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Tariff Authority for Major Ports

G No.65 **New Delhi,** **14 March 2012**

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the V.O. Chidambaranar Port Trust for setting upfront tariff caps for Harbour Mobile Crane for 120 T capacity as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/50/2011-VOCPT

V.O. Chidambaranar Port Trust - - - **Applicant**

O R D E R

(Passed on this 19th day of January 2012)

This case relates to a proposal dated 13 October 2011 received from the V.O. Chidambaranar Port Trust (VOCPT) for fixation of upfront tariff for upgradation of the mechanical handling infrastructure at Berth Nos.I to VI and IX on Build, Own and Operate (BOO) basis for a period of 10 years.

2. This Authority passed an Order No.TAMP/16/2010-TPT dated 23 July 2010 fixing upfront tariff for Harbour Mobile Crane (HMC) based on a proposal received from the VOCPT. This Order was notified in the Gazette of India on 12 August 2010 vide Gazette No.201. Drawing reference to the above Order, the VOCPT has stated that a fresh proposal is filed reportedly based on the directions given by the Ministry of Shipping based on SFC recommendations for fixing upfront tariff for operation of 2 nos. 120 T HMC for 10 years. The port has stated that the total additional handling capacity required by the year 2022-23 is 8.0 Million Tonnes. Considering the reach required for handling dry bulk cargo of larger size of vessel calling at berths III, IV, V, VI and IX, minimum two high capacity crane with greater reach are to be procured and deployed at the port. Hence, the port has stated that 2 nos. of 120 T HMC are to be procured immediately for handling the projected traffic volume upto the year 2022-23.

3.1. The port has stated that the capacity of the existing material handling equipment consisting of 1 no. 6 T, 1 no. 10 T and 3 nos. 20 T HMCs is 5.50 Million Tonnes (MT). The port has projected that 13.40 MT will have to be handled by it in 2022-23 at Berth Nos.I to VI and IX. In order to meet the traffic forecast for the next 10 years, the port proposes to upgrade the mechanical handling infrastructure on Build, Own and Operate (BOO) basis at a project cost of ₹49.20 crores.

3.2. The other main points made in the proposal are as under:

(i). Capacity of the HMC:

The handling capacity of the 120T HMC is assessed at 4.36 MT following certain assumptions and norms as given below:

A. Assumptions:

On stream days considered in a year	330 days
Equipment availability per day	21 hours
No. of cycles per crane per hour	20
Material handling equipment efficiency	85%

B. Norms:

Details	**120T HMC**
Maximum reach required	34m
Grab weight	20T
Load/ move at 11 to 19m	75T
Load/ move at 34m	39T
Average load/move (excluding the grab weight)	(55 + 19) /2 = 37T/grab
Handling rate/hour	37 * 20 = 740T/hr
Equipment efficiency	85%
Handling capacity / hour	740* 0.85 = 629 T/hour
Handling capacity / day	629 * 21= 13209T/day
Annual handling capacity	13209 * 330 = 4,358,970 i.e. 4.36MT

(ii). Optimal Capacity:

The port has assessed the capacity of one HMC of 120 T at 2.976 Million Tonnes considering handling rate of 744 tonnes/ hour for dry bulk cargo for 4000 hours in a year.

The port has separately assessed the optimal capacity of HMC for handling break bulk cargo (i.e. steel and bagged cargo) and other cargo (assuming handling rate of 357 T/ hour and 223 T/ hour for 4000 hours. The optimal capacity assessed for break bulk cargo and other cargo in the upfront tariff calculation is 1.428 MTPA and 0.892 MTPA respectively. The proposed Scale of Rates, however, does not propose separate rate for dry bulk, break bulk and other cargo.

(iii). Operating cost:

In this connection, it has submitted that in the first year of operation the equipment will be covered by warranty and hence the maintenance cost is considered from the second year onwards. Based on the TAMP guidelines, the different items of operating costs are considered.

It has furnished cost statement for 120T HMC along with the grab. The main cost elements considered by the port are tabulated below:

(**₹ in lakhs**)

Sl. No.	**Particulars**	**Workings**	**120 T HMC**	
			Crane	**Grab**
1.	**Capital cost**		**2246.23**	**106.31**
2.	Operation and maintenance cost			
	(i). Fuel	4000 hrs. (70 ltrs./ hr. @ ₹ 40.44/ltr.)	124.18	--
	(ii). Repairs and maintenance cost	5% on total capital cost	112.31	5.32
	(iii). Insurance	1% on total capital cost	22.46	1.06
	(iv) Depreciation	10.34% on capital cost (as per norms prescribed in Companies Act)	232.26	10.99
	(v). Other Expense	5% of gross fixed asset	112.31	5.32
	Total cost		**603.52**	**22.69**
3.	ROCE	16% on capital cost	359.40	17.01
4.	**Total cost plus ROCE**		**962.92**	**39.70**

(iv). The upfront tariff proposed by the VOCPT in the draft proposed Scale of Rates are as follows:

(in ₹)

Sl. No.	**Description**	**Capacity in MTPA considered**	**Rater per MT for usage of crane without grab**		**Charges per MT for usage of grab**	
			Foreign	**Coastal**	**Foreign**	**Coastal**
(i).	120T Harbour Mobile Crane	2.976	32.36	19.42	2.15	1.29

Note: In the upfront tariff calculation, the VOCPT has computed the handling rate for break-bulk cargo and other cargo at ₹67.43 per tonne and ₹107.95 per tonne (foreign) respectively but in the draft proposed Scale of Rates uniform handling rates are proposed as given in the above table.

(v). The VOCPT has proposed the following conditions:

(a). The rates indicated above are with respect to the output per day specified. Incase, there is any increase / decrease by 1000 tonnes the rate will be increased / decreased by 5% for every 1000 tonnes per day.

(b). The formula for calculation of average berth-day output is as follows:

$$\frac{\text{Total Quantity loaded / unloaded by the HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hrs}$$

(c). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from port users for the full quantity of cargo loaded / discharged.

(d). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.

(e). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded / discharged prior to break-down divided by crane working hours and multiplied by 24.

(f). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.

(g). In case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of Rs.1,00,000/- (Rupees one lakh only). The shifting charges so recovered will be refunded to the vessel's agent while the penalty will be retained by the port.

(h). In case of dispute on the average output, the decision of the port trust will be final and binding.

4. In accordance with the consultation process prescribed, the proposal dated 13 October 2011 was circulated to the users/ user organisations for seeking their comments. Despite request, the VOCPT has not furnished list of RFQ Applicants to be consulted on the subject proposal. Seapol Port Pvt. Ltd. has received a copy of the subject proposal from Tuticorin Stevedores Association and has furnished its comments thereon. The comments received from the users/ user organisations as well as from Seapol Port Pvt. Ltd. have been forwarded to the VOCPT. The VOCPT vide letter dated 7 December 2011 has furnished comments on the points made by the users/ user organisations.

5. Based on the preliminary scrutiny of the proposal, the VOCPT was requested vide our letter dated 8 November 2011 to furnish additional information/ clarifications on a few points. The VOCPT vide letter dated 14 November 2011 has furnished its response. A summary of the queries raised by us and the response furnished by VOCPT is tabulated below:

Sl. No.	Queries raised by us	Response received from VOCPT
(i).	Furnish a copy of the Government direction on SFC recommendations based on which the VOCPT has stated to have filed the proposal.	It has furnished copy of SFC Minutes held on 10 November 2011. It has not furnished Government's direction on SFC's recommendations.
(ii).	It was brought out to the VOCPT that the upfront tariff already fixed vide Order dated 23 July 2010 does not depend upon the period	The change in the period of the concession from 30 years to 10 years based on the views of bidders for RFQ is only for

	for which the concession is to be granted. Tariff for MHC was fixed based on the financial and operational parameters relevant to the crane and, therefore, the concession to be granted was immaterial. What is relevant is the economic life of the asset which is duly captured in the depreciation calculations made in terms of the Companies Act. Therefore, the VOCPT was advised to review the request made by it for a new tariff on ground of change in concession period from 30 years to 10 years.	information. The same is not having any correlation with the subject proposal.
(iii)	Another ground highlighted by VOCPT in the proposal is about the change in capacity of the crane to 120 T. In para 8 (iii) of its Order dated 23 July 2010, the Authority has explained the reasons for considering 100 T MHC as a standard and how the performance linked tariff prescribed will give the flexibility even if the actual capacity of the crane deployed varies from the standard MHC of 100 T considered for setting upfront tariff. In recognition of this position, the Authority has notified upfront tariff for Mobile Harbour Cranes not a specific tariff to 100T MHC. 120T crane is expected to perform better than 100T and, therefore, it will automatically be eligible for higher tariff as per the slab structure prescribed. The VOCPT was therefore requested to fully justify the subject proposal.	The Authority may like to take a decision based on the examination of the submissions of the bidders in the pre-bid meeting dated 4.3.2011 to review the order of the Authority dated 23 July 2010.
(iv).	**<u>General</u>:**	
	(a). As per the proposal furnished by the VOCPT, the cargo profile for the berths I to VI and IX where the proposed HMCs are to be deployed includes break bulk cargo and dry bulk cargo. The productivity of the crane will depend on the nature of cargo handled. However, the VOCPT has considered a uniform handling rate for all types of cargo in the estimation of capacity of the crane and accordingly proposed a common rate irrespective of the nature of cargo. The VOCPT is, therefore, requested to review the position and revise the proposal suitably. In this regard, the earlier Order dated 23 July 2010 may be referred.	The port's submission is that the cargoes to be handled by the said crane cover break bulk like Granite and bulk cargoes like foodgrains, fertilisers etc. The exact tonnage to be handled for each cargo could not be exactly anticipated due to simultaneous working of ship gears in all berths and Port's wharf cranes in berth no. I to IV. Hence, Port's proposal may please be accepted considering the ground realities of the proposal without any earmarked berths/cargo completely for the equipments.
	(b). VOCPT has stated that the berths are handling vessels upto 50,000 DWT and the beams of such vessels are likely to be about 35 m. The VOCPT has further stated that the reach of the existing wharf cranes is only 26 m. The proposal of the VOCPT to deploy 120 T HMC is on the ground of the reach required for handling the cargo of larger size vessels. In this context, the VOCPT is requested to clarify/ furnish the following:	
	(i). What is the reach required for handling dry bulk cargo of 50,000 DWT vessel?	Normally the beam size of 50,000 DWT vessel shall be more than 32 mtr. The required out reach may vary depending upon the construction of wharf, fenders and circumference of the hatch of the vessel.

<table>
<tr><td></td><td>(ii). What is the reach of 120 T HMC and 100 T HMC?</td><td>As per the technical specification of the crane, the reach of the 100T HMC and 120T HMC are as follows:
<table><tr><th>Capacity of HMC</th><th>Minimum Reach</th><th>Maximum Reach</th></tr><tr><td>100T</td><td>10.5m</td><td>43.00m</td></tr><tr><td>120T</td><td>10.5m</td><td>48.00m</td></tr></table></td></tr>
<tr><td></td><td>(iii). An analysis to show that why 100 Tonne HMC will not cater to the requirement of handling dry bulk cargo of 50,000 DWT vessels.</td><td>IX berth of this Port is dredged to the draft of 12.8 mtr and vessel of size more than 50,000 DWT will be berthed and hence 120T HMC is proposed.</td></tr>
<tr><td></td><td>(iv). It may be established that only 120 T HMC will cater to the requirement of handling dry bulk cargo of 50,000 DWT vessels.</td><td>No comments furnished.</td></tr>
<tr><td>(v).</td><td><u>Optimal Capacity</u>:

(a). With reference to capacity estimation of the 120 T HMC, please clarify the following:</td><td></td></tr>
<tr><td></td><td>(i). 29.76 lakh tonnes capacity considered by the VOCPT for arriving the proposed tariff is relevant for a 100 T capacity of the HMC. However, the proposal of the VOCPT is for fixation of tariff for a higher capacity of 120 T HMC. Therefore, the capacity considered by the port for arriving at the proposed rate for a 120 T HMC may be justified.</td><td>This seems to be not relevant for the subject proposal as the rate is based on productivity of the crane for handling specific categories of cargoes per day. 29.76 lakh tonnes capacity is considered based on the norms of cargo handling rates in respect of multipurpose berth.</td></tr>
<tr><td></td><td>(ii). In the working sheet for calculation of the capacity of the 120 T HMC furnished by the VOCPT, the annual handling capacity per HMC is shown as 43.60 lakh tonnes. That being so, the reason for considering 29.76 lakh tonnes annual handling capacity relevant for a 100 T HMC for calculation of unit rate may be explained.</td><td>Expected handling capacity of 120 T HMC is 43.60 lakh tonnes based on the technical specification of the crane. However, 29.76 lakh tonnes is considered for calculation as per norms laid down for the multipurpose berth in the TAMP guidelines.</td></tr>
<tr><td></td><td>(b). The port has considered the handling rate of 13209 tonnes per day in the capacity assessment. However, in the cost statement attached with the proposal for arriving at the proposed upfront rate the port has considered the handling rate of 12500 tonnes per day for dry bulk cargo and 6000 tonnes / 3750 tonnes per day in the case of break bulk cargo. The relevance of furnishing the handling rate of 13209 tonnes per day to the subject proposal may be explained.</td><td>The capacity of 13209 tonnes per day is based on the technical specification of the crane to work out the requirement of the number of cranes and the handling rate 12500 per day is for working out the rate per day in the tariff calculations, the same is based on the upfront tariff norms for multipurpose berth as adopted by TAMP in July 2010 order.</td></tr>
<tr><td></td><td>(c). The VOCPT has considered 330 workings days in a year, 21 workings hours per day and 85% equipment efficiency level for calculating the optimal capacity of the crane. As per the norms prescribed in the Upfront Tariff guidelines of February 2008, for various types of berths including multipurpose berth, the optimal capacity is reckoned as 70% of the maximum capacity. The norms do not allow separate cushion in each of the parameters relevant for determining the capacity. The VOCPT is, therefore, requested to review the capacity calculation estimated by it and revise it suitably.</td><td>The crane will be deployed in any of the berth identified for this tender and need not be 70% prescribed for berths. The same yardsticks have been adopted in the earlier TAMP order dated 23rd July, 2010.</td></tr>
<tr><td></td><td>(d). The basis for considering 62% of the annual handling capacity of the HMC for calculation of unit rate for grab may be furnished.</td><td>Existing scenario in berths is considered to arrive at the share of estimated capacity of the crane with Grab and without Grab.</td></tr>
</table>

	(e). It is seen from the calculations furnished by the VOCPT for deriving the rate for grab that it has considered 62% share of the estimated capacity of the crane. It implies that the remaining 38% of the estimated capacity will not require grab. As the handling rate of the crane with grab and without grab may vary, the impact of the capacity share not requiring grab may be taken into account in the estimation of optimal capacity of the crane.	This is a composite facility and hence no separate handling rate may be fixed for with grab and without grab.
	(iii). **Capital Cost**:	
	(a). The aggregate cost of a HMC and grab considered in calculation of the Annual Revenue Requirement (ARR) is ₹24.6 crores whereas the aggregate cost considered in the cost statement for arriving at the proposed tariff is ₹23.53 crores. In view of that please furnish the exact cost of the HMC and grab separately and also rectify, if necessary, the effect in calculating the operating cost and ROCE.	The cost of one crane is ₹22.46 Crs. The cost of one No. Grab is ₹ 1.06 Crs. Total ₹ 23.52 Crs. It is proposed to have two cranes and four grabs (Two grabs for each crane). Hence the capital cost is taken as ₹49.20 Crores. Cost of one crane ₹22.46 Crs. Cost of 2 Nos. Grabs ₹ 2.12 Crs. Total ₹24.58 Crs. Total for two cranes ₹49.20 Crs. (appx.)
	(b). Please furnish workings for the capital cost of HMC and grab considered in the proposal.	They have furnished the requisite details.
	(c). The VOCPT has furnished documentary evidence to support the capital cost of HMC only. Please furnish the documentary evidence to support the cost of grab.	They have furnished copy of documentary evidence.
	(d). The documentary evidence in support of the capital cost of HMC furnished by VOCPT mentions that the price is valid only till 13 August 2011. Therefore, please confirm whether the cost of HMC considered in the proposal represents the prevailing market price.	The proposal was initiated in the month of June 2011 and indicative project cost ₹49.20 Crores mentioned in the RFQ is based on the budgetary offer received at that point of time. It is confirmed with the dealer that the same price holds good at present also.
	(e). It may also be confirmed whether duties and taxes are considered in the estimation of capital cost of HMC as well as the capital cost of grab. In this regard, the possibilities of the crane operator availing EPCG benefits in duties may also be borne in mind.	Yes, Excise duty at 3% is adopted considering EPCG scheme.
	(f). Please indicate the exchange rate considered for estimating the capital cost of a crane and the grab and update the exchange rate with the current exchange rate incase of its revision.	The Exchange rate ₹64.65 for Euro prevailing on 14.06.2011, at the time of preparing the RFQ is considered. Present exchange rate is Rs68.63 per Euro. Considering the exchange rate fluctuation it is premature to adopt the role of equivalent rupee in respect of Euro on the date of passing the order by the Authority.
	(iv). **Operating Cost**:	
	(a). Fuel Cost	
	(i). The unit price of the fuel considered in calculation of the ARR is ₹44.35/ liter whereas in the cost statement it is taken as ₹40.44/ liter. The difference may be reconciled and the cost statement may be updated with the current unit price of fuel.	Fuel cost considered as to ₹44.35/litre. In both the calculations viz., ARR and Cost statement workings, the rate of fuel is taken at the rate of ₹44.35/liter but in the description of workings in cost statement calculations, it is inadvertently mentioned as ₹40.44 per liter.

	(ii). Please confirm the fuel consumption rate of 70 litres per day for operation of the 100 Tonne HMC will be applicable for the 120 Tonne HMC also.	Fuel consumption will vary depending upon the weight of the cargo to be handled in each cycle, position of cargo in the ship hold, place where the cargo to be discharged and efficiency of the operator hence average consumption at the rate of 70 litres per hour is reasonable.
	(b). In estimation of operating cost, it appears that VOCPT has adopted the norms prescribed in the upfront tariff fixation guidelines of 2008 for estimation of operating costs for a multipurpose berth. However, the VOCPT has not considered the License Fees for the area occupied by the HMC. The license fee for the area occupied by the HMC as per the Scale of Rates of VOCPT may be considered in the estimation of operating cost.	The proposed Harbour Mobile Cranes are expected to operate anywhere in Berth Nos.I to VI and IX based on the demand for utilisation besides to work in an open space like wharf crane and is expected to move from one berth to another to comply the demands of the crane hence no specific storage is envisaged and consequently no licence fee is anticipated.
	(v). **Scale of Rates**:	
	(a). The proposal of the VOCPT is seen to fix upfront tariff for handling cargo by HMC. That being so, the relevance of clauses (i) and (ii) proposed under Section 2.2. (General Terms and Conditions) of the draft Scale of Rates to govern levy of vessel related charges may be explained.	The clauses on Vessel Related Charges are not relevant and hence may please be deleted.
	(b). The port has proposed rates for handling coastal cargo. However, VOCPT has not proposed conditionalities governing the rates for handling coastal cargo. In this regard, the tariff Order dated 23 July 2010 passed by this Authority for setting upfront tariff for upgradation of mechanical handling facilities at the VOCPT may be referred.	The conditionalities may be suitably incorporated in the Scale of Rates
	(c). The condition to the effect that the users will not be required to pay charges for delays beyond a reasonable level attributable to the terminal operator, as stipulated in clause 2.15 of the tariff guidelines of March 2005, may be incorporated in the draft Scale of Rates.	Yes. Agreed to. May please be incorporated in the Scale of Rates.
	(d). It is stated in the draft Scale of Rates that the rates indicated are with respect to the output per day specified. However, no output per day is seen to have been prescribed.	As the proposed rate is calculated based on 12,500 M.T per day as per the TAMP Guidelines and hence the Authority may like to consider 12,500 M.T as the specified output per day.
	(e). Though the port has proposed concessional tariff for coastal cargo in crane rate as well as grab rate, the revenue impact of allowing such concession is not considered while arriving at the proposed rates. The port may confirm that it does not expect to handle coastal vessel/ cargo with the proposed equipment.	The coastal rates are prescribed for information only to meet any future requirement of handling coastal cargo. At present the cargo profile considered are only foreign vessels for the cargoes proposed to be handled by the crane. Hence revenue impact is nil.
	(f). The cost statement furnished by the VOCPT includes the calculation for deriving the unit rate for handling break bulk cargo and other cargo. However, the proposed draft Scale of Rates does not contain the rates for handling break bulk cargo and other cargo. Please modify the draft Scale of Rates suitably and furnish.	Yes. suitably modified

	(g). Please clarify the need for adding a sentence that "the Terminal must specify specific documents to be submitted for claiming refund" in the conditionality proposed at Clause 2.2. (iii) (c) of the draft Scale of Rates.	For administrative convenience only. May please be incorporated.
	(h). The VOCPT is requested to confirm that the cost estimates reflect the current market rates and incorporate a general note in the draft Scale of Rates stating that the tariff caps will be indexed to inflation but only to an extent of 60% of variation in the Wholesale Price Index occurring between 1 January 2011 and1 January of relevant year and that such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of relevant year to 31 March of the following year.	Yes. It will be incorporated suitably.

6.1. A joint hearing in this case was held on 16 November 2011 at V.O. Chidambaranar Port Trust. The VOCPT made a power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users / user organisations have made their submissions.

6.2. It was agreed in the joint hearing that the VOCPT would furnish additional information/ clarification on the relevant points and also submit its revised proposal. The VOCPT vide its letter dated 7 December 2011 has furnished its response. The port has furnished its views on the comments made by TNEB which is updated in para 4. The other information sought by us from VOCPT during the joint hearing and the response of VOCPT are summarized below:

Sl. No.	Information sought by us	Response of VOCPT
(i).	Some of the prospective bidders invited to the joint hearing by VOCPT submit that they have not received a copy of the proposal from the Port. The Port was advised to furnish a copy of proposal to all such prospective bidders and obtain their comments within 5 days thereafter and forward to TAMP alongwith observations of the Port thereon within a weeks' time thereafter.	As advised by the Authority, a copy of TAMP application submitted to the Authority was furnished to the two bidders viz., M/s.IMC PSTS Consortium and M/s.ABG Ports Pvt. Ltd., on 16 November 2011. It has agreed to furnish its comments on the receipts of comments from bidders.
(ii).	It was brought out to the notice of the Port that upfront tariff for Mobile Harbour Crane (MHC) has already been fixed by TAMP and as per the guidelines, such rates are applicable to all the projects to be bid out during the course of five years thereafter. Further, performance linked tariff already fixed will give a flexibility to apply such rates even when a slightly higher capacity MHC are deployed. The Port has formulated the proposal by adopting the parameters considered by TAMP in the earlier order in which 100 tonne MHC was taken as the base and updated only the capital cost relevant for 120 tonne MHC. The Port is, therefore, advised to examine and furnish a detailed analysis as to why the rates already set for Mobile Harbour Crane should not be made applicable in the instant case also.	The Authority may like to take a decision based on the examination of the submissions of the bidders in the pre-bid meeting dated 4 March 2011 to review the Order of the Authority dated 23 July 2010.

7. Some of the users/user organisations have furnished additional comments after the joint hearing. ABG Port Private Limited has also furnished its views on the subject proposal. The comments received from them were forwarded to the VOCPT as feedback information. The VOCPT vide its letter dated 7 December 2011 has furnished its views.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

9.1. As brought out in the earlier part of the note, this Authority has already passed an Order No.TAMP/16/2010-TPT dated 23 July 2010 determining upfront tariff for standard Harbour Mobile Crane (HMC) of 100 Tonne (T) capacity. The instant proposal filed by the port for determination of upfront tariff for operation of two HMCs of 120 T each is reportedly based on the directions of the Ministry of Shipping on the recommendations made by the Standing Finance Committee (SFC). Despite a specific request, the port has not furnished a copy of the Government directions based on which this proposal is stated to have been filed. The copy of the minutes of the meeting of the SFC furnished by the port also does not mention that the upfront tariff already fixed by this Authority in its Order dated 23 July 2010 for deployment of HMC at VOCPT needs a review for any reason whatsoever. The SFC has only recommended the port to convene a pre-bid meeting with the prospective bidders to obtain their views on certain issues viz. monopoly clause to be incorporated in the draft Concession Agreement, viability of the project in the present form and tenure of the project.

9.2. Notwithstanding the above position, it is relevant to state that Clause 2.2. of the upfront tariff guidelines stipulate that upfront cap fixed once will apply in the same port for the next five years for handling identical commodity or service. Flowing from the provision in the guidelines, the Order passed on 23 July 2010 in para 8(xiv) clearly states that the upfront tariff caps prescribed in the said Order will apply to all the projects to be bid out for deployment of HMC for handling identical cargo/ service at the V.O. Chidambaranar Port Trust during the next five years.

During processing of this case, the VOCPT was advised to examine and furnish a detailed analysis as to why the upfront tariff already set for Mobile Harbour Crane should not be made applicable in the instant case also. It was reiterated that performance linked tariff already fixed in the Order of 23 July 2010 will give a flexibility to apply such rates even when a slightly higher capacity MHC are deployed. The port has, however, not furnished any exceptional reasons for filing another proposal for HMC except making a general suggestion that this Authority may have to take a decision based on the examination of the submissions of the bidders in the pre-bid meeting dated 4 March 2011. The minutes of the pre-bid meeting held by the port with bidders on 4 March 2011 mainly points out the discussion on the tenure of the project proposed by the port. The minutes of the pre-bid meeting indicates that representative of a few bidders have made a causal statement that the tariff fixed by TAMP for HMC is low and should be revised. This statement is, however, not supported by any analysis or reasoning. Nor the port while filing the instant proposal has made any analysis or furnished any justification to show that the upfront tariff fixed earlier by this Authority for HMC is erroneous and requires review.

9.3. It is stated here that prior to determining upfront tariff for HMC at VOCPT, this Authority has determined ceiling level of tariff for hire of a standard capacity of 100 Tonne HMC at other major port trusts for the HMC services authorised by Paradip Port Trust (PPT), New Mangalore Port Trust (NMPT), Visakhapatnam Port Trust (VPT) and the initial tariff Order of 2009 in VOCPT to other service providers wherein the norms prescribed in the tariff guidelines of 2008 were adopted for arriving at the rate. The rate prescribed for hire of HMC for handling dry bulk cargo (foreign cargo) for benchmark productivity of 12500 tonnes per day is prescribed at ₹37.26 per tonne at PPT, ₹37.44 at VOCPT in the year 2009, ₹33.31 at NMPT and ₹33.23 at VPT in the year 2010. The upfront tariff prescribed in the VOCPT in the Order dated 23 July 2010 is ₹29.69 for handling dry bulk cargo for productivity level of 12500 tonnes/ day. The difference in the unit rate prescribed for HMC in different cases mainly arises on account of variation in the capital cost estimates of HMC. As stated in the subsequent part of the Order, the upfront tariff determined with base WPI as on January 2010 in the case of VOCPT subject to automatic annual adjustment would take care of the escalation in cost items.

9.4. At the cost of repetition, it is brought out that Clause 2.2. of the upfront tariff guidelines stipulates that upfront cap fixed once will apply in the same port for the next five years for handling identical commodity or service. Hence the objective of the upfront tariff guidelines is not to set again the rate for different capacity of the crane, if inducted in future. This Authority has already deliberated in depth in the earlier Orders of the VOCPT as well as PPT regarding differential tariff for different capacity of HMC. In the Order dated 23 July 2010 which disposed the proposal of VOCPT for differential tariff for 100 T and 140 T HMC, this Authority has held that user of the crane will be concerned with the productivity and reliability of services offered by the crane and not with the capacity of the crane deployed. There can be instances where productivity of a higher capacity HMC may be lower than an efficient 100 T HMC. Tariff linked to productivity will automatically take care of the differences in the capacity, as a higher capacity crane is expected to return a better productivity in terms of handling rate. In the said Order, it was also brought out that the possibility of induction of additional cranes in future at the VOCPT cannot be ruled out in view of the increasing tariff demand at the concerned berths projected by the VOCPT. Considering all these aspects, this Authority has determined upfront tariff considering a standard capacity of HMC of 100 T and linked the tariff to the performance of the crane so that it can fit for capacity range of HMC providing identical handling of commodity/ service in the port in the next five years. Linking of tariff with performance will to a great extent take care of the interest of users and also the service provider even if the actual capacity of the crane deployed varies within a range from the standard HMC considered in this exercise.

9.5. In the instant proposal formulated by the port for 120 T HMC, all the parameters considered by this Authority in the earlier Order of July 2010 for 100 tonne MHC as the base and has only updated the capital cost relevant for 120 tonne MHC. The port has remained silent to our query to establish that only 120T HMC can cater to the requirement of handling dry bulk cargo of 50,000 DWT vessels. Approving the proposal of VOCPT will not be in line with clause 2.2. of the tariff guidelines of 2008.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority rejects the separate proposal filed by the VOCPT for fixation of upfront tariff fixation for HMC for 120 T capacity HMC and order that the upfront tariff prescribed in the Order No.TAMP/16/2010-TPT dated 23 July 2010 will hold good for induction of HMC at the V.O. Chidambaranar Port Trust during the specified five years subject to annual indexation of tariff as mentioned in para 9.1. of the said Order of 23 July 2010.

(Rani Jadhav)
Chairperson

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/50/2011 - VOCPT - **Proposal from V.O. Chidambaranar Port Trust for fixation of upfront tariff for upgradation of the mechanical handling infrastructure at Berth Nos.I to VI and IX for a period of 10 years on Build, Own and Operate (BOO) basis**

The summary of comments received from users/ user organizations and the response received from V.O. Chidambaranar Port Trust (VOCPT) thereon are summarized and tabulated below.

<table>
<tr><th>Sl. No.</th><th>Comments of users/ user organisations</th><th>Reply received from VOCPT</th></tr>
<tr><td>1.</td><td>Tamil Nadu Electricity Board</td><td>VOCPT has furnished reply vide its letter dated 7 December 20111 after the joint hearing</td></tr>
<tr><td>(i).</td><td>(a). The VOCPT has proposed a note under the proposed Scale of Rates as below :
<table><tr><td>1.</td><td>Rate per tonne for Foreign Cargo</td><td>₹34.51/- (₹32.35 for Mobile Crane + ₹2.15 for Grab)</td></tr><tr><td>2.</td><td>Rate per tonne for Coastal Cargo (60% of Foreign Rate)</td><td>₹20.71/- (₹19.42 for Mobile Crane + ₹1.29 for Grab)</td></tr></table>
"The rates indicated above are with respect to the output per day specified. In case there is any increase / decrease by 1000 Tonnes the rate will be increased / decreased by 5% for every 1000 Tonnes per Day."

The above clause could have been introduced to compensate the loss on account of Berth Hire Charges that may be incurred by the port or the port user due to increase or decrease in the output of Mobile Crane.

(b). In this regard, it is to be stated that in the event of output of Mobile Crane is more than the output per day specified, the cargo from the ship will be evacuated at a faster rate and therefore the berth will be vacated early. This will enable the port to berth a new ship at that berth and hence this will increase the throughput of the port and the business. So the revenue of the port will increase by increase in the output of the Mobile Crane. Therefore, it is not correct to increase the rate per tonne for handling by Mobile Crane chargeable to the user for increase in output per day.

(c). On the other hand, it is to be stated that no port user will intentionally reduce the output of Mobile Crane as this would prolong the cargo unloading time and hence the Berth occupancy</td><td>The presumption is not based on the subject proposal. Question of compensation for the loss on account of berth hire charges to the Port is not at all the issue. Hence, no comments.

The benefit accruing to the Port User by way of quick vacation of the vessel resulting in reduced berth hire and chartering charges due to the deployment of efficient Equipment and its operation. Hence the Equipment Operator is also to be rewarded for his efficiency and hence higher rate for better performance and lower rate for lower performance and is justified. The presumption of benefit to the Port is not a relevant issue for the subject of upfront tariff fixation under PPP mode.

The Concessionaire and the User are the parties concerned with the issue of performance of Mobile Crane which depend on the logistic support the user provides for clearance of cargo and operator's response. Port has no direct role in the achievement of productivity. Hence, the question of consequent discount for decrease of output is</td></tr>
</table>

	of the ship. Further, the delay in unloading of cargo will have cascading effect on the charter hire rates payable to ship. Hence, any reduction in output has to be taken care of by the port only. Hence, it is suggested that discount @ 5% may be given for decrease of every 1000 MT in per day output. Hence, the relevant clause in foot note under the Proposed Scale of Rates may be modified accordingly.	illogical and not accepted.
2.	**Seapol Port Pvt. Ltd.**	
(i).	Clause 2.2. (iii) indicates interest, etc. for delayed payments. The tariff would be collected upfront. Hence the interest charges may not arise.	This is a general clause and the same is inserted as per model Scale of Rates.
(ii).	The handling capacity of crane (Tonnage) differs in the Point No. 9 and 10.	The handling capacity 629 Tonnes per hour is based on the technical specification, considering equipment efficiency, and working hours in a day. Whereas 744 tonnes per hour indicated in the cost statement is based on TAMP guidelines
(iii).	The fuel cost has been taken per litre @ ₹44.35 in the cost statement, while the figure indicated therein is at ₹40.44, the typo error is brought to your notice.	In both ARR and cost statement rate of fuel is taken @ ₹44.35/liter but in the description of workings in cost statement calculation is inadvertently mentioned as ₹40.44 per litre.
(iv).	Kindly clarify whether coal vessels will be allowed at Berth No.9, where the draft is 12.80 mtrs.	The successful bidder will be allowed to handle all types of cargoes excluding containers.
(v).	We request that the cost towards the fuel consumption incurred for traveling of HMC from VOC Berth to Berth No.9 is to be charged to the user over and above the admissible tariff.	While calculating upfront tariff, cost for fuel and other expenses are already considered. Hence, the request is already taken care of.
(vi).	The concession in the upfront fee for discharging cargo from Coastal Vessels @ 60% of tariff fixed against Foreign Vessels could kindly be reconsidered again. The services are provided as per the rate, which is very reasonable as well as it is proposed by VOCPT. The total operating cost alone will be around 63% of the Annual Revenue Requirement as per Cost Statement for fixation of Tariff and there will not be any compensation given in the overheads by any Govt. Authority.	Current tariff fixation is based on the assumption that only foreign cargoes are handled by the Harbour Mobile Crane. Also the extension of concession for discharging cargo from Coastal vessels @ 60% of tariff fixed for foreign vessels is as per Ministry's directions.
3.	**Tuticorin Port Handling Agents' Association, Tuticorin Ship Agents Association, Tuticorin Custom House Agents' Association**	
(i).	With respect to provision of 2 harbour mobile cranes by the private operator for operations in VOC 1 to VOC 6 berths and 9th berth, it is understood that the harbour mobile cranes will be provided to enhance the productivity of only 2 Vessels at a given point of time. This needs to be clarified.	No comments furnished.
(ii).	The Port and TAMP shall have to clarify to the users about the applicability of wharfage dues for the cargo and the necessity for booking of gangs by the stevedores while engaging harbour mobile crane. It is presumed that these charges are included in the hire charges.	No comments furnished.

(iii).	Quite apart from the above, kindly clarify that the tariff fixation is worked out based on the guidelines already approved by the government.	No comments furnished.
(iv).	It is our feeling that it may not be in the fairness of things to hire out all berths for private participation. This needs to be looked into.	No comments furnished.

2. A joint hearing in this case was held on 16 November 2011 at V.O. Chidambaranar Port Trust. The VOCPT made a power point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users / user organisations have made the following submissions:

V.O. Chidambaranar Port Trust

(i). We have followed the norms for multi-purpose berths and 100 T MHC order passed by TAMP.

Seapol

(i). The requirement to allow coastal concession is unfair. (Port says, whole capacity is presumed to be foreign cargo).

Tuticorin Port Handling Agents Association

(i). Interest cost should be taken into account separately.

Tamil Nadu Electricity Board

(i). No premium for higher output should be given.
(VOCPT – we will examine and furnish our comments)

ABG - LDA

(i). We have not received any proposal.

3. Some of the users/user organisations have furnished additional comments after the joint hearing. ABG Port Private Limited has also furnished its views on the subject proposal. The comments received from them were forwarded to the VOCPT as feedback information. The VOCPT vide its letter dated 7 December 2011 has furnished its views. A summary of the additional comments received from users/user organisations and response of VOCPT thereon are tabulated below:

Sl. No.	Submissions of users/user oganisations	Comments of VOCPT
(1)	**Tuticorin Port Handling Agents' Association, Tuticorin Ship Agents Association, Tuticorin Custom House Agents' Association**	
(i).	With respect to provision of 2 harbour mobile cranes by the private operator for operations in VOC1 to VOC 6 and 9th Berth, it is understood that harbour mobile cranes will be provided to enhance the productivity of only 2 vessels at a given point of time. This needs to be clarified.	No comments furnished.
(ii).	In the course of joint hearing it was indicated that wharfage dues will be applicable for cargo handled by harbour mobile crane in berth No. VOC 1 to VOC 6 and 9th Berth. This needs to be incorporated in the final order.	Wharfage dues shall be applicable as per Port's Scale of Rates. The same is not relevant to upfront tariff for subject project.
(iii).	Quite apart from the above, kindly clarify that the tariff fixation is worked out based on the guidelines	Yes. Tariff fixation is worked based on upfront Tariff Guidelines.

	already approved by the government.	
(iv).	It is our feeling that it may not be in the fairness of things to hire out all berths for private participation. This needs to be looked into.	This is not relevant for this subject case of upfront tariff fixation. The subject proposal is for coexisting of private operation vis-à-vis ship derrick and Port's wharf crane in Berth Nos.I to IV.
(v).	In case of deployment of additional harbour mobile crane in VOC1 to VOC 6 and 9th Berth, the Port shall have the authority for calling additional private operator. There shall not be any exclusivity given to the first concessionaire. This also requires to be recorded in the final order. The trade should not suffer due to legal battle initiated by the private operators as we had bitter experience in the recent past.	The question of additional private operator is outside the purview of upfront tariff fixation and to be discussed and decided during RFP stage.
(2)	**ABG Ports Private Limited**	
(i).	Calculation made is based on 330 days, which is on stream days considered in a year; kindly note proposed cranes will be in operation only for a maximum of 256 days (365 days X 70% utilization factor) and not for 330 days.	The port has not responded to the comments of ABGPPL till the finalisation of this case.
(ii).	The efficiency indicated by VOCPT is unrealistic and unachievable, considering all points mentioned in the proposal the efficiency achieved would be between 50 - 60% only.	
(iii).	Please be advised that the values formulated are theoretical values, during actually operation cargo throughput per cranes will be 2.5 MMTPA.	
(iv).	Grab hire charges, handling capacity, etc. evaluated is based on the capital expenditure for two type of grab, but the requirement is for 3 Nos. of grab with 3 different specifications to handle different type of cargoes.	
(v).	The annual handling capacity should be calculated based on the space available behind the existing berth and the average productivity / performance of the stevedores. In case of poor evacuation, which is a factor beyond the control of the concessionaire, the concessionaire should not be penalized for inefficiencies of other port operators / stevedores. It is thus obvious that in calculating the annual handling capacity the evacuation rate from the berth is a key factor and cannot be ignored.	
(vi).	Please be advised that the fuel price indicated is very old (10.08.2009), the same should be revised as per the current fuel rates prevailing in Tuticorin.	
(vii).	VOCPT is requested to enlist the foot notes / guidelines that are to be followed for the allotment of vessels, for the better understanding of the entire process and to avoid any confusion amongst the port, MHC operator and the end users.	
(viii).	Per day performance / productivity for different cargo (steel and other cargoes) cannot be a percentage share of dry bulk cargo. Per day performance / productivity for different cargo should be evaluated individually.	
(ix).	The proposal and tariff is evaluated on maximum capacity of the cranes, the maximum capacity can never be achieved.	
(x).	The cost assumed for operating and maintenance is unrealistic, it can never be a percentage. VOCPT should get the actual figures from the existing	

	cranes operators for existing / actual cost for operating maintenance the crane. The operating and maintenance cost of the cranes increases during the operating periods and never remains same throughout the life cycle of crane.	
(xi).	Fuel consumption values, optimal capacity, etc indicated in the proposal are the figures provided by manufacturer, which can never be achieved. Eg. A Hero Honda Motor Cycle manufacturer claims fuel consumption of 80 KMPL in ideal condition, which is never achieved. The actual consumption is between 50% of the consumption value indicated by manufacturer.	
(xii).	TAMP may please get the latest budgetary offers from the MHC's suppliers, as per our review / market information the rates have been hiked by 20-30%.	

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