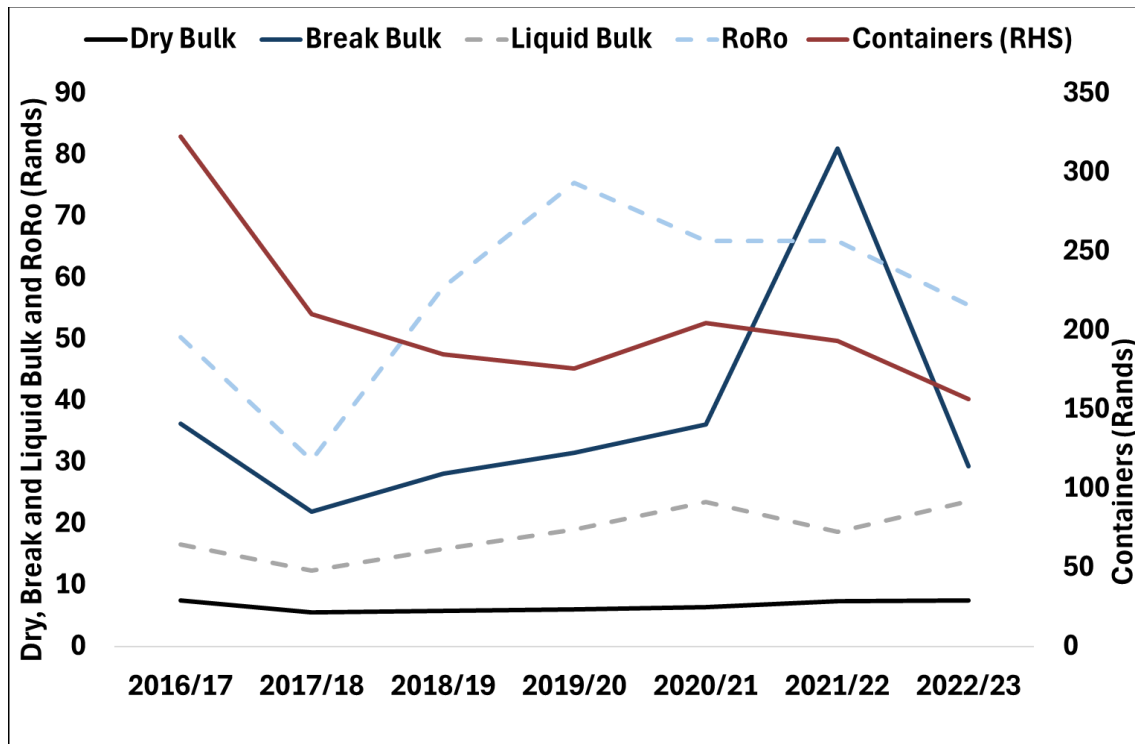


Figure 7: Base tariff progression

Note: dry and break-bulk measured in tonnage, liquid bulk in kilolitres, containers in TEU, and ro-ros in metres. 2021–22 fiscal year data impacted by the COVID-19 pandemic.

Source: authors' illustration based on data from Ports Regulator (2024c).

2.5 Efficiency of South African ports

The Ports Regulator publishes efficiency benchmarking analyses of South African ports from time to time. This largely involves comparing South African ports with ports on the Lloyd's List of 100 ports. The Ports Regulator (2023) found that South African ports experienced declining container volumes on average from 4.6 million to 4.4 million TEU between 2014 and 2021, a period over which global container volumes increased from 671 million to 848 million TEU, a compound annual growth rate of 3.4% (UNCTAD 2025). South African ports perform poorly across a range of measures: TEU per square metre of terminal space; TEU per crane; TEU per berth metre; and cranes per berth metre (Ports Regulator 2023). Overall, the Ports Regulator (2023) found that South African ports compared poorly with benchmark ports across all of these measures, with very few exceptions. This is consistent with the World Bank's (2024) finding that South African ports are among the least efficient in the world. Similarly, Lloyd's List (2024) ranks the port of Durban 78th out of 100. In the same vein, Bichou (2021) found that port efficiency had declined significantly over the previous ten years, attributing the poor performance to a lack of technical efficiency at South African ports as well as a more general decline in efficiency in recent years.

A significant driver of this poor performance has been TNPA's historical capex track record. This is despite the fact that TNPA's profits have historically been substantial and have resulted in significant cross-subsidies from ports to rail and other divisions within Transnet (Pieterse et al. 2016). For instance, Pieterse et al. (2016: 17) find:

The National Ports Authority, which generated 22 percent of its [earnings before interest, taxes, depreciation, and amortization] and 13 percent of its revenue, received only 9 percent of its capital investment. This is not a once-off anomaly, using historic financial data it is clear that it reflects a trend: despite TNPA being one of Transnet's most profitable divisions, its share of total investment has declined in recent years.

According to the Ports Regulator, TNPA has consistently underspent on its allowable capex since 2010–11 by an average of 51%, with underspending reported for opex as well (Ports Regulator 2024a). This results in inadequate infrastructure and a lack of port equipment, among other things. The 'Freight Logistics Roadmap' (Department of Transport 2023) further recognizes that the lack of independence between TPT, Transnet Freight Rail, and TNPA has added to the weak performance, which has enabled the costs of inefficiencies to be passed on to customers. The current structure has facilitated the use of excess TNPA funds for the rest of the Transnet Group rather than for ports. There are various concerns with the NPA remaining within the Transnet Group, and it is critical for the authorities to credibly commit to introducing competition to TPT and holding TPT to contracted performance standards to address the underlying causes of inefficiency (Department of Transport 2023).

2.6 Policy context

The National Ports Act 2005 provided the regulatory framework for the sector and provided for a Ports Regulator, which has been regulating certain port tariffs and adjudicating disputes since around 2009. The Ports Act also provided for the separation of the NPA from Transnet, and for the NPA to lease out space at ports to rival terminal operators. The Ports Regulator regulates only

approximately 35% of charges to vessels arriving at South African ports, largely due to the fact that the Ports Regulator does not regulate terminal handling charges (Ports Regulator 2025).

Numerous strategies and plans have been developed over the years to reform the ports sector, beginning with the National Transport Policy White Paper in 1996, which called for more competitive markets and more of a policy and regulatory role for the state than direct involvement in operations. In 2002, the White Paper on National Commercial Ports Policy called for PSP in port terminals. The ports policy further set out the policy imperative for vertical separation of infrastructure ownership and terminal operations. The Minister of Public Enterprises noted in the foreword:

Government implemented the first stages of port reform with the establishment of the NPA and the NPOD [National Port Operating Division] in 2001. It has since become clear that the economic impact of Durban's inefficiencies need urgent attention. Thus, we aim to fast-track the inclusion of the private sector in the operations of the Durban Container Terminal whilst the land and port estate remains under state ownership. (Government of South Africa 2002: 1)

In 2010, the Ports Regulator published its economic review of participation, required in terms of Chapter 2 of the Ports Regulations 2007 (Department of Transport 2007). This is a report explaining the role of public and private sector players in ports and commenting on the need to implement reforms, despite the failure to implement the requirement in the Ports Act to separate the NPA from Transnet (Ports Regulator 2010). The OECD called for greater autonomy for TNPA in a study on the port of Durban in 2014. In 2016 a paper funded by the World Bank called for competitive pricing and PSP, among other reforms (Pieterse et al. 2016). However, little progress had been recorded by 2021, when Bichou found that South African ports were inefficient and had a highly unusual port governance and strategy framework, in which TPT was the sole container terminal operator. The Minister of Public Enterprises recommitted to the corporatization of Transnet around 2020, and the inaugural board of directors of TNPA was put in place in 2023 (Department of Public Enterprises 2023).

Several policies have focused on infrastructure and expanding the capacity of ports. In October 2016 the revised 'National Transport Master Plan 2050' (NATMAP, Department of Transport 2016) was approved by cabinet, highlighting proposals for enhancing maritime infrastructure development, including considerations for funding options for such infrastructure. The 'Comprehensive Maritime Transport Policy' (Department of Transport 2017) further emphasizes the NATMAP 2050 provisions on infrastructure challenges. In particular, the policy re-emphasizes the need to encourage PSP in port infrastructure development and services as a means to reduce the burden on the state and improve efficiencies in port operations. More recently, in 2021, an updated National Transport Policy White Paper contained proposals for a competitive ports sector and a single TER to oversee economic regulation across all transport modes.

In 2023 the National Logistics Crisis Committee was established. The committee is supported by Operation Vulindlela and aims to drive the implementation of the 'Freight Logistics Roadmap' to reform South Africa's freight logistics system, including restructuring Transnet and enhancing PSP in rail and ports.

The 'Freight Logistics Roadmap', released by the Department of Transport in 2023 and approved by cabinet, provides for the implementation of existing policy and legislation through the structural reforms envisaged in the National Commercial Ports Policy and the National Ports Act, which aim to facilitate improved port performance by enhancing the independence of the NPA and promoting competition and PSP in port operations. In particular, the 'Freight Logistics Roadmap' proposes:

There is a need for a National Ports Authority that can credibly commit to introducing competition to TPT and hold TPT to contracted performance standards to address the underlying cause of inefficiency. This is particularly the case as greater private sector participation is introduced in terminal operations. (Department of Transport 2023: 47)

However, the 'Freight Logistics Roadmap' acknowledged the President's announcement in 2021 that the NPA would be a wholly owned subsidiary of Transnet so as not to harm the latter's balance sheet. The same announcement noted that the NPA would be the landlord of the South African ports and would own all the land and port infrastructures within the port estates, while greater private sector involvement in operations would be sought through leases and concessions open to competitive bidding.

While a board has been appointed to establish a separate NPA legal entity, this will not result in vertical separation from Transnet. Transnet's approach to reform involves joint ventures being established between Transnet divisions such as TPT and port terminal operators, thus maintaining monopoly terminal operators at each port. Were the NPA truly independent of Transnet, it would have a substantial incentive to lease as much of its port area to as many rival bidders as possible, in order to maximize its own revenues. Rival terminal operators would thus be established at ports. Instead, the inefficient port monopolies currently operated exclusively by Transnet are being replaced by partially privatized port monopolies jointly owned by Transnet.

This takes place in the context of a long history in South Africa of privatizing or partly privatizing monopolies developed by the state, which has resulted in numerous subsequent complaints about excessive pricing and anti-competitive conduct (Robb 2014). While Transnet's approach involves continued state ownership through joint venture arrangements, which is not the same as fully privatizing Sasol and Iscor (now Mittal), Transnet's approach is somewhat similar to the partial privatization of Telkom, which led to repeated and substantial abuses of dominance (Robb 2014). Introducing private participation is likely to improve efficiency at ports, in the same way that involving private participation doubtless improved Telkom's efficiency. However, this approach to reform runs the risk of future abuses of dominance, which could have been avoided had the NPA been structurally separated from Transnet, and had sufficient consideration been given to rivalry at South African ports. In other words, PSP is unlikely by itself to resolve the efficiency and pricing problems at South African ports. For example, Bichou (2021: 43) finds that while PSP on average results in more efficient ports, experience from elsewhere has shown that where PSP in ports has been tried without an appropriate plan or coherent strategy, this has often led to low investor interest and at times to non-compliant and failed tenders. Even where PSP was introduced, this has not always been beneficial to port users and customers and has at times increased, rather than reduced, trade and logistics costs. The lack of proper strategic framework, project preparation and contract structuring has often led [to] a counter-productive PSP in

container port operations, especially on areas related to inducing competition, improving performance and reducing the price and cost of port services.

Instead, Bichou (2021: 60) proposes that a strategic plan be developed for port reform in South Africa, addressing three key areas: ‘port efficiency and performance benchmarking, port competition and governance framework, and terminal concessions and private sector participation’. We do not propose yet another strategy for ports in South Africa, since the ‘Freight Logistics Roadmap’ already provides a broad overarching framework that sets high-level goals in these areas. However, it is important that competition, which is emphasized in the ‘Freight Logistics Roadmap’, be more carefully considered in the design of PSP processes. This is discussed in more detail below.

2.7 Regulatory context

The activities of TNPA have been subject to economic regulation by the Ports Regulator, as was established in terms of the National Ports Act of 2005. The Ports Regulator has mainly been tasked with regulating pricing, promoting equity of access to ports facilities and services, monitoring the industry’s compliance with the regulatory framework, and hearing any complaints and appeals lodged with the regulator. In particular, the Ports Act requires that agreements concerning access to ports in terms of S56 ‘may only be entered into by the Authority in accordance with a procedure that is fair, equitable, transparent, competitive and cost-effective’. A stakeholder may complain to the regulator if it considers that:

- *(a) access to ports and port facilities are not provided in a non-discriminatory, fair and transparent manner.*
- *(b) small and medium-sized enterprises owned by historically disadvantaged groups do not have an equitable opportunity to participate in the operation of facilities in the ports environment.*
- *(c) Transnet is treated more favourably and that it derives an unfair advantage over other transport companies.*

The Minister of Transport may issue policy directives to the NPA in terms of Chapter 10 of the Ports Act (S79), to ‘direct the Authority to perform a specified act within the Authority’s power or not to perform a specified act, if such direction is necessary [...] (1)(b) to promote the national, strategic or economic interests of the Republic’ (Ports Act S47(2)).

More recently, in June 2024, the Economic Regulation of Transport (ERT) Act was signed into law, providing the legal basis for the establishment of the TER. The TER will replace the Ports Regulator and will continue to develop the regulatory regime already established under the current regulatory environment (Department of Transport 2023). The President proclaimed the effective date of the Act as 1 April 2025 for the TER.

The Ports Act, however, vested powers and responsibilities for (among other things) licensing agreements with operators of port facilities in order to facilitate service delivery with the NPA (Bowmans 2019). Concurrently, the Ports Act called for the corporatization of TNPA to introduce a measure of independence from TPT (Bowmans 2019). In the absence of regulations (which are in development), and with the limitations of the consequent amendments set out in Schedule 1

of the ERT Act, there are questions surrounding the ambit and scope of the economic regulation of port terminals by the TER (Pike 2024).

In terms of the scope of regulation, the TER is provided with additional authority as regards agreements and licences in ports. In particular, through the amendment of the Ports Act, if an agreement or licence includes as a party an entity that is part of the same corporate structure as TNPA, the agreement or licence must be approved by the TER, and the TER can require its conditions to be varied (Ports Act S57(6A); Department of Transport 2023). According to Pike (2024), these amendments can be interpreted as providing for terminal tariffs to be regulated by the TER. The 'Freight Logistics Roadmap' further adds that operating agreements must now be lodged with the TER, and licensees and parties to agreements must report significantly more data to the TER (Department of Transport 2023). With respect to competition, one of the functions of the TER is to promote efficiency in transport facilities and services by facilitating competition where possible and implementing regulations. The ERT Act (2024) further provides for the TER to request the Competition Commission to consider whether particular entities, markets, facilities, or services within the transport sector are failing to function competitively or are characterized by anti-competitive abuses—which could lead to explicit requirements for increasing competition in terminal operations.

The Competition Commission has a range of functions and powers in terms of Competition Act No. 89 of 1998, including carrying out market enquiries that can result in the structural separation of firms, and investigating abuses of dominance such as the refusal to supply access to essential facilities, prohibited in S8(1)(b) of the Competition Act. Ports are essential facilities, as explained in the 'Freight Logistics Roadmap' as follows:

An essential facility, simply put, is something which cannot practically be duplicated, and without access to which it is not possible to participate in a given economic activity. In ports, the essential facility is the physical infrastructure of the port, which is owned by Transnet National Ports Authority. (Department of Transport 2023: 32)

The 'Freight Logistics Roadmap' goes on to explain:

These facilities cannot practically be duplicated for a number of reasons. In the case of ports, the geographical features which allow for the development of a port occur fairly rarely, and thus there are a limited number of places in each country which are suitable for port development. (Department of Transport 2023: 32)

The Ports Regulator and Competition Commission have a Memorandum of Understanding (MoU) that enables cooperation between the two regulators.

2.8 PSP requests for information

Recently, an interim PSP Unit has been established to facilitate and fast-track PSP in logistics. A request for information for PSP in rail and port freight logistics projects was launched in March 2025. The request for information includes the Northern Cape to Saldanha Bulk Minerals Corridor, primarily for iron ore and manganese exports, and the Northern Cape to Nelson Mandela Bay Corridor, primarily for manganese exports. This includes the complete pit-to-port rail, port, terminal infrastructure, and equipment supporting the transport of iron ore from mines

in the greater Sishen-Postmasburg region to the port of Saldanha, as well as the movement of manganese from mines located between Hotazel and Postmasburg to the ports of Saldanha, Port Elizabeth, and Ngqura in Nelson Mandela Bay, and the back-of-port arrangements.

Further, the request for information includes the Limpopo and Mpumalanga to Richard's Bay Bulk Minerals Corridor PSP Project for coal and chrome exports, including provision for magnetite exports in port. This includes the full pit-to-port rail, port, and terminal infrastructure, and equipment supporting coal exports from mines in Lephalale, Limpopo; chrome exports from the Western Limb mines in the Rustenburg-Brits region in North West; and coal exports from various mines across Mpumalanga and KwaZulu-Natal to the port of Richard's Bay. Particular attention is given to the Bayview precinct, where non-Richard's Bay Coal Terminal coal, chrome, and magnetite are handled through the dry bulk and multipurpose terminals, and the back-of-port arrangements.

Lastly, the request for information includes the Intermodal Supply Chain PSP Project focused on the container and automotive sectors, including the potential designation of the South African container port system as a regional transshipment hub for major shipping lines. This includes the port, container, and automotive port terminals, back-of-port arrangements, and railway and inland terminals for the Gauteng to Durban Port Corridor (KwaZulu-Natal), Gauteng to Eastern Cape Corridor (East London, Port Elizabeth, Ngqura), and Gauteng to Western Cape Corridor (Cape Town).

The PSP Unit and Transnet will develop the policy-aligned PSP programme, which will enter the formal procurement phase from August 2025.

3 HOW AND WHERE IS RIVALRY POSSIBLE IN SOUTH AFRICAN PORTS?

The NPA provided an updated port development framework in 2022 that sets out its expansion plans for its eight commercial ports. The NPA has leased out space at ports to a range of terminal operators for a variety of purposes, including in joint ventures with terminal operators. However, it appears that competition at its ports has not been sufficiently considered, probably as a result of its continued ownership by Transnet, which has a strong incentive to protect its revenues from its TPT business. This is probably one of the reasons that several of the NPA's decisions have resulted in disputes heard by the Ports Regulator and subsequently in the courts.

In this section, rivalry in terminal operations (cargo-handling services) is considered. This is not a new idea and has been proposed since at least 2016, when Pieterse et al. proposed:

International best practice shows that the structure of the sector is the most important criteria in the effective functioning of ports. Given sufficient capacity at most South African ports (especially Durban and Cape Town), competition between terminals should be introduced. This will provide a more substantial form of competition to TPT. In addition, competition in areas such as cargo - handling, towage, warehousing and logistics should also be introduced. (Pieterse et al. 2016: 27)

The Ports Regulator (2010) had also previously proposed rivalry in a range of marine infrastructures (bulk cargo berths), marine services (such as tugs and towage), and cargo working infrastructures (landfill, cargo aprons, security). While these may be considered for rivalry in the longer term, these aspects of port infrastructure and services are not the subject of this paper.

3.1 Rivalrous bidding during NPA concession processes

Demand for port space and opportunities to manage port terminals has exceeded supply in a number of NPA concession processes, leading in several cases to disputes. In some cases, it appears that these disputes could have been avoided if competition had explicitly been taken into account at the stage at which the concession process was designed.

The first example of this is the series of disputes between Sunrise Energy and Avedia regarding LPG imports at Saldanha Bay (e.g., *Sunrise Energy (Pty) Ltd and Another v Ports Regulator of South Africa and Others* 2015). While the disputes related not only to space at the port but also to pipeline facilities, it would have been useful for the NPA to have considered rival LPG importers at the port and to put in place the necessary policy framework for this.

In the same vein, Durban Pier 2 was released by TNPA to a single container terminal operator in a joint venture set-up with TPT, in circumstances where rival bids were offered where the available port capacity significantly exceeded minimum efficient scale for four or even more container terminal operators. The High Court subsequently interdicted the award process after a dispute was lodged by a losing bidder (*APM Terminals BV v Transnet SOC Limited and Others* 2024).

A further example is Richard's Bay Coal Terminal, which has a range of shareholders that have access to capacity at the export terminal. There has been at least one dispute, in which Sithemba Coal was not able to access limited capacity at the export terminal (*Sithemba Coal (Pty) Ltd v Director General: Department of Mineral and Petroleum Resources and Others* 2024). Further evidence that there is scarcity in capacity at Richard's Bay Coal Terminal is that when Exxaro sought to buy Total Coal, a benefit arising from the merger was increased capability for Exxaro to export coal, which Eskom complained about during the course of Competition Tribunal proceedings (*Competition Tribunal* 2015). This suggests there is excess demand for coal export facilities at Richard's Bay, and consideration needs to be given to rival export coal terminal operators there.

Another example is where Siyakhuphuka Investment Holdings applied to TNPA to commence operating a container terminal at Richard's Bay (*Siyakhuphuka Investment Holdings (Pty) Ltd v Transnet Soc and Another* 2018). Transnet refused the application and decided that TPT would instead establish a terminal operator there. This resulted in a complaint before the competition authorities relating to Transnet refusing to supply access to an essential facility in terms of S8(1)(b) of the Competition Act, Transnet engaging in an exclusionary act (S8(1)(c)), and Transnet refusing to supply scarce goods or services (S8(1)(d)(ii)). The Competition Appeal Court decided that the Competition Commission and Competition Tribunal had the jurisdiction to deal with the matter in 2018. However, the matter does not appear to have been decided on by the competition authorities.

More recently the NPA has entered into a monopoly liquified natural gas (LNG) concession at Richard's Bay, involving a joint venture with Transnet Pipelines (Creamer 2025). A further monopoly LNG concession is being considered by the NPA at Ngqura. While it may be the case that there is only space for one such facility at each port, it appears the NPA's determination to enter into joint ventures with a single operator at each port is intentionally a means of preserving market power at each facility. Rivalry appears to have been compromised in order to preserve market power at the ports.

There is thus an emerging pattern of monopolies being partially privatized by Transnet, with little consideration for rivalry and the benefits this might bring to consumers and port users in South Africa.

3.2 Taking into account competition in the PSP process

At a minimum, the NPA ought to provide for rivalry at its port facilities, which it appears not to have sufficiently considered when awarding concessions at its ports. This is routinely considered in decisions by regulators such as the Independent Communications Authority of South Africa when allocating scarce resources owned by the state, in this case the radio frequency spectrum (ICASA 2022). Prior to the auctioning of available spectrum, a competition assessment is taken into account, which informs the market design envisioned by the auction and the resulting rules, such as caps on the amount of spectrum that any one mobile network operator may bid on. Designing an auction for rivalry has the added benefit that it encourages competitive bidding in the auction, since it is more likely that an individual bidder will win a lot where more lots are available. The competition assessment in the 2022 auction, for example, envisioned five national wholesale network operators and resulted in approximately ZAR14 billion in proceeds for the state (Msimango et al. forthcoming).

The NPA might similarly consider expanding its port development planning to include a process that:

- Identifies the highest-value applications for use of space at each of its ports (such as containers versus liquid bulk, dry bulk, break-bulk, and ro-ro).
- Assesses the extent to which such available space permits one or more operators, such as by considering the approaches discussed above in relation to the assessment of minimum efficient scale, and if more than one rival is possible, how many terminal operators might be possible, and divides the available space into lots.
- Auctions lots of space thus identified through a rivalrous process, subject to rules such as overall caps on the share of terminal space leased by one terminal operator across a single freight category and across rival ports, for example.

The competition assessment envisaged at step two above need not be a lengthy study but rather, within several pages of analysis, may consider how many terminal operators could be accommodated given the available port space, taking into account minimum efficient scale. For instance, as discussed below in respect of container terminal operations, typically two 300-metre berths are needed to run a container terminal, together with sufficient nearby yard space and related facilities. If a port has a pier with, for instance, four such berths, then two terminal

operators should be possible, assuming there is sufficient yard space and related facilities, and two lots should be created for potential concessionaires to bid on.

Currently, Transnet appears to have conceived of a monopoly set of facilities for bidders to bid on (i.e. competition for the market), thus extracting rents from Transnet's current monopoly position at ports. It is likely that an NPA structurally independent of Transnet would have a greater incentive to introduce rival terminal operators at its ports, since a monopoly port owner has an incentive to sell as much of its space to as many rival bidders as possible. This is known as the 'one monopoly profit theory' in competition economics (Motta 2004). The idea is that the upstream monopolist (the NPA) has only one monopoly profit to make (such as through port fees, concessions, etc.) and so benefits from as many terminal operators as possible bidding on port space and subsequently competing to attract vessels arriving at and departing from the port. Since the NPA is regulated upstream and thus cannot obtain its full monopoly profits upstream, it would have an incentive to monopolize downstream port terminal activities even if it were separate from Transnet, if the NPA decided for instance to enter into joint ventures with terminal operators instead of TPT doing so. Bichou (2021), for example, points to international experience where port authorities sometimes take ownership stakes in terminal operators. There is thus an important role for the TER to play in ensuring that the NPA does not avoid regulation of its tariffs in this way. Nevertheless, an independent NPA would have greater incentive than Transnet to encourage rivalrous terminal operators at South African ports, and at the very least would have no interest in favouring other Transnet divisions.

3.3 Minimum efficient scale and capacity at container port terminals

3.3.1 Capacity at South African container port terminals

There is considerable capacity for additional container terminals at South African ports (Table 4). South Africa's container terminals are operating at approximately 30% below their theoretical/designed capacity. There is also significant underutilized installed capacity. At least from a capacity perspective, therefore, there is scope for additional rivals at each of South Africa's container ports. This is especially the case due to planned expansions by TNPA, which for instance will permit a capacity increase from 2.9 million TEU to 11.4 million TEU at four separate piers.

Table 4: Capacity of container terminals

Port	Max. ship size (TEU)	Berth length	Berth draft (m)	Total berths	Theoretical capacity (m TEU)	Installed capacity (m TEU)	Volumes handled (m TEU)	Expansion plans (m TEU)
CPT	6,600	1,151	13.7–14.5	4	1.4	1	0.79	1.4
DBN Pier 2	4,500	2,914	8.5–12.2	7	2	2	2.56	4.4
DBN Pier 1					0.7	0.7		3.6
DBN Point					0.2	0.2		1.8
DBN Maydon Wharf								1.6

Port	Max. ship size (TEU)	Berth length	Berth draft (m)	Total berths	Theoretical capacity (m TEU)	Installed capacity (m TEU)	Volumes handled (m TEU)	Expansion plans (m TEU)
EL		477	10.7	2	0.2	0.1	0.05	
NGQ	15 000	975	16	4	2	1.2	0.67	4 (increasing from 4 berths to 8 berths)
PE	6 600	630	12.2	2	0.6	0.4	0.19	
RB					0.05	0.05		New container berth

Note: CPT: Cape Town. DBN: Durban. EL: East London. PE: Port Elizabeth. N: Ngqura. RB: Richard's Bay.

Source: authors' compilation based on data from Ports Regulator (2024b) and Transnet (2022, 2025).

3.3.2 Minimum efficient scale at container port terminals

There is a trade-off between economies of scale and having many rival terminal operators at each of South Africa's eight commercial ports. Consumers benefit from both effects. The key idea with economies of scale is that over some range of volume demanded, average costs fall, beyond which average costs remain the same or increase. This is shown in Figure 8, which shows an example of three terminals at a port with initially falling average costs that then flatten and begin to rise.

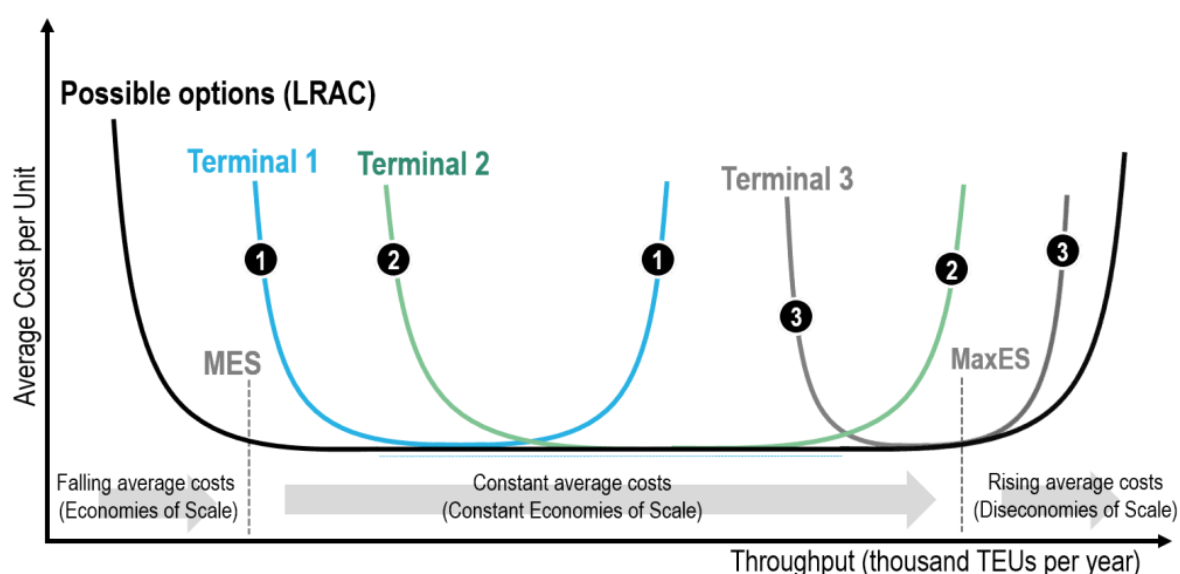


Figure 8: Minimum efficient scale of terminal operators

Source: authors' illustration based on data from Notteboom et al. (2022).

The question is thus: at what scale of operations do terminals reach a minimum efficient scale, which is the point at which further scale does not result in lower average costs?

A range of papers have been written on minimum efficient scales for container terminals. For example, Kaselimi et al. (2011) show that the presence of more than one terminal operator is possible once a scale of 100,000–250,000 TEU per year is reached, but these are typically

terminals on rivers that berth smaller ships. Typically, competition is only introduced at deep-sea ports once 300,000 TEU has been reached. More than 70% of ports serving two million TEU or more have more than one terminal (Figure 9). Seo and Park (2016) study 24 terminal operators at ten ports in the Republic of Korea and estimate a minimum efficient scale of 752,913 TEU there. The Ports Regulator (2010), quoting Kessides (2004), considered a volume of 500,000 TEU to be the minimum for a viable container terminal business.

More recently, De Langen (2021) has argued that due to the increasing size of container ships, minimum efficient scale is closer to 900,000 TEU or even higher. However, the latter takes into account much larger ships than many South African ports can handle. For instance, Cape Town and Port Elizabeth can handle 6,600-TEU container ships, and Durban can handle only 4,500 TEU (Table 5). This is linked to the berth drafts, which are only up to 12.2 metres in Durban, for example, whereas Neo-Panamax containers have drafts in excess of 15 metres.

Given the lower berth depth at Durban and the resulting much lower overall capacities, a greater number of terminal operators is potentially possible. For instance, applying the same ratio of 4,000 TEU containers offloaded from ultra-large container ships with a capacity of 20,000 TEU (i.e. 20%) applied by De Langen (2021) to the smaller Panamax-size ships that Durban can handle, Durban probably has a lower minimum efficient scale of only 208,000 TEU, and thus it is possible that a significant number of terminal operators could be accommodated, given that Durban currently handles 2.7 million TEU per year. At the same time, there is currently construction at Durban Pier 2 to deepen the basin and approach to 16.5 metres, which should make it possible to accept Neo-Panamax ships, which implies a minimum efficient scale for at least Pier 2 of closer to 700,000 TEU, similar to that proposed by Seo and Park (2016).

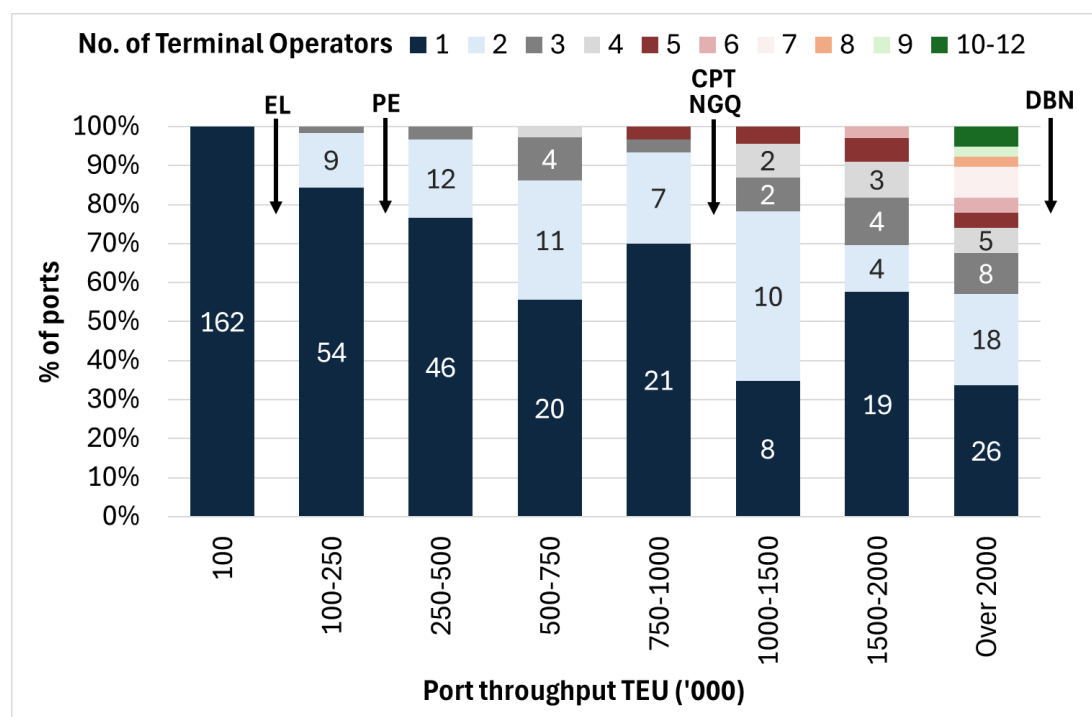


Figure 9: Number of terminals by port throughput

Source: authors' illustration based on data from Kaselimi et al. (2011).

Table 5: Illustrative examples of minimum efficient scale (two-berth terminal)

	Panamax	Neo-Panamax	Ultra-large container ship
Ship capacity (TEU)	4,000	14,000	20,000
Ship length (m)	294	350	400
Ship draft (m)	12.4	14.94	15.2+
TEU offloaded per ship	800	2,800	4,000
Ship turnaround time (hours)	24	24	24
Crane moves per hour	33	117	167
Number of berths	2	2	2
Berth utilization	36%	36%	36%
Ships per week	5	5	5
Weeks in a year	52	52	52
Total capacity	208,000	728,000	1,040,000

Source: authors' compilation based on data from De Langen (2021).

Similarly to Durban, Cape Town is undergoing a port-deepening project to approximately 15.5 metres, which will also permit larger Neo-Panamax ships. Ngqura is different, since it can currently handle Neo-Panamax ships and thus is closer to the minimum efficient scale estimated by Seo and Park (2016) of 700,000 TEU. It may be possible with expansion for Ngqura to host a large transshipment terminal operator as well as a second terminal operator.

As illustrated in Table 5, it is important to note that there is unlikely to be a single minimum efficient scale for all ports, given differences in market size and structure, physical and geographical limitations, and shipping lines' commercial imperatives, among other factors (Kaselimi et al. 2011). This is reflected in varying numbers of port terminals for the same annual throughput (Figure 10). A reasonable range for minimum efficient scales, given the previous research cited above, is between approximately 0.5 million and 0.8 million TEU for South African ports, depending on the port's draft and port expansion plans. A higher minimum efficient scale can be considered where a deep port has transshipment hub potential, such as Ngqura.

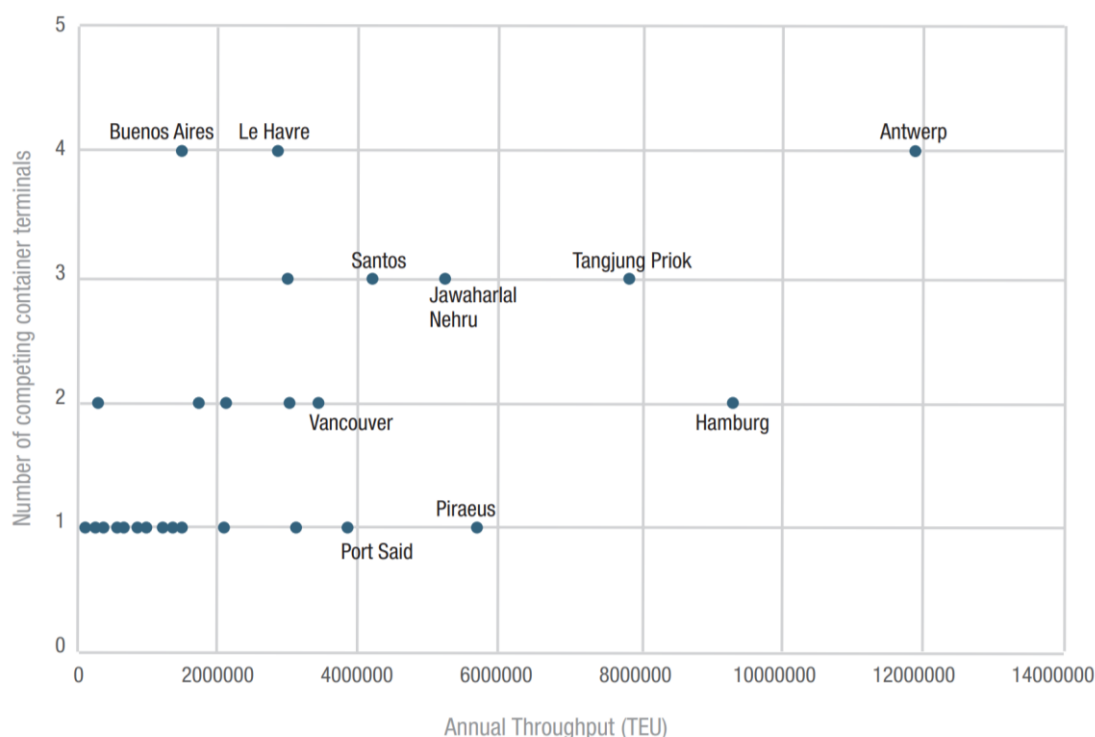


Figure 10: Number of terminals by port throughput

Source: authors' illustration based on data from De Langen (2021).

Applied to the South African context, with a minimum efficient scale of approximately 500,000–800,000 TEU, two container terminal operators may be possible at Cape Town and Ngqura; four container terminal operators should be possible at Durban, and more in future post-expansion. In future, post-expansion Ngqura could also host several container terminal operators. After Durban has been expanded to 11.4 million TEU, there may be scope for ten or more terminal operators, similarly to Busan in the Republic of Korea, which had nine terminal operators in 2016 (Seo and Park 2016).

By way of comparison, the port of Buenos Aires in Argentina, which handled under 1.5 million TEU in total in 2017, had four terminal operators (World Food Programme 2025). The number of operators had declined to three by 2021 (De Langen 2021). However, volumes have been flat since 2012 at Buenos Aires (De Langen 2021). The ports of Gwangyang and Incheon in the Republic of Korea handled 2.2 million and 1.2 million TEU respectively in 2013, and each port was served by three terminal operators (Seo and Park 2016). At the port of Cartagena in Colombia, which processed approximately three million TEU in 2017, there are also three container terminal operators (World Food Programme 2025). The port of Barcelona, which also serves in the region of three million TEU (Ports Regulator 2023), has two container terminal operators.

Jawaharlal Nehru Port Authority near Mumbai in India (6.3 million TEU in 2023), Santos near Sao Paulo in Brazil (4.8 million TEU in 2023), and Busan in the Republic of Korea (23 million TEU in 2023) serve significantly larger container volumes, and they have five terminal operators in the cases of the Jawaharlal Nehru Port Authority and Santos, and nine terminal operators in the case of Busan (Seo and Park 2016; Lloyd's List 2024; World Food Programme 2025).

It is important to note that the approach proposed above for four rival terminal operators at

Durban, two at Cape Town, and two at Ngqura would permit at least the seven vertically integrated shipping lines shown in Table 3 to have their own port terminals in South Africa. This would probably result in improved integrated supply chains, and it would also permit the terminal operators to enter into reciprocal access agreements, thus limiting their market power at individual ports. Note that the latter effect will not be possible if current plans by the government to limit foreign shipping lines to calling at only one South African port (cabotage) are implemented. It is imperative that the government take competition into account when considering port reform.

3.4 Automotive/ro-ro

There is substantial excess capacity at Durban, East London, and Port Elizabeth for additional automotive/roll-on roll-off capacity (Table 6). For instance, Transnet received ZAR2 billion from the Budget Facility for Infrastructure for Project Ukuvuselela. The project entails upgrading the South Corridor railway line and expanding port infrastructure for automotive handling at the port of Port Elizabeth (Gqeberha). The required port terminal-related expansion work will be undertaken by TPT outside this contract. It is important that all such contracts be reviewed to ensure that rivalry was properly considered, and if not, a competition assessment should be prepared, and pro-competitive measures should be put in place if greater rivalry proves to be possible.

Table 6: Automotive terminal capacity

Port	Terminal area (sqm)	Berth length	Berth draft (m)	Total berths	Theoretical capacity (m)	Installed capacity (m)	Volumes handled (m)	Post-expansion (m)
DBN	389,000	1,036	10.7–12.6	3	0.9	0.52	0.51	1.015
EL	121,553	549	10.7	2	0.79	0.1632	0.1	
PE	168,620	388	11	1	0.41	0.15	0.16	

Note: Transnet 2023–24 volumes handled. DBN: Durban. EL: East London. PE: Port Elizabeth.

Source: authors' compilation based on data from Ports Regulator (2024a) and Transnet (2022, 2025).

3.5 Dry bulk

There is less available capacity for dry bulk at ports in South Africa, other than East London, from an installed capacity versus theoretical capacity perspective (Table 7). However, utilization rates (volumes handled) are very low at Cape Town and East London, and there is also spare capacity at Richard's Bay (non-coal). There is thus some availability of capacity for rivalry in dry bulk port operations at a number of ports.

Bulk cargo (dry and liquid) is far more likely to be handled privately than any other type of cargo. For instance, the Ports Regulator (2010) estimated that 63% of all bulk cargo was handled privately in 2010, while TPT handled 37% (Table 2). This does not mean that greater rivalry should not be introduced, and it is likely that competition outcomes in specific ports and for specific types of cargo are mixed. For instance, the almost decade-long litigation between Sunrise and

Avedia, mentioned above, suggests that competition concerns have not been adequately dealt with.

Table 7: Dry bulk terminal capacity

Port	Berth length	Berth draft (m)	Total berths	Theoretical capacity (m)	Installed capacity (m)	Volumes handled (m)	Expansion capacity (m)
CPT			6	2.1	2.1	0.91	
DBN	3,813	8.5–12.2	12	16	16	15.81	
EL	388	10.7	2	2	0.984	0.30	
NGQ (manga.)				16	16	5.59	22
PE (manga.)	360	12.2	1	6	6	9.57	
RB	2,060	13.5–17.5	7	21	18	15.00	40
RB (coal)	1,616	17.5	6	110	91	58.50	
SB (iron)	660	10.7	2	60	58	58.90	

Note: Transnet 2023–24 volumes applied, except that dry bulk for 2021–22 was used for Richard’s Bay, since Transnet (2025) data did not break this down for coal and other. CPT: Cape Town. DBN: Durban. EL: East London. PE: Port Elizabeth. NGQ: Ngqura. RB: Richard’s Bay. SB: Saldanha Bay.

Source: authors’ compilation based on data from Ports Regulator (2024b) and Transnet (2022, 2025).

3.6 Break-bulk and multipurpose

Break-bulk terminals tend to be more competitive in South Africa (Ports Regulator 2024b). There is considerable break-bulk and multipurpose terminal capacity, from an installed versus utilized capacity perspective, again at Cape Town and East London ports (Table 8). Ngqura too has considerable capacity. This suggests that there is space for rivalry at these ports.

Table 8: Break-bulk and multipurpose terminal capacity

Port	Berth length (m)	Berth draft (m)	Total berths	Theoretical capacity (m)	Installed capacity (m)	Volumes handled (m)
CPT	1,746	9.2–12.2	7	1.5	1.5	0.46
DBN	1,378	10.3–12.6	11	4	3.6	3.55
EL	486	9.8	4	0.57	0.57	0.01
NQ			3	6	6	0.05
PE	1,135	7–11	3	1.6	1.6	0.33
RB	1,244	13.5	6	7.75	7.75	1.02

Note: Transnet 2023–24 volumes handled. CPT: Cape Town. DBN: Durban. EL: East London. PE: Port Elizabeth. NQ: Ngqura. RB: Richard’s Bay.

Source: authors’ compilation based on data from Ports Regulator (2024b) and Transnet (2025).

3.7 Liquid bulk

Similar to break-bulk, there are a number of liquid bulk terminal operators (Ports Regulator 2024b). At the same time, there is considerable space, from a theoretical versus installed capacity perspective, at Cape Town, Durban, and Mossel Bay (Table 9). The installed terminal capacity at all ports, except Cape Town, is substantially underutilized from a volumes handled versus installed capacity perspective. This suggests again that there is considerable scope for even greater rivalry at liquid bulk terminals, at least from an installed capacity perspective.

Table 9: Liquid bulk terminal capacity

Port	Berth length (m)	Berth draft (m)	Total berths	Theoretical capacity (m)	Installed capacity (m)	Volumes handled (m)	Expansion
CPT liquid bulk	978	11.8–13.4	4	6.4	3.4	3.31	
CPT-LPG			1	0.72	0.72		
DBN	1,991	10–12.4	7	37	22	24.01	39
EL	238	10.7	1	3	3	1.27	
MB			2	8.92	4.34	1.21	
PE	203	9.4	1	3	3	1.03	
RB	550	12.5	2	3.28	3.28	2.82	New liquid berth; new LNG berth planned
SB	360	21.5	1	25	25	4.79	

Note: CPT: Cape Town. DBN: Durban. EL: East London. LPG: liquefied petroleum gas, MB: Mossel Bay. PE: Port Elizabeth. RB: Richard's Bay. SB: Saldanha Bay.

Source: authors' compilation based on data from Ports Regulator (2024b) and Transnet (2025).

As mentioned above, while bulk cargo is more likely to be handled privately than other types of cargo in South Africa (Table 2), there is evidence that competition has not been adequately considered at specific ports and for different kinds of terminal operations, in at least the decade-long litigation between Sunrise and Avedia at Saldanha.

4 CONCLUSIONS AND RECOMMENDATIONS

Transnet is carrying out a process of concessioning a range of monopoly port terminals with a single terminal operator partner, often in joint ventures between Transnet entities (TPT or Transnet Pipelines), for 25-year lease periods. At least three of the NPA's concession decisions have been contested in the courts by rival bidders. In circumstances where international experience shows that ports at the scale of South Africa's can host a number of terminal operators, the NPA runs the risk of harming the interests of consumers in concessioning monopolies. This is because monopolies typically charge higher prices, provide lower-quality services, and innovate less.

An important short-term intervention is to ensure that the NPA is separated out from Transnet,

as provided for in the Ports Act, so that it has an incentive to invest in additional port capacity and concession terminals for rivalry. Note that attracting vertically integrated shipping lines and terminal operators is possible with rival terminal operators but would be undermined by the proposed cabotage rules that prevent foreign lines from calling on more than one port.

Promoting rivalry in the concessioning of port terminals involves several steps in the short term:

- The NPA should be structurally separated from Transnet, as provided for in S4 of the Ports Act. This is the second step in the separation of the NPA from Transnet envisioned in the Act. The first step, corporatizing the NPA, is likely to be concluded shortly. The feasibility of accepting some of Transnet's debt together with this structural separation may need to be investigated, in order to stabilize Transnet's balance sheet.
- In the interim, the Minister of Transport should issue a policy directive clarifying the meaning of S56(5), which requires that an agreement entered into by the NPA be 'in accordance with a procedure that is fair, equitable, transparent, competitive and cost-effective'. Such a directive would clarify that S56(5) means that the NPA must promote competition where possible when entering into such agreements, that a competition assessment should be carried out during the consideration of such agreements, that any such agreements shall not favour Transnet, and that the best means of ensuring this is to ensure that Transnet staff and management are not involved in procedures to enter into agreements under S56.
- In the absence of the change in ownership structure proposed in (1) above, then the National Treasury might investigate the possibility of issuing a directive to the accounting officer at Transnet that S56 agreements entered into by the NPA shall be subjected to a competition assessment, should promote competition where possible, and shall not favour Transnet, and that Transnet staff and management shall in no way be involved in their design or determination. The National Treasury might consider investigating the possibility of introducing a condition to its guarantee of Transnet's debt amounting to the same requirements.
- The National Treasury might also investigate the possibility of issuing a directive to all accounting officers, or at least to those of Transnet and the NPA, to the effect that competition should be promoted where possible during the design of an auction, bid, or similar process in respect of any such lease or disposal where the latter is material in nature.
- The Minister of Transport, PSP Unit, or TER should urgently request details, studies, business plans, agreements, and related information on all of Transnet's existing and proposed port concession arrangements. The Minister of Transport may investigate the possibility of carrying out such a process by issuing a directive in terms of S79 of the Ports Act. In respect of any concession arrangements that involve only one terminal operator providing services in respect of a single cargo type at a single port (a 'monopoly concession agreement'), the Minister, PSP Unit, or TER should advocate that Transnet file and seek approval for all such agreements from the TER, including by means of the Minister issuing a policy directive to this effect.

- The Minister of Transport, PSP Unit, or TER should evaluate such proposed and existing monopoly concession arrangements and assess whether it is possible for them to be reissued following a competition assessment. It may be possible to carry out such a review through the Minister issuing a policy directive, as explained above. Such a review might take into account whether Transnet's current approach amounts to an exclusionary abuse of dominance in contravention of S8(1)(b), S8(1)(c), and S8(1)(d)(ii) of the Competition Act, and in Transnet constructively refusing to provide access to port facilities to rivals by providing for only one concession at each port per cargo type and only in a joint venture with Transnet, thus foreclosing access to all of the Transnet joint venture's rivals. Such a review also needs to consider whether Transnet's approach complies with S56 of the Ports Act, which requires that agreements entered into by the NPA are made 'in accordance with a procedure that is fair, equitable, transparent, competitive and cost-effective'. Alternatively, the Minister of Transport, PSP Unit, or TER might call for the Competition Commission or the Minister of Trade, Industry, and Competition to initiate a market enquiry into the ports sector in terms of S43B, which can result in (i) the competition authorities ordering the divestiture by Transnet of TNPA and (ii) the structural separation of individual monopoly terminal operators at port concessions into rival terminal operators. A further alternative is for the Minister of Transport or PSP Unit to consider lodging a complaint with the TER in terms of S46(2), since it appears that the concession arrangements are resulting in access to ports that is discriminatory, unfair, and not transparent, and that they are favouring Transnet.
- In respect of any S56 concessions that could be reissued, the soon-to-be-appointed TER or the PSP Unit should carry out a competition assessment for those agreements, and the NPA should reissue the call for proposals, amending them to promote competition where possible.
- Operation Vulindlela should ensure that the recently announced PSP Unit for Transnet concessions carries out a competition assessment for each new concession, lease, or asset disposal, according to guidelines that ensure the promotion of competition, set out by the TER, PSP Unit, or Minister in terms of a policy directive, as discussed above. The PSP Unit should ensure that any calls for proposals are issued for rival terminal operators in respect of a single cargo type at a single port by default. The PSP Unit should be required to apply to the National Treasury for an exception to this rule if it wishes to issue any request for proposals for a monopoly terminal operator.

In the medium term, it would be helpful to carry out the following reforms:

- During the course of the development of the forthcoming regulations to be issued in terms of the Economic Regulatory Transport Act of South Africa, the Port Regulations 2007 should be considered. In particular:
 - The economic review required in Chapter 2 should be updated to require a periodic economic review of participation at ports (rather the current one-off review), and this review should include an assessment of competition at ports.
 - The regulations should require that the NPA considers competition when concessioning access to ports, and in the event that any concession arrangement involves only one

terminal operator for a cargo type at a single port, then such agreement should be filed with and subject to the approval of the TER.

- The regulations should require that the TER put in place an *ex ante* regulatory framework that promotes competition for ports, including possible market share caps. For instance, the South Australia Ports Act 2000 limits the concentration of ownership at ports (Kaselimi et al. 2011). As a result, incumbent terminal operators are precluded from bidding for additional terminals at nearby ports. Similar limits of concentration rules could be considered by the TER, to prevent the current monopoly approach adopted by the NPA. This is especially important given that the Ports Regulator does not regulate terminal handling charges (Ports Regulator 2024a), as explained above.
- The regulations should require that Transnet and its staff, management, board members, and the like shall in no way be involved in the design or operation of a process to lease or divest NPA assets.
- An MoU between the TER and the Competition Commission should be put in place as a matter of priority. The current MoU between the Competition Commission and the Ports Regulator should be considered in this regard and should be updated to permit the Competition Commission to formally participate in the economic review described above.
- S56 of the Ports Act should be extended to require that a competition assessment be undertaken to assess whether measures that promote competition could be introduced during the procedure to enter into an agreement, and that such pro-competitive measures be implemented. In the event that the NPA does not concession terminals to more than one operator in respect of an individual cargo type at a single port, then the provisions of S57(6A), which applies to licences, should apply to such an S56 agreement, namely that such monopoly concession agreements be filed with and subject to amendment or approval by the TER.
- The National Treasury’s regulations in terms of the Public Finance Management Act S16A7.1 should be amended to require that competition post-disposal or lease should be taken into account and measures that promote competition be put in place during the design of an auction, bid, or similar process where the lease or disposal is material in nature.

Once the regulatory framework has settled and a competitive market structure is in place, the TER might consider forbearing from regulating tariffs in respect of competitively supplied services (Pieterse et al. 2016).

In the longer term, it may make sense to amend the Ports Act to permit the devolution of ports to individual port authorities, under the regulatory supervision of the TER. This form of devolution has taken place in a number of countries, including Argentina (where some ports devolved to provinces were further devolved ports to local authorities), Australia (where there are five port authorities in Queensland, for example), Brazil (where for instance Santos Port near Sao Paulo is a separate port authority), Canada (where there are 17 port authorities), Colombia (which had four port authorities as of 2004 (Pieterse et al. 2016)), Malaysia (Port Klang is a separate entity), and Portugal (where at least the port of Lisbon is a separate entity) (Ports Regulator 2010; Kessides 2004).

The combination of intra- and interport competition can have substantial benefits for consumers. For instance, after this approach was introduced in Colombia, container moves per hour increased from 16 to 25, and prices fell by 75% (Pieterse et al. 2016).

This will promote interport rivalry, similarly to the port market structure prior to 1910, when South African Railways and Harbours were established (Ports Regulator 2010). There is already a degree of interport rivalry from Maputo in the East Coast port region (Richard's Bay, Durban, Gqeberha, East London), and from Walvis Bay in Namibia in the Western Cape port region (Mossel Bay, Cape Town, Saldanha Bay), due to the development of the trans-Kalahari corridor (Ports Regulator 2010). Having rival ports within these regions would further promote competition.

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