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Tariff Authority for Major Ports

G.No. 64

New Delhi,

21 February 2017

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves upfront tariff for Stevedoring and Shore Handling Operations on an adhoc basis at the Chennai Port Trust, as an interim arrangement, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/77/2016-CHPT

Chennai Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 8th day of February 2017)

This case relates to proposal received from the Chennai Port Trust (CHPT) for fixation of upfront tariff for Stevedoring and Shore Handling Operations at CHPT.

2.1. The Ministry of Shipping (MOS) vide its letter No.PD-11033/73/2013-PT (pt) dated 14 June 2016 has forwarded a copy of Stevedoring and Shore Handling Policy for Major Ports, 2016. Subsequently, the MOS vide its letter No.PD-11033/73/2013-PT (pt) dated 7 October 2016 and 17 October 2016 has, under Section 111 of the Major Port Trusts Act, 1963, issued the Guidelines for determination of Upfront Tariff for Stevedoring and Shore Handling Operations authorized by Major Ports under Section 42(3) of the Major Port Trusts Act, 1963. The MOS has issued the guidelines as policy direction to this Authority advising to treat it as most immediate.

2.2. In compliance with the direction issued by the MOS, this Authority has notified the Guidelines for Determination of Upfront Tariff for Stevedoring and Shore Handling Operations on 15 November 2016 vide Gazette No.407 and intimated to all the Major Port Trusts on 21 November 2016.

3. In this backdrop, the CHPT has vide its letter dated 15 November 2016 filed a proposal for fixation of upfront tariff for Stevedoring and Shore Handling Operations at CHPT. On being pointed out that the proposal of CHPT was not accompanied with Copy of approval of its Board, draft Scale of Rates (SOR) alongwith conditionalities governing the SOR and proposed Performance Standards, the CHPT has vide its letter dated 19 December 2016 furnished the requisite details.

4. In accordance with the consultative procedure prescribed, a copy each of the CHPT proposal dated 15 November 2016 and subsequent letter dated 19 December 2016 was forwarded to the concerned users/ user organisations including Stevedores Associations vide our letter dated 22 December 2016 seeking their comments by 4 January 2017. The comments received from them have been forwarded to CHPT as feedback information. A joint hearing on the case in reference is yet to be set up. There may be some points of action from the side of the port arising out of the joint hearing proceedings. That being so, it will take some more time for this case to mature for final consideration of this Authority.

5. Therefore, and keeping in view that the MOS has directed this Authority for immediate action, this Authority decides to approve upfront tariff for stevedoring and shore handling operations and Performance Standards as proposed by the port as interim rate on an ad hoc basis pending final rates to be approved by this Authority after completion of the consultation process. The final rates to be approved by this Authority will have prospective effect. The interim rate adopted in an ad hoc basis will be recognized as such. There will not be any question of refund/ recovery, if any, incase of variation between the adhoc rates and final rates.

6.1. In this connection, it is noted that the proposal of the port includes, *interalia*, the performance norms and tariff for handling of dry bulk cargo using Harbour Mobile Cranes (HMC). The Chennai Port Stevedores Association (CPSA) vide its letter dated 3 January 2017 has made a mention, while furnishing its comments on the Chennai Port Trust (CHPT) proposal, about its Writ Petition No. 1501 of 2016 filed in the Hon'ble High Court of Madras to declare the mandatory. Use of HMC's to be void and illegal and that the Hon'ble High Court has ordered Status Quo on 3 March 2016 which is reported to have been extended. A copy of the comments of CPSA has been forwarded to the CHPT. The response of the CHPT is awaited.

6.2. The Ministry of Shipping (MOS) issued Stevedoring and Shore Handling Policy for Major Ports in June 2016. Subsequently, the Guidelines for determination of upfront tariff for

Stevedoring and Shore Handling operations were issued by MOS in October 2016. Looking to the date of Order of Hon'ble High Court of Madras reported by CPSA, it is seen that the Order of the Hon'ble High Court is prior to the dates of issue of Stevedoring and Shore Handling Policy and guidelines thereon. That being so, it appears that the subject matter of Writ Petition does not appear to be related to either the Stevedoring and Shore Handling Policy or guidelines thereon issued by the MOS. In any case, this Authority has not received a copy of the Writ Petition either from the CPSA or from the CHPT or from the Hon'ble High Court. Notwithstanding, the above position, the CHPT is advised to satisfy itself that the implementation of this Order would not amount to violation of the Order of Hon'ble High Court reported by CPSA.

7.1. In the result, and for the reasons explained above, and based on collective application of the mind, this Authority approves upfront tariff for Stevedoring and Shore Handling Operations alongwith the Performance Standards for the CHPT attached as **Annex**, purely on ad hoc basis pending fixation of final rates. The final rates to be approved by this Authority will have prospective effect.

7.2. Clause 2.11. of the Stevedoring and Shore Handling Guidelines states that before commencement of the stevedoring and or the shore handling operations, the operator will approach this Authority for notification of the Scale of Rates containing the ceiling rates of the stevedoring and or the shore handling charges and performance standards as required under Section 48 of the Major Port Trust Act, 1963. As per Clause 2.3 of the Stevedoring and Shore Handling Guidelines, once the upfront tariff caps are set out for stevedoring and shore handling operations of various commodities for a port, it will be applicable uniformly to the entire port where the stevedoring and shore handling operations are carried out by private agencies or firms.

7.3. In this regard, it is relevant to state that this Authority in consultation with all the Major Port Trusts had already, with reference to regulation of rates for provision of services by person authorised under Section 42 of the Major Port Trusts Act, 1963, decided that regulation of tariff can be done for the port as a whole without reference to individual service providers. Accordingly, this Authority had decided that ceiling tariff will be prescribed for a particular port and the port trust concerned will ensure their application to authorised service provider by making it a condition of authorisation in terms of Section 42(3) of the Major Port Trusts Act, 1963, while issuing the license. The said decision of this Authority was communicated to all the Major Ports and Ministry of Shipping (MOS) vide letter No TAMP/47/2000-MBPT dated 6 May 2002. In view of the above position and keeping in view Clause 2.3. of the Stevedoring and Shore Handling Guidelines, this Authority advises the port to apply the ceiling rates to the authorised individual stevedoring and shore handling operator, by making it as a condition of authorization, while issuing licenses.

7.4. The port is requested to take necessary action for implementation of the adhoc upfront tariff for Stevedoring and Shore Handling operations along with Performance Standards.

(T.S. Balasubramanian)
Member (Finance)

CHENNAI PORT TRUST

AD HOC UPFRONT TARIFF FOR STEVEDORING AND SHORE HANDLING SERVICES

Part I - Definitions and General conditions

(I). Definitions:

- (i). “Coastal vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Directorate General of Shipping/ Competent Authority.
- (ii). “Foreign-going vessel” shall mean any vessel other than coastal vessel.
- (iii). ‘Stevedoring’ includes loading and unloading and stowage of cargo in any form on board the vessels in Port.
- (iv). ‘Shore handling’ includes arranging and receiving the cargo to/from the hook point, inter modal transport from wharf to stock yard and vice-versa and also receiving and delivering of cargo from/to wagons /trucks.
- (v). ‘Stevedore’ is an authorized agent for loading and unloading and anchorage of cargo in any form on board the vessels in ports and to whom the licence has been given under regulations.
- (vi). ‘Shore handling agent’ is an authorized agent for arranging the receiving the cargo to/ from the hook point, intermodal transport from wharf to stock yard and vice-versa and also receiving and delivering of cargo from/ to wagons/ trucks.

(II). General conditions:

- (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into ‘coastal’ or ‘foreign-going’ category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii). System of classification of vessel for levy of Vessel Related Charges (VRC)
 - (a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.
 - (b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a Licence for Specified Period or voyage issued by the Director General of Shipping and a custom conversion order.
- (iii). Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate
 - (a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
 - (b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
 - (c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.
- (iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

- (a). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:
 - (i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.
 - (ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

** The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.*
- (b). In case of a Foreign flag vessel converted to coastal run on the basis of a Licence for Specified Period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.
- (v). All the charges shall be denominated in Indian Rupees.
- (vi). This tariff is not applicable for BOT/ BOOT operators or any other arrangement for private sector participation who are governed by the Tariff Guidelines of 2005, 2008 and 2013.
- (vii). This tariff is applicable uniformly to the entire port where the stevedoring and shore handling operations are carried out by private agencies or firms.
- (viii).
 - (a). The tariff notified is ceiling level.
 - (b). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The authorized agent may, if he so desires, charge lower rates and/or allow higher rebates and discounts.
 - (c). The authorized agent may also, if he so desire rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the users in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.
 - (d). The authorized agent should, however, notify the public such lower rates and/ or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (ix). The authorized agent shall charge only for services provided by him. No notional booking of labour and other similar notional charges would be permitted.
- (x). If any new cargo is to be handled which is not notified/ not included in the list, then the port may categorise that cargo under any one of the cargo categories based on the nature, physical characteristics and the method of handling that cargo.
- (xi). Services for other miscellaneous activities and also the handling charges for specific cargoes when Port takes custody of cargo as per Section 42 of MPT Act shall continue to be levied by Port as per TAMP notified SOR.
- (xii). Tariff caps are indexed to inflation but only to an extent of 60% of the variation in the Wholesale Price Index (WPI) occurring between 1st January and 31st December of the relevant year. Such automatic adjustment of the tariff cap will be made every year and the adjusted tariff cap will come into effect from 1st April of the relevant year till 31st March of the following year.

- (xiii).
 - (a). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed upfront tariff relevant to that year, which would be the ceiling. The aforesaid tariff shall be automatically revised every year based on an indexation as provided in para 2.10. of the normative tariff guidelines, 2016 which will be applicable for the entire License period.
 - (b). The operator, however, is entitled to 100% WPI indexation instead of 60% WPI indexation, from the second year of operation on achievement of performance standards as prescribed in the Berthing Policy vide letter No.PD-11033/73/2013-PT(pt) dated 16 June 2016 for dry bulk cargo as stipulated in clause 7.1. of the guidelines issued by the Ministry of Shipping for fixation of upfront tariff for stevedoring and shore handling operations. For break bulk cargo, the Performance Standards as notified along with this Scale of Rates will be applicable.
 - (c). For this purpose, the Operator shall approach the concerned Major Port Trust within 30 days of completion of financial year of operation along with details of cargo wise average Performance standard achieved for each cargo for both stevedoring and shore handling operations.
 - (d). The Major Port Trust shall ascertain the achievement of performance standards claimed to have been achieved by the operator by engaging Consultant if required in one month's time.
 - (e). The operator can apply 100% indexation instead of 60% on written confirmation by the Major Port Trust to the operator that it has achieved the Performance Standards notified along with the upfront tariff.
 - (f). In the event the Major Port Trust confirms that the operator has not achieved the Performance Standards as notified by TAMP in previous 12 months, the operator will not be entitled for 100% WPI indexation. The operator will continue to levy the tariff with 60% indexation as prescribed at clause 2.10. of the normative tariff guidelines, 2016.
- (xiv). All the operators shall furnish to the Major Port Trust and TAMP annual reports on cargo traffic, ship berth day output, per shift output within a month following the end of financial year in respect of stevedoring/ shore handling operations licensed by the port. Any other information which may be required by TAMP shall also be furnished to them from time to time.
- (xv). TAMP shall publish on its website all such information received from operators and Major Port Trusts. However, TAMP shall consider a request from any operator or Major Port Trust about not publishing certain data/ information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation of upon publication. TAMP's decision in this regard would be final.
- (xvi). The performance norms prescribed for various commodities shall be the minimum that should be achieved by the operator. These performance norms shall be incorporated in the bid documents.
- (xvii). The performance actually achieved by the operator shall be monitored by both the Port and the TAMP on a quarterly basis. In the event of any shortfall in achieving the performance prescribed, the Port will initiate action on the operator as per the terms contained in the agreement entered into with the operator by the Port.
- (xviii). In the event any user has any grievance regarding non-achievement by the operator of the Performance Standards as notified by the TAMP, he may prefer a representation to TAMP which, thereafter, shall conduct an inquiry into the representation and give its finding to the

concerned Major Port Trust. The Major Port Trust will be bound to take necessary action on the findings as per the provisions of the contract conditions of the Agreement.

- (xix). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.50 shall be taken as 0.50 unit and fractions of 0.50 and above shall be treated as one unit, except where otherwise specified.
- (xx). Users will not be required to pay charges for delays beyond reasonable level attributable to the operator.
- (xxi). As per coastal policy direction issued by the MOS and notified by this Authority vide Order No.TAMP/4/2004-Genl. dated 7 January 2005 and 15 March 2005 -
 - (a). The cargo/container related charges for all coastal cargo/containers, other than thermal coal, POL (including crude oil), iron ore and iron ore pellets, should not exceed 60% of the corresponding charges for normal cargo/container related charges.
 - (b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.
 - (c). In case of container related charges, the concession is applicable on composite box rate. Where itemised charges are levied, the concession will be on all the relevant charges for ship shore transfer and transfer from/to quay to/from storage yard as well as wharfage on cargo and containers.

(As and when there is a change in the policy direction issued by the MOS on the coastal concession policy, the same will be communicated to the port.)

- (xxii). The charges for stevedoring operations include loading and unloading and stowage of cargo in any form on board the vessels in Ports.
- (xxiii). The charges for shore handling operations include arranging and receiving the cargo to / from the hook point, inter modal transport from wharf to stack yard and vice-versa and does not include receiving and delivering of cargo from consignee's premises to port premises or vice versa. However, additional charges are payable for wagon loading / unloading of dry bulk cargo as prescribed in Schedule 3.1.3.
- (xxiv). The shore handling charges include Piece Rate Incentive of Rs.4/- per M.T. and Special Levy of Re.1/- per M.T. payable to the Port as per the SoR of the Port. However, it does not include wharfage, demurrage, storage charges, license fee for plot and other miscellaneous charges payable to the Port.
- (xxv). The above charges do not include the cost for deployment of additional equipment / labour or port related services like bagging, etc. which the stevedores may render at the request of the users.
- (xxvi). All taxes and duties, as may be applicable from time to time, including Service Tax / GST shall be paid extra.
- (xxvii). If any question arises requiring clarification or interpretation of the Scale of Rates and Statement of conditions of the operator, the matter shall be referred to TAMP and decision of TAMP in this regard will be binding on the operator.
- (xxviii). In the event any user has any grievance regarding non-achievement by the Licensed Agent of the Performance Standards prescribed above, he may prefer a representation to TAMP which, thereafter, shall conduct an inquiry into the representation and give its finding to the Port. The Port will be bound to take necessary action on the findings as per the provisions of the contract conditions of the Agreement.

2. Performance Standards

2.1 Dry Bulk Cargo

The Performance Standards for dry bulk cargo will be as prescribed in the Berthing Policy vide letter No.PD-11033/73/2013-PT(pt) dated 16 June 2016 for dry bulk cargo as stipulated in clause 7.1. of the guidelines issued by the Ministry of Shipping for fixation of upfront tariff for stevedoring and shore handling operations.

2.2 Break Bulk Cargo

Sl. No.	Commodity	Productivity per shift (in M.T.)
A	Import	
1	Steel bar/tubes/ pipes	850
2	Steel CR Coil	1700
3	Steel Plate	1400
4	Steel Billet	850
5	HR Coil	2300
6	Excavator	450
7	Project cargo (including Machinery)	450
8	Logs	700
B	Export	
9	Steel Billet/bar/ tubes/ pipes	1000
10	Steel CR Coil	1200
11	Granite Block	1000
12	HR Coil	2300
13	Barytes - J. Bags	1200
14	Project cargo (including Machinery, Windmill & Excavator)	250

3. Tariff Schedule

3.1 Dry Bulk Cargo

3.1.1 Using Ship Crane

(Rate per M.T. in ₹)

Sl. No.	Commodity	Stevedoring Operations	Shore handling operations		
			Method 1	Method 2	Method 3
A	Import		Cargo unloaded onto trucks and moved to the storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved to storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved out of port limits for delivery
1	Ammonium Sulphate	107	78	110	34
2	Muriate of Potash	107	78	110	34
3	Rock Phosphate	107	78	110	34
4	Sulphur	150	103	142	41
5	Urea	114	82	113	32
6	Silica sand	130	152	230	80
7	Dolomite	77	52	82	32
8	Limestone	83	63	100	38
9	Iron Ore Pellet	110	82	119	39
10	Gypsum	88	53	76	25
11	Food grains	131	111	153	44

12	Shredded Scrap	199	109	196	89
13	Heavy Melting Scrap	285	133	179	47
B	Export		Cargo loaded onto trucks from storage yard within the port limits, moved to wharf and loaded onto vessel directly from the trucks	Cargo loaded onto trucks from storage yard within the port limits, moved to wharf, unloaded at wharf and loaded onto vessel	Cargo directly brought from outside port, unloaded at wharf and loaded onto vessel
14	Food grains (Maize, Raw sugar, etc.)	212	Direct loading from Trucks to the vessels using Crane grab is not practically feasible.	298	80
15	Barytes	94		147	51
16	Cobble Stones	97		138	50
17	Mil Scale	92		97	37
18	Cement clinkers	90		92	36
19	Ferro slag	92		97	37

3.1.2 Using Harbour Mobile Crane

(Rate per M.T. in ₹)

Sl. No.	Commodity	Stevedoring Operations	Shore handling operations		
			Method 1	Method 2	Method 3
A	Import		Cargo unloaded onto trucks and moved to the storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved to storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved out of port limits for delivery
1	Ammonium Sulphate	92	Direct unloading on to Trucks is not feasible since Grab capacity of HMC is more than Truck capacity.	127	20
2	Muriate of Potash	92		127	20
3	Rock Phosphate	92		127	20
4	Sulphur	97		130	22
5	Urea	90		127	20
6	Silica sand	92		127	20
7	Dolomite	92		127	20
8	Limestone	92		127	20
9	Iron Ore Pellet	97		127	20
10	Gypsum	92		127	20
11	Food grains	92		127	20
12	Shredded Scrap	112		139	32
13	Heavy Melting Scrap	101		111	13
B	Export		Cargo loaded onto trucks from storage yard within the port limits, moved to wharf and loaded onto vessel directly from the trucks	Cargo loaded onto trucks from storage yard within the port limits, moved to wharf, unloaded at wharf	Cargo directly brought from outside port, unloaded at wharf and loaded onto vessel

				and loaded onto vessel	
14	Food grains (Maize, Raw sugar, etc.)	92	Direct loading from Trucks to the vessels using HMC grab is not practically feasible.	116	16
15	Barytes	97		116	16
16	Cobble Stones	92		116	16
17	Mil Scale	97		116	16
18	Cement clinkers	97		116	16
19	Ferro slag	97		116	16

3.1.3. Additional charges

Sl. No.	Particulars	Rate per M.T. (in ₹)
1.	Use of Hopper for unloading of cargo	45
2.	Wagon Loading at Railway siding	36
3.	Wagon Unloading at Railway siding	59

3.2 Break Bulk Cargo

(Rate per M.T. in ₹)

Sl. No.	Commodity	Stevedoring Operations	Shore handling operations		
			Method 1	Method 2	Method 3
A	Import		Cargo unloaded onto trucks and moved to the storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved to storage yard within the port limits for stacking and delivery	Cargo unloaded on wharf, loaded onto trucks and moved out of port limits for delivery
1	Steel bar/tubes/ pipes	169	155	279	126
2	Steel CR Coil	139	143	257	116
3	Steel Plate	169	124	202	80
4	Steel Billet	169	155	279	126
5	HR Coil	127	150	210	61
6	Excavator	389	96	103	29
7	Project cargo (including Machinery)	427	244	427	185
8	Logs	341	NA	367	212
B	Export		Cargo loaded onto trucks from storage yard within the port limits, moved to wharf and loaded onto vessel directly from the trucks	Cargo loaded onto trucks from storage yard within the port limits, moved to wharf, unloaded at wharf and loaded onto vessel	Cargo directly brought from outside port, unloaded at wharf and loaded onto vessel
9	Steel Billet/bar/ tubes/ pipes	178	143	250	108
10	Steel CR Coil	197	171	279	110
11	Granite Block	175	275	NA	NA
12	HR Coil	127	150	210	61
13	Barytes - J. Bags	255	102	NA	NA

14	Project cargo (including Machinery, Windmill & Excavator)	768	379	703	326
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