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TARIFF AUTHORITY FOR MAJOR PORTS

G. No.116 **New Delhi,** **29 July 2008**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Chennai Port Trust for revision of stevedoring and Clearing & Forwarding levy as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports

Case No. TAMP/34/2007 – CHPT

The Chennai Port Trust **- - -** **Applicant**

O R D E R

(Passed on this 3rd day of July 2008)

This case relates to a proposal dated 5 June 2007 received from Chennai Port Trust (CHPT) for revision of Stevedoring and Clearing & Forwarding (C & F) levy.

2.1. This Authority vide its Order dated 22 October 2003 had approved levy for stevedoring activity for a period of 2 years from the date of the Notification of the Order. This Order was notified in the Gazette of India on 7 November 2003. Accordingly, the initial validity of the rates of stevedoring levy had expired on 6 November 2005.

2.2. The general revision proposal of CHPT which was decided by this Authority in March 2006 included review of the existing stevedoring levy. During the proceedings of the general revision proposal, the CHPT in consultation with the users proposed to file a separate proposal for this activity and requested for continuance of existing arrangement. This Authority, therefore, extended the validity of the existing levy for stevedoring activity for a period of one year with effect from 7 November 2005.

2.3. The validity of the existing levy for stevedoring activity was extended from time to time and the latest extension is upto 31 March 2008 vide Order dated 28 January 2008.

3. The main points made by CHPT in its proposal are summarized below:

(i). The actuals paid to the workers are more than what is collected from users. This difference is on account of periodical increase in Dearness Allowance and annual increment given to the workers. Hence, to offset the difference revision has been proposed in the stevedoring levy.

(ii). The CHPT has discussed the proposal with users during the meeting held on 6 September 2006 and 6 October 2006 and the proposal is reported to be a consensus proposal. The CHPT vide its letter dated 6 July 2007 has furnished a copy of the minutes of the meeting held with the port users on 6 October 2006.

(iii). The port has reported that the users have agreed to the actual increase in total wages up to 30 September 2006. It is also reported that 5% buffer along with increase with prospective effect was agreed by the users.

4.1 The proposals of the CHPT are given below:

(i). Increase sought by the CHPT in time rate wages of different categories of workers prescribed in Scale 1 of Chapter VII of the CHPT Scale of Rates is given in the following table:

Sr. No.	Category	Proposed percentage increase
1.	On-Board supervisor	27%
2.	Tally clerk	28%
3.	Tindal	22%
4.	Maistry	16%
5.	Winch Driver	17%
6.	Signalman	16%
7.	Mazdoor	26%

[The percentage increase shown above is an updated position conveyed subsequently by CHPT vide its letter dated 25 September 2007 with reference to variable Dearness Allowance as of July 2007 at 71.1% as against 67.40% considered in the proposal dated 5 June 2007.]

(ii). To collect a sum of Rs.2/- per tonne to recover the arrears in the wages for the period from the date of effect of wage revision till the date the revised wages are incorporated in the Scale of Rates by TAMP. This charge is proposed to be collected from the date of approval of the present proposal of CHPT.

(iii). The CHPT has proposed the following (new) conditionality under Scale 2 of Chapter VII relating to Clearing and Forwarding Operations:

"In case of Cobble Stones, Cut Stones, Barytes, Manganese Ore, Felsper, Blue Metals, etc., and any other dry bulk cargo which requires aggregation at the transit area prior to shipment, the port has proposed to collect the following charges payable towards the cargo stored in the transit area. If the cargo is stored in the licensed plot, the proposed charges are not leviable by the port.

(a). Rs.4/- per tonne.
(b). Wages at Rs.1026.34 for 2 Mazdoors.

The above charges are payable through export applications on the actual quantity as certified by the CHPT or officials authorised by it. In case additional mazdoors are required, separate charges are to be paid extra at Rs 513.17 per Mazdoor.

4.2 CHPT has stated that the proposal has been approved by its Board of Trustees.

5.1. In accordance with the consultative procedure prescribed, a copy of the CHPT proposal was forwarded to the concerned user organisations for their comments.

5.2. The comments of the user organizations were forwarded to the CHPT as feedback information. The CHPT has responded to the comments of few user organisations.

6. On a preliminary scrutiny of the proposal, it was found that additional information/ clarifications are required from CHPT on various points. The additional information / clarifications sought by us and the response of CHPT are tabulated below:

Sr. No.	Queries raised by us	Response of CHPT
(i).	CHPT may consider to include review of the existing charges for stevedoring operations in the general revision proposal (to be) filed by CHPT for the tariff cycle beyond 31 March 2008 so that a comprehensive assessment could be made and the validity of the (reviewed) charges for stevedoring operations and C&F operation will be co-terminus with the Scale of Rates for the CHPT as a whole for the future tariff cycle.	The revision of the stevedoring and C&F levy is in the final stages. The users have given their consent. TAMP has already conducted a joint hearing on 28.01.2008. Hence it may be appropriate to consider the present proposal and pass Orders. The CHPT has taken note of the suggestion to merge this revision of the stevedoring and C&F levy with the general revision proposal and will implement it from the next revision.
(ii).	Detailed cost statements in the prescribed format for stevedoring operations and Clearing & Forwarding operations separately and consolidated cost statement for the Cargo Handling Division (CHD) as a whole giving the actuals for the period 2003-04 to September 2007 and estimates for the period October 2007	No separate cost sheet is prepared in the prescribed format for this activity. After merger of Cargo Handling Division (CHD) with CHPT in 2001-02, no separate annual accounts are prepared for CHD. However, separate income and expenditure codes for CHD are created and accordingly, the income and expenditure are accounted.

<table>
<tr><td></td><td>to the year 2010-11 with detailed workings may be furnished.</td><td>The Year wise income and expenditure are furnished below:
(Rs. in lakhs)
<table>
<tr><td>Year</td><td colspan="2">Direct Operating Income (Actuals)</td><td>Total Operating Income (Actuals)</td><td>Direct Operating Expenditure (Actuals)</td><td>Operating Surplus (Actuals)</td></tr>
<tr><td></td><td>Levy</td><td>Steved-oring levy</td><td></td><td></td><td></td></tr>
<tr><td>2003-04</td><td>434.57</td><td>2354.78</td><td>2789.35</td><td>2270.75</td><td>518.60</td></tr>
<tr><td>2004-05</td><td>281.34</td><td>3182.94</td><td>3464.28</td><td>2245.52</td><td>1218.76</td></tr>
<tr><td>2005-06</td><td>365.60</td><td>3286.36</td><td>3651.96</td><td>2421.54</td><td>1230.42</td></tr>
<tr><td>2006-07</td><td>358.28</td><td>3527.28</td><td>3885.56</td><td>2363.82</td><td>1521.74</td></tr>
<tr><td>Total</td><td>1439.79</td><td>12351.36</td><td>13791.15</td><td>9301.63</td><td>4489.52</td></tr>
<tr><td>Revised Estimate (2007-08)</td><td>405.70</td><td>3994.30</td><td>4400.00</td><td>2525.54</td><td>1874.46</td></tr>
<tr><td>Budget Estimate (2008-09)</td><td>424.16</td><td>4175.84</td><td>4600.00</td><td>2762.10</td><td>1927.90</td></tr>
</table>
Note: The Income & Expenditure particulars given above are only Direct Income and Direct Expenditure and do not include apportionment of overheads, Financial & Miscellaneous Income.</td></tr>
<tr><td>(iii).</td><td>Actual traffic for the period 2003-04 to 2007-08 (upto September 2007), and estimated traffic till 2010-11 with cargo wise break-up for stevedoring operations and C&F operations may be furnished.</td><td>The actual traffic handled is given below:
(In Lakh Tonnes)
<table>
<tr><th>Year</th><th>Actual Traffic</th></tr>
<tr><td>2003-04</td><td>97.72</td></tr>
<tr><td>2004-05</td><td>138.49</td></tr>
<tr><td>2005-06</td><td>142.56</td></tr>
<tr><td>2006-07</td><td>163.46</td></tr>
<tr><td>April 2007 to September 2007</td><td>67.88</td></tr>
</table>
(In Lakh tonnes)
<table>
<tr><th>Year</th><th>Estimated Traffic</th></tr>
<tr><td>October 2007 to March 2008</td><td>71.26
Total 71.26</td></tr>
<tr><td>2008-09</td><td>146.07</td></tr>
<tr><td>2009-10</td><td>153.35</td></tr>
<tr><td>2010-11</td><td>161.00</td></tr>
<tr><td>Total</td><td>460.22</td></tr>
</table>
(The list does not segregate the cargo for stevedoring operations and C&F Operations)</td></tr>
<tr><td>(iv).</td><td>The estimated cargo throughput which may require aggregation at the transit area for the years 2008-09 to 2010-11.</td><td>The CHPT is not in a position to assess at this stage.</td></tr>
<tr><td>(v).</td><td>As per Clause 2.6.2 of the revised tariff guidelines it is necessary to regularly adjust manning scales / datum after due process of law. Clause 4.7.3. of the revised tariff guidelines requires all the major ports to revise the datum and rates of piece rate scheme from time to time in terms of the national wage settlements. The CHPT may also refer to the paragraph 9(iii) of Order dated 22 October 2003 passed by this Authority advising CHPT to initiate action to periodically rationalize the datum for different commodities in terms of the provisions contained in the national level wage agreement. In this context, the following details may</td><td>The manning Scale was last revised on 2 February 2002.</td></tr>
</table>

	be furnished: (a). When the manning Scale for stevedoring operations was last revised (b). A statement showing a comparative position of the manning scale for various commodities existing now after revision, if any, of manning scale, and the position existed at the time when the charges for stevedoring operations were fixed by this Authority in October 2003. (c). The stipulations made in Wage Negotiation Agreement with reference to revision of Datum for different commodities. (d). Action taken by CHPT to periodically rationalize the datum for different commodities adopted for payment of piece rate.	No changes have been effected after 2002. (The CHPT has furnished a copy of the statement showing manning scale/ datum/ piece rate). This will be discussed with the stevedores / Unions.
(vi).	(a). Confirmation that the percentages of VDA adopted by CHPT for quantifying the increase for the period September 2006 to June 2007 are at actuals. (b). The basis for adopting the percentages of VDA for the period October 2007 to August 2008.	The percentages of VDA adopted for quantifying the increase for the period from September 2006 to June 2007 are at actuals. An average of 1.48% per quarter has been applied by taking the average of difference between the VDA percentage as on 10/2006 and 07/2007. $\dfrac{71.10\%-65.20\%}{4 \text{ Quarters}} = 1.48\%$
(vii).	The CHPT has proposed to continue with the percentage levy at the existing level of 192% of time rate wages. In this regard, justification for continuing with the same rate of levy with reference to cost along with details of average employment per gang of cargo handling workers for each type of cargo for the last 3 years and that estimated for the next 3 years.	The percentage levy at the existing level of 192% of time rate wages was fixed during the merger of DLB with CHPT and the entire DLB staff have been absorbed in CHPT. The indirect expense for which the 192% levy is being collected is increasing every year. There is an increase in the indirect expenditure by 26.70% from 2002 to 2007. Hence, the 192% levy may be retained.
(viii).	In the case of agricultural produce, a charge of Rs.7.50 per MT for deployment of cargo handling workers and supervisory staff for stevedoring operations was approved in October 2003. CHPT has not proposed revision in the existing charge of Rs.7.50 per MT. The CHPT to clarify how it is proposed to meet the increase in wages in respect of manpower deployed for stevedoring operations of agricultural produce.	To encourage export/ import of agricultural produce, it is proposed to maintain the existing rate of Rs.7.50 per MT for deployment of cargo handling workers and supervisory staff for stevedoring operations. Hence no revision has been proposed.
(ix).	The reason for the proposed deletion of the existing conditionality No.6 governing recovery of actual wages for deployment of additional manpower may be clarified. CHPT	The existing conditionality no.6 governing recovery of actual wages for deployment of additional manpower has been deleted under Scale 1 and specifically given under Scale 2 with specific rates for levy. This has been done with the consent of the users.

	has proposed to maintain the existing identical conditionality under Scale 2 – Clearing & Forwarding Operations.	
(x).	The CHPT may specify the "other purposes" for which tonnage of Heavy Lift Cargo will be taken as 7 tonnes per unit for calculation of piece rate as mentioned in the proposed condition No. 7.	The other purposes refer to statistical purposes of CHPT.
(xi).	The existing conditions (ix) to (xii) appear to be relating to operational procedure in deployment of manpower for stevedoring operations. Therefore, it may not be necessary to include the above said conditions in the Scale of Rates.	These are shown to make it known to the users and for collection of the levy accordingly.
(xii).	The CHPT to propose conditionality for posting of manpower as per the respective manning Scale of gang to handle the respective category of cargo.	The revision of the manning scales is being discussed with the trade unions and stevedores. After the revised manning scale is finalised, the same will be incorporated in the SOR.
(xiii).	With reference to the proposed additional levy of Rs.2 per tonne, towards provision for wage revision CHPT may furnish / clarify the following: (a). A suitable conditionality in this regard.	The CHPT vide its letter dated 11 April 2008 has suggested the following conditionality : "Note No. 9 – A Special Charge of Re 1 per tonne will be collected through all Import and Export applications, wherever cargo handling division workers are deployed (The above special charge shall be collected to recover the arrears in the wages for the period from the date of effect of wage revision till the date of revised wages are incorporated in the Scale of Rates with TAMP's approval)"
	(b). Workings for the extent of liability towards wage arrears estimated by CHPT at Rs.5 Crores vide its letter dated 25 September 2007 indicating the period upto which it will be recovered.	The expenditure on this activity is around Rs.24 crores during 2006-07. By applying the anticipated wage revision impact of around 20% per annum, the same has been estimated at Rs.5 crores.
	(c). This Authority may allow upto 15% of the salary towards wage arrear liability as per the approach followed in the general revision cases of Mormugao Port Trust (MoPT), Visakhapatnam Port Trust (VPT), Jawaharlal Nehru Port Trust (JNPT) and New Mangalore Port Trust (NMPT).	The Authority may decide.
	(d). The special rate, if introduced, should be discontinued immediately on recovery of the wage arrears liability. This requires maintenance of separate account head for the purpose and regular	The special rate will be discontinued on the outcome of wage revision and its implementation. A separate liability code will be created to credit the special levy of Re.1 per ton collected. The amount so accumulated will be adjusted against wage arrears on wage settlement.

	review of the said account head. The CHPT to suggest a suitable monitoring mechanism in this regard.	
(xiv).	The existing conditionality No. 3 governs levy of piece rate incentive for C&F operations. In this regard the following may be clarified: (a). The reasons for modifying the existing conditionality. (b). The proposed (modified) conditionality at Sr. No. 3 under Scale– 2 (C&F operations) states that the piece rate incentive of Rs.4 per tonne will be collected before rendering the service and the requirement of adjustment against the actual piece rate is proposed to be done away with. Further, as per conditionality No. 2, CHPT is required to calculate the piece rate incentive after completion of delivery / receipt of cargo. That being so, it may be clarified why the amount of Rs.4 per tonne should be collected before rendering the service. If the piece rate payment does not depend upon productivity, why it cannot be merged with the applicable base C&F levy for general cargo or other cargo.	At present, the levy of Rs.4/- per tonne is collected in the IA / EA towards piece rate, though it is stated as advance. This cannot be matched with actuals. Hence, a flat rate of Rs.4/- per tonne is proposed to be collected.
(xv).	With regard to providing additional manpower for stevedores, identical conditionalities have been prescribed at serial No. 6, in Scale 1 and at serial No. 4 in Scale 2 in the existing arrangement. While the CHPT has proposed to delete this existing conditionality in Scale 1, the reason for proposing to continue with this condition in Scale – 2.	The existing conditionality no.6 governing recovery of actual wages for deployment of additional manpower has been deleted under Scale 1 and specifically given under Scale 2 with specific rates for levy. This has been done with the consent of the users. [However, no specific rates of wages in respect of the category of workers towards additional man power are seen to have been furnished by the port under condition 4, Scale -2]
(xvi).	This Authority had passed an Order dated 25 January 2007 disposing of the references from CHPT and Hindustan Chamber of Commerce (HCC) and clarified on the levy of C&F charges for hook point dispatch. The proposed condition 7 in Scale -2 does not reflect the clarified position. The condition No. 7 to be suitably modified to reflect the position clarified in Order dated 25 January 2007.	Condition No. 7 has been modified as per TAMP Order dated 25 January 2007. (No modification has been effected by CHPT).
(xvii).	With reference to the proposed new conditionality at Sl.No.8 for levy of piece-rate of Rs.4 per tonne towards aggregating operation in respect of some items of cargo stored in the transit area, the following may be furnished/ clarified:	

	(a). In the existing Scale 2 – Clearing & Forwarding operations, rates have been prescribed for activities relating to Delivery / Receipt of General Cargo / Bulk Cargo, Ore and Timber. Confirm whether the activity of aggregation of the category of cargo in transit area mentioned in the proposed new conditionality is not covered in Delivery / Receipt operations.	It is confirmed that the activity of aggregation at transit shed for cargoes like Barytes, Cobble stones, cut stones etc is not covered in Delivery/ Receipt operation.
	(b). The activities carried out for Delivery / Receipt operations may be listed out.	Incase of cargoes directly delivered from hook point to trucks/ lorries, no involvement of C& F. Hence no C&F levy is collected. Incase of cargoes unloaded in the transit area from hook point, the C&F labour is posted for delivery. Hence C&F levy is collected. Incase of cargo brought for direct shipment from the licensed plots to the wharf, no C&F levy is collected. Incase of cargo allowed by the port to be aggregated near the wharf, the cargo is bought by vehicles and directly shipped from the wharf. Hence, no C&F levy is collected. Incase of cargo brought, off loaded, stacked at transit sheds, shipped when the vessel is berthed, C&F levy is collected as C&F labour is posted.
	(c). What rate, if any, is being levied by CHPT for aggregation of the said cargo presently and the authority for levy of such rate.	The rate as per the SOR is collected for the mazdoors supplied.
	(d). CHPT to justify the proposed levy of Rs.4 per tonne for the activity of aggregation of cargo at transit area with cost details.	(i). Cargoes like Barytes, Cobble stones, etc., are permitted to be aggregated near the wharf and the cargo is brought by vehicles, off loaded at the wharf and directly shipped from the wharf, no C&F levy is collected. However, for off loading onto the wharf, parties require two mazdoors and the port supplies them and the charges are collected later as per the SOR. Since the parties bringing the cargo request for posting two mazdoors, it is proposed to include it in the SOR. (ii). As regards the rate of Rs.4/- per ton, the same is towards piece rate on the same analogy of C&F piece rate as the activities are similar. This is in consensus with the users.
	(e). Either the conditionality proposed at Sl. No. 8 may be made comprehensive by specifying all types of cargo which may warrant aggregation at the transit area or the word “etc” included in the new conditionality to be deleted.	As suggested by TAMP, the word “etc” will be deleted. Any new cargo warranting aggregation in the transit area shall be included with the approval of Board.

(xviii).	The CHPT in its response to the comments of the users on the proposal vide its letter dated 25 September 2007 has, inter alia, stated that it will impose the Clearing & Forwarding Levy in respect of the handling of cargo received at the transit area by means of mechanical devices and which does not employ labour till it resolves the issue in discussion with the stake holders. In this regard, CHPT to clarify whether this approach of CHPT is in line with the proposed conditionality No. 1, which stipulates CHPT to recover labour charges when there is actual deployment of labour for C&F Operations.	When cargo is off-loaded entirely by mechanical means like tipplers, no C&F labour is posted. However, when the cargo is brought by lorries and tippers, C&F labour is required to be posted and the labour charges are recovered only for the actual deployment for the C&F operations.

7. A joint hearing in this case was held on 28 January 2008 at the premises of the CHPT. At the joint hearing, the CHPT and the user organisations have made their submissions.

8.1 Since the basic charges are continued to be derived based on the existing wage structure which is reportedly already due for revision retrospectively, the proposal of the CHPT for introducing a special charge to build up reserves to meet the wage revision arrears was found to have merit. Since CHPT had not furnished the financial analysis showing the surplus / deficit position in the stevedoring activity and the estimated financial liability on account of the impending wage revision, it was not possible to decide upon the rate proposed by the port. Since the wage revision is reported to be already due from 1 January 2007, any delay in introducing the special charge may only push up the uncovered wage arrears to be recovered at a later stage, it was found reasonable to introduce immediately the agreed rate of Re.1/- per tonne as an interim arrangement.

8.2 An Order dated 12 February 2008 was passed approving a special charge of Re.1/- per tonne at the CHPT as an interim arrangement, subject to passing of the final Order on the proposal of CHPT. This Order was notified in the Gazette of India on 21 February 2008 and has come into force with effect from 28 February 2008.

9. 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

10. With reference to the totality of information collected during processing of this case, the following position emerges:

(i). The CHPT does not undertake direct stevedoring services. The licensed stevedores provide such services by engaging the cargo handling workers from the port. The CHPT, therefore, levies charges for supply of workers for cargo handling operations.

(ii). The ceiling rates prescribed in the Order dated 22 October 2003 for recovery of time rate wages for supply of workers for stevedoring operations and per tonne levy for supply of workers for C&F operations, were based on the then prevailing wage cost. With efflux of time, the actual salary paid to the workers is reported to be more than the amount collected from the users. The proposal before this Authority is for revision of time rate wages for supply of workers for stevedoring operations to off-set the periodical increase in salary levels.

(iii). The tariff guidelines stipulate regular adjustment of manning scales for different commodities and operations. Likewise, datum for different commodities adopted for piece rate scheme requires to be rationalized in terms of National Wage Settlements. Reportedly, the CHPT is confronted with the legal issues in the implementation of the Award of the National Tribunal. As the CHPT is already engaged with the concerned parties in this regard, the port is advised to expedite the process of settlement of the issues so that the manning scales are revised and the datum for different commodities adopted for payment of piece rate are rationalized by it before next review of the relevant Scale of Rates. Some of the users who had earlier raised the issue of revision of datum and manning scale, have perhaps realized the sensitivities and legal issues involved in this matter and the steps taken by the port and conveyed at the hearing that they do not press their earlier demand. They have, however, rightly called for discontinuance of notional labour bookings.

(iv). The estimates of financial / cost details for the years 2007-08 and 2008-09 in respect of the Cargo Handling Division of the port furnished by it are incomplete. Therefore, it is found not possible to ascertain the financial position of the Cargo Handling Division for the above said two years. Since the proposal is to offset the increase in wage rate, the proposal is analysed placing reliance on the change in the wage structure reported by the port without going into the activity based cost analysis. The CHPT should maintain necessary cost details pertaining to this activity so that cost statements in the prescribed format can be filed during the next review of tariff for stevedoring operations and clearing & forwarding operations.

(v). The original proposal of the CHPT is based on the actual increase in total wages upto September 2006 taking into account the escalation in wages for the next two years till August 2008. Subsequently, the CHPT vide its letter dated 25 September 2007 modified the rates of variable Dearness Allowance based on the actuals prevailing as of July 2007 which has the effect of increasing the time rate wages by 2% to 3% for each category of worker when compared with the original proposal. Keeping in view the confirmation of the port that the modified VDA rates are at actuals and bearing in mind that the users have agreed for a buffer to accommodate future increase in variable Dearness Allowance, this Authority approves the proposed wage rates.

(vi). As stated earlier, the CHPT collects a levy alongwith time rate wages to cover overheads. The CHPT has proposed to continue with the existing percentage levy of 192%. Information regarding overheads and details of average employment per gang of cargo handling workers have not been furnished by CHPT despite a request made in this regard. The indirect expenses are, however, stated to be increasing every year. User associations who have been consulted in this proceeding have not objected to continuation of the existing quantum of percentage levy. While this Authority approves the proposal of the CHPT to maintain the levy at the existing level, the CHPT is advised to furnish the requisite details at the time of next review of tariff for stevedoring activity for verification.

(vii). A separate rate of Rs.7.50 per metric tonne has been prescribed in the existing tariff arrangement for deployment of cargo handling workers for stevedoring operations for agricultural produce. The manpower deployed for stevedoring operations to handle agricultural produce will also bear increase in wages, warranting increase in cost of handling agricultural produce. The CHPT has clarified that it has proposed to maintain the existing rate to encourage handling of agricultural produce at CHPT. The proposal of the port is approved.

(viii). There is a provision in the existing arrangement relating to stevedoring operations to govern levy of charges on the stevedores whenever they require additional manpower for stevedoring operations. Actual wages corresponding to the category of workers requisitioned by the stevedores are payable to the CHPT. An identical provision is available under the tariff arrangement prescribed for charging C&F Levy. The CHPT has proposed to delete the existing provisions prescribed under stevedoring operations. Even admitting that the proposed deletion of the existing provision has the consent of the users, as argued by CHPT, it may not be possible technically for the CHPT to apply a conditionality specific to a tariff item to another tariff item, unless so specified. No such modification to the existing provision governing C&F levy has been proposed. That being so, the existing provision prescribed at serial No. 6 under Scale 1 – Stevedoring Operations may continue.

(ix). (a). As brought-out earlier, the CHPT proposal includes introduction of a special charge of Rs.2 per tonne to build up reserves to meet the liability of arrear wages on account of the impending revision of pay and allowances of port workers with effect from 1.1.2007.

(b). Based on the actual wages of around Rs.24 Crores for the year 2006-07 and considering the wage revision impact of 20% per annum, the CHPT has quantified the arrear liability to the tune of Rs.5 Crores.

(c). Following the approach adopted by this Authority to allow upto 15% of the salary towards wage arrear liability in the general revision cases of Mormugao Port Trust, Visakhapatnam Port Trust, Jawaharlal Nehru Port Trust and New Mangalore Port Trust, the admissible arrear liability to be allowed as pass through works out to Rs.3.60 Crores based on the annual wage bill of Rs.24 Crores conveyed by the CHPT. The argument of the CHPT that it will take long time (five years) to recoup the arrears quantified at Rs.5 Crores if the special charge is fixed at Re. 1 per tonne is based on the position of handling 100 lakh tonne cargo per annum. The port envisages to recoup the arrear liability within a shorter period of around 3 years.

(d). Looking at the aggregate cargo throughput of 460.42 lakhs tonnes estimated to be handled by the cargo handling division of CHPT during the years 2008-09 to 2010-11, the port may handle around 153.50 lakhs tonnes per annum on an average during the said period of three years. No reason is furnished by the port to reckon with the cargo throughput of 100 lakhs tonnes per annum instead of the average quantum of 153.50 lakhs tonnes per annum to estimate the period upto which the special rate will be levied. Presumably, the cargo estimated to be directly delivered from the hook point or directly shipped without the use of CHPT labour has been excluded by the port.

(e). The CHPT can recover the (moderated) estimated arrear liability of Rs.3.60 crore within a shorter period of about 3½ years by levying the special rate at Re.1/- per tonne on the estimated 100 lakhs tonnes per annum. The mutually agreed rate of Re.1 per tonne approved by this Authority as an interim arrangement can, therefore, continue till the (moderated) arrear liability is recovered by the port. The port should quantify the actual arrear liabilities soon after the pay revision is effected and inform this Authority about the position of collection made already and the balance to be recovered, so that the terminal date for discontinuance of the levy could be realistically fixed. It is reiterated that the CHPT should comply with the stipulations prescribed in the paragraph No. 6 of the Order dated 12 February 2008 notified on 22 February 2008 in Case No. TAMP/34/2007-CHPT for the levy of the special charge of Re.1 per tonne.

(f). The exact impact of the impending revision of pay and allowances of port workers, cannot be factored now in the time rates. The proposed conditionality to govern the levy of special charge appears to perpetuate the special charge till the effect of wage revision is factored in the Scale of

Rates with the approval of this Authority. This Authority may not be in a position to perpetuate levy of special charge for an unspecified period. As mentioned earlier the CHPT, immediately after the pay revision is effected should furnish necessary details to determine the period upto which the special rate should continue. It is, however, open for CHPT to propose ahead of schedule review of the rates after the wage revision is effected, if the impact of the wage revision substantially alters the financial model considered now.

(x). The existing charges for clearing & forwarding operations include per tonne levy for bulk cargo, ore and timber / logs prescribed at Scale-2(b). The CHPT has conceded the point made by the user Associations that the bulk cargoes received at transit area by the tippers are off loaded by mechanical system not requiring labour. The CHPT, however, wants the existing system to continue till it finalizes a revised method in consultation with all concerned, particularly labour unions. The existing arrangement may, therefore, continue for the time being and the CHPT should report the steps taken by it in this regard within 6 months.

(xi). The existing conditionalities governing levy of piece rate incentive for C&F operations prescribe collection of the piece rate in advance on estimate basis and the advance so collected requires to be adjusted against the actual piece rate after completion of delivery / receipt operations.

The requirement of adjustment of advance against the actual piece rate is proposed to be dispensed with on the ground that the port will collect a flat rate. As the piece rate payment depends on productivity, it is not clear how the CHPT can collect a flat rate and upfront at that. The proposed modification to the conditionality no.3 does not appear to be in harmony with the conditionality no.2, regarding piece rate incentive after completion of delivery / receipt of cargo, which is not proposed to be changed. Therefore, the existing conditionality no.3 may continue without any modification.

(xii). No charge towards C&F operation is payable by the users for the cargo which is directly delivered from the hook point or directly shipped without the use of any labour under the control of CHPT, whenever the port permits direct delivery / direct shipment of cargo. The conditionality no.7 in this regard does not reflect the position regarding levy of C&F charges for hook point despatch clarified by this Authority while disposing of the references from the CHPT and Hindustan Chamber of Commerce (HCC) vide Order dated 25.1.2007, despite a request made to the CHPT to modify the said conditionality suitably. The proposed Scale of Rate is corrected to this extent.

(xiii). (a). There is provision in the existing arrangement for per tonne levy towards delivery/receipt operations of general cargo and other cargo. In addition to this per tonne levy, the proposed rate of Rs.4/- per tonne for the services rendered by the port towards aggregation of certain cargo in the transit area is stated to be a consensus proposal. The port has confirmed that the activity of aggregation of cargo at the transit area is not covered in delivery/receipt operations. From the clarification given by the CHPT to a query regarding cost justification for the proposed rate of Rs.4/- per tonne, it appears that the activities involved in the aggregation of cargo at the transit area are similar to the activities involved in the service of C&F operation for which a piece rate of Rs.4/- per tonne is already prescribed.

Even though some users have raised an objection in this regard, the CHPT has categorically stated that the users have agreed to the proposed relevant conditionality which is evident from the minutes of the meeting held by CHPT with the users on 6.10.2006. Since the piece rate payment depends on productivity, authorizing the CHPT to collect a flat rate of Rs.

4 per tonne may not be correct. Therefore, the CHPT is authorised to collect actual piece rate.

(b). As brought out earlier, the port has stated that it supplies two mazdoors for off loading cargo like cobble stones at the wharf, for direct shipment from the wharf, at the request of the users. The port collects wages for the two mazdoors at the prescribed rates. The proposal of the port is to include this arrangement in the Scale of Rates. Since the prescribed wages are collected by the port for supply of mazdoors and the availing of service of mazdoors by the users is optional and bearing in mind that the CHPT does not collect C&F levy, as confirmed by it, the existing arrangement is formalised by including it in the Scale of Rates, as proposed by the CHPT.

The rate of wages mentioned in the relevant conditionality for supply of mazdoors is modified to reflect the rate of wages approved for the category of mazdoors.

(xiv). The users have suggested to prescribe a conditionality to ensure provision of minimum levels of service by the CHPT and cover cost of damages arising out of negligence on the part of the port. This suggestion has emanated on the reported posting of untrained mazdoor as Winch driver. Notably, the users have conceded the point that this sort of posting is done when there is shortfall in the category of Winch driver. As explained by the CHPT, such posting is done by the port keeping in view the operational exigencies to ensure quick turn around time of vessels and cargo productivity which are beneficial to the users. The CHPT has maintained that it retrains and then redeploy the mazdoor. With regard to the point made by Madras Chamber of Commerce and Industry (MCCI) about payment of wages to the mazdoors when they are posted in Winch operation it is to be noted that a user pays for the service availed irrespective of the internal arrangement of labour deployment followed by port. If no worker to perform the winch operation is posted, then, obviously, users need not pay the wage cost. Notwithstanding this position, the CHPT may ensure that interchanging of categories does not impair productivity and safety requirements.

(xv). As stated earlier, the extended validity of the existing levy for stevedoring activity and C&F operations will expire on 31 March 2008 vide Order dated 28.1.2008. Therefore, the validity of the existing levy for stevedoring activity and C&F operation is deemed to have been extended from 1 April 2008 to the effective date of implementation of the revised Scale of Rates relating to stevedoring and C&F operations.

(xvi). The rates approved shall remain valid for a period till 31.3.2011 after expiry of 30 days from the date of notification of the Order in the Gazette of India after which the validity will automatically lapse unless specifically extended by this Authority.

11.1. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves the Scale of Rates and the conditionalities governing the levy of charges for supply of cargo handling workers and supervisory staff for stevedoring operations and clearing & forwarding operations as in the Scale of Rates attached as **Annex-I**.

11.2. The validity of the existing charges for stevedoring and C&F operation shall be deemed to have been extended from 1 April 2008 till the effective date of implementation of the revised charges.

(Brahm Dutt)
Chairman

Annex - I

CHAPTER - VII

I. Charges for Supply of Cargo Handling Workers and Supervisory Staff

Scale 1 - Stevedoring Operations:

(1). The time rate wages of different categories of workers for the purpose of stevedoring operations are as follows:

S. No.	Category	Wage rate per shift of 8 hours (in Rs.)
1.	On Board Supervisor	921.20
2.	Tally Clerk	801.30
3.	Tindal	626.00
4.	Maistry	600.27
5.	Winch Driver	575.30
6.	Signal Man	566.60
7.	Mazdoor	646.60

(2). The stevedores shall pay charges comprising time rate wages and 192% levy on wages for stevedoring operations prior to the engagement of labour.

(3). (a). The levy structure mentioned at clause (ii) shall not apply in case of agricultural produce such as wheat, rice, maize, pulses, etc., including sugar in bags or jumbo bags or pallaties.
(b). Such commodities will pay a charge of Rs.7.50 PMT for deployment of cargo handling workers and supervisory staff for stevedoring operations.

(4). The piece-rate incentive shall be paid at actuals separately.

(5). Time limit for payment of charges by users / refund of excess collection by port as well as levy of penal interest for delay will be governed by the provisions prescribed in Chapter - I of this Scale of Rates.

(6). Whenever any additional man power is required by stevedores, actual wages in respect of the category of the workers intended shall be payable by them in addition to the levy.

(7). While calculating the piece-rate, the datum will not be adjusted, according to effective hours of working, i.e., there will be no idle hour concept. The datum will be taken as full tonnage for the entire shift without any deduction.

(8). The Tonnage of Heavly Lift cargoes will be taken as 7 Tons/Unit for calculation of piece rate and for other purposes hitherto adopted.

(9). The Mazdoor posted in the Gang will be distributed for on shore and on board work as per the operational convenience.

(10). In case of shortage of Maistry, the Tindal may be posted in his place. Whenever Tindal is in shortage, Maistries will be posted only to bulk vessels of Fertilisers and Ore, where shore crane is put into use (where there is no posting of Winch Drivers).

(11). One Reliever up to 3 Hooks and 2 relievers for 3 Hooks and above will be posted in the categories of Winch Drivers/Signallers/ Tally Clerks per shift per vessel.

(12). One Supervisor will be posted upto 1 Hook and 2 Supervisors for 2 or more hooks per shift per vessel.

II. **Scale 2 - Clearing & Forwarding Operations**

Nature of Cargo		Levy per tonne (in Rs.)
Delivery / Receipt		
(a).	General Cargo	40.00
(b).	Bulk cargo, ore and timber / logs	3.75

Conditions:

1. The applicable C&F will be collected through Import Applications and Export Applications when there is actual deployment of labour for C & F operations and no separate wages will be collected for this work.

2. The above rates do not include piece rate incentive. The piece rate incentive shall be calculated by CHPT, after completion of delivery / receipt and this is payable by the users, in addition to the above C & F charges.

3. A sum of Rs.4/- per tonne will be collected in advance in addition to the above towards piece rate incentive for C&F operations which will be adjusted against the actual piece rate calculated by CHPT. Time Limit for refund / payment and payment of penal interest in case of delay will apply as prescribed by TAMP in the General Condition in Chapter - I of this Scale of Rates.

4. Whenever any additional man power is required by stevedores, actual wages in respect of the category of workers indented shall be payable by them in addition to the levy.

5. For inter-carting operations, the same rates as applicable for C&F operation will be collected. The charges shall be paid before rendering the service.

6. For receipt delivery work of general cargo, gangs will be posted at various points and will work for different employers in the given shift. However, a separate gang of 4 mazdoors for bagged cargo will be deployed on request from the Employer with prior intimation to the shift section.

7. Wherever CHPT has permitted Direct Delivery / Direct Shipment, no charges towards C&F operation is payable for such quantity, which is directly delivered from the hook point or directly shipped without the use of any labour under the control of CHPT whose cost of deployment is recovered by any other charge specified in this Scale of Rates.

III. (1). In case of Cobble stones, Cut stones, Barytes, Manganese Ore, Felspar, Blue metals etc., and any other dry bulk cargo which requires aggregation at the transit area prior to shipment, the following charges are payable towards the cargoes stored in the transit area. However, these charges are not payable if these cargoes are stored in licensed plot.

(i). Actual piece rate.

(ii). Wages @ Rs.1293.20 for two mazdoors. The above charges are payable through EA applications on the actual quantity as certified by the CHPT or officials authorised by it. In case additional mazdoors are required separate charges are to be paid extra @ Rs.646.60 per mazdoor.

(2). To build up reserves to meet the wage revision arrears liability, a special charge of Re.1 per tonne will be collected in all Import and Export Applications, wherever cargo handing division workers are deployed.

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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.

No.TAMP/34/2007-CHPT - **Proposal from the Chennai Port Trust for revision of stevedoring and C & F levy.**

1. A summary of the comments received from the user organizations and the CHPT's comments thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments by users / user organizations</th><th>Response of CHPT</th></tr>
<tr><td colspan="3"><u>Hindustan Chamber of Commerce (HCC)</u>
<u>Chennai Port Stevedores Association (CPSA)</u>
<u>Tamil Chamber of Commerce (TCC)</u>
<u>Andhra Chamber of Commerce (ACC)</u></td></tr>
<tr><td>1.</td><td>CHPT in the meeting held with users on this proposal on 06.09.06 & 06.10.06 had agreed to put forth the following proposal to TAMP as agreed by the Users on the actual increase in VDA from the last revision for the various categories of workmen alongwith a buffer of 5% for future increase in VDA subject to the implementation of the Award of National Tribunal and revision in Datum & Piece rate.
<table>
<tr><th>Category</th><th>Actual Increase</th><th>Buffer</th></tr>
<tr><td>On-Board supervisor</td><td>18%</td><td>5%</td></tr>
<tr><td>Tally clerk</td><td>20%</td><td>5%</td></tr>
<tr><td>Tindal</td><td>14%</td><td>5%</td></tr>
<tr><td>Maistry</td><td>9%</td><td>5%</td></tr>
<tr><td>Winch Driver</td><td>9%</td><td>5%</td></tr>
<tr><td>Signalman</td><td>9%</td><td>5%</td></tr>
<tr><td>Mazdoor</td><td>19%</td><td>5%</td></tr>
</table></td><td>The Port has projected the percentage increase upto August 2008 based on actuals as on 1 September 2006. The VDA as on July 2007 is 71.1% whereas in the working sheet the projection for July 2007 was only 67.40%. Since the variance is substantial the actual percentage of VDA for the quarter – July to September 2007 has been considered and the deficit percentage has been reworked as given below:
<table>
<tr><th>Category</th><th>Actual Increase</th></tr>
<tr><td>On-Board supervisor</td><td>27%</td></tr>
<tr><td>Tally clerk</td><td>28%</td></tr>
<tr><td>Tindal</td><td>22%</td></tr>
<tr><td>Maistry</td><td>16%</td></tr>
<tr><td>Winch Driver</td><td>17%</td></tr>
<tr><td>Signalman</td><td>16%</td></tr>
<tr><td>Mazdoor</td><td>26%</td></tr>
</table>
The above percentage of increase may be approved by TAMP.</td></tr>
<tr><td>2.</td><td>The users also agreed in the meeting to charge a surcharge to be collected on Import and Export Applications (IA & EA) for all cargoes wherever CHD workers are being posted at the rate of Re.1/- per MT which could be collected from 1 January 2007, till such time the quantified arrears of Wage hike is met for the CHD workers only. This is to mitigate the payment of wage arrears due to delayed implementation of any increase in wages as per the settlement of the Bi-partite Wage Negotiation Committee (BWNC), which will come into effect from 1 January 2007. The Port has not taken any steps to implement this proposal given by the Users.</td><td>The Wage revision for the workers is due with effect from 1 January 2007. It is expected that the additional burden on the Port may be around 20% and the arrears may be around Rs. 5.00 crores. At present the tonnage handled by CHD workers is 10 Million Tonnes and if the additional levy is only Re. 1/- per MT it will take 5 years, which is too long to recoup the arrears. Therefore, it is proposed to collect Rs.2 per MT instead of Re.1 per MT so that the arrears can be recouped by the Port within a span of 3 years.

The proposal can be implemented only from the date of approval of TAMP for this collection.</td></tr>
<tr><td>3.</td><td>The Port in its meeting held on 6 October 2006 had agreed to the collection of Re.1/- per MT as surcharge. Port has gone back</td><td>The users' contention that the CHPT has agreed to collect Re.1/- per MT as surcharge is not correct. CHPT has been insisting on collection at</td></tr>
</table>

	on its agreement and is seeking a levy of Rs. 2/- per MT as surcharge to cover the wage arrears, which we are not in favour of. TAMP needs to restrict the collection of this surcharge to Re. 1/-per MT only. The same is to be collected from all IA & EA and is to be discontinued once the quantified wage arrears are met with regard to CHD workers.	Rs.2/- per MT which has been finally agreed to by the Users and same has been recorded in the Board Resolution. The collection will be discontinued once the settlement of wage revision takes place.
4.	The users were unanimous in their view in both the meetings that merely seeking an increase in wages and without implementing the Gazette notified Award of the National Tribunal on uniform manning pattern for similar work and rationalization of Datum and piece rate as per the present day productivity levels is unfair and not conducive to the Trade utilizing Chennai Port. TAMP has to consider this factor prior to providing the award / relief of any increase in wages / levy being sought by Chennai Port.	The implementation of Award of National Tribunal and revision of datum and piece rate cannot be interlinked because the Trade Unions have already brought stay on the implementation of Award of National Tribunal. The revision of datum and piece rate is interlinked with the manning scale and these issues are separately discussed with the Trade Unions.
5.	As per clause 8 of the tripartite 12(3) settlement entered into by CHPT alongwith Trade Unions and Users during the merger of Madras Dock Labour Board (MDLB) with CHPT, posting of dockworkers should be based on wherever human effect and physical requirement, has been agreed to. The concept of posting dockworkers for Receipt and Delivery of bulk cargo in transit area is outdated and goes against the spirit of the settlement. The bulk cargoes are moved in Tipper trucks and these trucks have mechanical devices to unload/ load the cargo onto Tipper trucks without the requirement of any dock worker to unload/ load the cargo. Hence this category under Scale-2 (ii) is to be eliminated and no charge of wages or levy is to be collected as being proposed by the port under the above Scale at serial no.8.	(i). The cargo like cobble stones, barites etc., which are allowed at the transit area require CHD workers as per the settlement and accordingly piece rate is payable. If the cargo is not unloaded at wharf and directly moved to the hook point, the posting of CHD worker is not required. (ii). In the case of import delivery of bulk cargo like coal, coke, potash, MOP, urea etc., CHD workers are not required since these cargos are mainly moved by the respective stevedores to the licensed plots inside the Port and some of the cargo goes directly outside the Port area. The CHD workers are not required for the cargo that are being delivered from the licensed plots. (iii). With respect to the receipt of cargo at the transit area by tippers, they are normally offloaded by hydraulic system, which does not require labour. This aspect has to be separately discussed with Trade unions to arrive at a solution and could not be linked to the present proposal. Till then the levy has to be collected. (iv). The new clause proposed by the CHPT had been discussed with the Users during the meeting held on 06.10.2006 wherein it was agreed by the Users also. This is not a new charge, such charges are being collected after the services have been rendered. The proposed new clause is only to facilitate pre-recovery prior to service.
6.	Of late, the Port is posting Mazdoors as Winch driver as when there is shortfall in this category and collects the wages from the Users under the category of Winch driver instead of the actual category of workmen being deployed. The category of	The Port has trained the Mazdoors in the winch operations and they are being given posting when there is heavy demand to avoid cutting of hooks. This posting is required to make the vessel engage more gangs and discharge cargo quickly. If such trained Mazdoors are not posted, the Port

	Winchdrivers is the most skilled one and posting of workers who are untrained or inadequately trained results in poor productivity and most importantly compromises on the safety aspect leading to loss of life or damage to property. This not only results in huge financial burden on the Users but also unnecessary litigations in the event of a causality resulting in death of personnel. TAMP should ensure that the Port provides minimum levels of Service Guarantee to the Users for the tariff being collected and should undertake to cover the cost of Damages in the event of Damages done due to negligence of the dockworkers. Such a condition may be included in the terms of Stevedoring Wages & Levy while providing the award on the proposal of CHPT.	has to cut the gangs, which may result in increase of vessel's stay at berth and less productivity. Hence, this posting is beneficial to the users in general.
7.	**The Chennai Custom House Agents' Association (CCHAA)**	
(i).	CCHAA was not a party to the discussions held by the Port with users in September and October 2006.	CHPT has not responded to the comments of the CCHAA
(ii).	The proposal is too steep and increase of charges is uncalled. The additional revenue which the CHPT's intends to generate from the present exercise can be achieved with better deployment of resources combined with better volumes.	

2. A joint hearing in this case was held on 28 January 2008 at the premises of the CHPT. At the joint hearing, the CHPT and the user organisations made the following submissions:

Chennai Port Trust

(i). Our proposal is to offset increase in pay and DA of cargo handling workers since 2003, by enhancing the basic stevedoring charges.

(ii). Pay and allowances of port and dock workers are due for revision w.e.f. 1.1.2007. We have to pay the arrears with retrospective effect. Therefore, we have proposed to levy an additional charge of Rs.2/- per tonne prospectively for meeting this liability.

(iii). Our proposal is based on the discussions we had with users. The users agreed for a special rate of Re.1/- per tonne towards wage arrears. We feel this amount will not adequately meet the wage arrears. We request TAMP to approve a special rate of Rs.2 per tonne.

Chennai Port Stevedores Association & Hindustan Chamber of Commerce

(iv). We have 'in principle' agreed to bear the additional liability on account of wage arrears. Our request is to peg the special rate at Re.1/- per tonne now and the uncovered arrears, if any, can be assessed after the wage award is implemented and collected at actuals.

(v). Even though we had earlier demanded that the manning scale as per the National Tribunal award should be implemented, we are not pressing for such implementation recognising the legal issues confronted by the Port Management.

(vi). We request CHPT should do away with notional booking of labourers and collect charges only when labourers are actually deployed for operations.

Andhra Chamber of Commerce

(vii). Volumes handled at Chennai Port have gone up significantly. It is, therefore, reasonable to expect that unit cost of handling should come down.

Madras Chamber of Commerce

(viii). The port has arrived at the basic charges by considering the highest pay in each category of workmen. Therefore, there is an inherent buffer available to meet at least part of the wage arrears liability. We are of the view that a special levy of Re.1/- per tonne would be sufficient to meet the uncovered wage arrears.

(ix). CHPT deploys unskilled labour as Winch drivers. But, they recover from us charges applicable for winch driver though they do not pay the concerned workmen at this scale. Such postings have hampered productivity and also caused accidents on some occasions. We will furnish the relevant statistics in this regard.

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