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Tariff Authority for Major Ports

G No.321

New Delhi,

7 November 2014

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 disposes of the proposal received from the Cochin Port Trust for levy of revised de-stuffing charges for Unaccompanied Baggage Containers at the port Container Freight Station (CFS) as in the order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/9/2014-COPT

Cochin Port Trust

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Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 30th day of September of 2014)

This case relates to a proposal received from the Cochin Port Trust (COPT) for levy of revised de-stuffing charges for Unaccompanied Baggage Containers at the port Container Freight Station (CFS).

2. The existing Scale of Rates of the COPT including stuffing/ de-stuffing charges at CFS and other port facilities was approved by this Authority vide Order No.TAMP/49/2011-COPT dated 1 April 2013 which was notified in the Gazette of India on 10 June 2013 vide Gazette No.165.

3.1. The COPT vide its proposal dated 10 January 2014 has requested this Authority to approve levy of revised de-stuffing charges for containerized unaccompanied baggage on ad-hoc basis with immediate effect. In this connection, the submissions made by COPT are summarized below:

- (i). The Board of Trustees of COPT vide Resolution No.126 of the Meeting dated 28 December 2012 resolved to approve the proposal for consolidating the de-stuffing operations of containerized Unaccompanied Baggage (UB), which are personal effects of non-resident Indians, at the Port CFS where the cargo containers are stuffed and de-stuffed. A copy of the Resolution passed by the Board along with Agenda of the meeting held on 28 December 2012 is furnished.
- (ii). The proposal for consolidation of UB containers at the Port CFS, which has the key objective of rationalizing the stuffing and de-stuffing operation of containers, recommended taking over the stevedoring of UB containers by the Port Trust from the private stevedores, which would significantly reduce the cost of handling for the owners of UB.
- (iii). The Port is already exclusively stevedoring the cargo containers at the CFS, whereas the UB containers are presently de-stuffed at the Baggage Shed, a separate facility at the Port, through private stevedores engaging Port labour. Since the taking over of stevedoring of UB containers by the Port Trust exclusively on its own involves certain additional expenditure, it was also approved by the Board that the de-stuffing charges of UB containers would be proposed at 150% of the existing rate for stuffing/ de-stuffing cargo containers.
- (iv). The stuffing and de-stuffing charges of all containers including UB containers have been approved by the Authority vide Order No.TAMP/49/2011-COPT dated 1 April 2013 relating to the General Revision of the Scale of Rates of COPT as under:

Stuffing and De-stuffing Charges at CFS and other Port Facilities

Sl. No.	Description	Rate per Container (₹)	
		20'	40' and above
1	For half a container load	1380	2250
2	For full container load	2760	4500

- (v). The stevedoring charges presently levied by the private Stevedores amount to ₹ 7500 for 20' and ₹ 11250 for 40' containers. (Copies of relevant bills from the major stevedores are furnished). The stevedoring charges are paid by the Custom House Agents (CHAs) representing the owners of UB, who in turn add up the same in their consolidated bills to the owners of UB for clearance of the consignment from the Port. This payment to the private stevedores by the owners of UB is entirely saved on account of the Port taking over the stevedoring exclusively on its own. However, certain additional expenditure incurred by the Port due to such taking over of stevedoring would have to be borne by the users as approved by the Board.
- (vi). As per the Resolution of the Board dated 28 December 2012, the de-stuffing charges proposed for UB containers is at 150% of the existing stuffing/ de-stuffing charges of containers i.e. ₹ 4140 for 20' UB containers as against existing rate of ₹2760 for 20' FCL and ₹ 6750 for 40' and above UB containers as against existing rate of ₹ 4500 for 40' FCL containers, post taking over of stevedoring of UB containers by the Port Trust. The additional de-stuffing charges proposed for the UB containers amount to ₹ 1380 for 20' containers and ₹ 2250 for 40' and above containers resulting in net savings to the owners of UB of ₹ 6120 (7500 – 1380) for 20' and ₹ 9000 (11250 – 2250) for 40' and above containers. All other charges; 'Storage Charges on Containers' and 'Storage Charges on the De-stuffed Personal Effects' at 5.2.2 and 5.2.5 respectively of Chapter - V, Container Related Charges approved by the Authority vide Order dated 1 April 2013 will remain unchanged.
- (vii). The details of UB containers handled at Cochin Port are furnished below:

Volume and Productivity of UB Containers

Year	Volume (Boxes / TEUs)	Port Labour Gangs (No.)	Productivity per Gang Shift (TEUs)
2013-14 (Apr-Nov)	858 / 1129	174	6.5
2012-13	2357 / 2843	460	6.2
2011-12	1677 / 2110	319	6.6

- (viii). The Port CFS is operated in two seven - hour shifts unlike the UB Shed where the operations are limited to a single day - shift. The Port supplies one Fork Lift Truck (FLT) free of charge per port labour gang for UB containers when they are stevedored by the private stevedores engaging port labour, which results in hiring of one additional FLT per port labour gang by the stevedores. At the average output of 6 TEUs per gang shift and considering that the UB container is 100% foreign, the average cost incident to such hiring at ₹ 588 per hour per FLT is ₹ 686 per TEU (588*7/6). However, when the Port takes over the stevedoring of UB containers, two FLTs will be deployed with the port labour gangs engaged for de-stuffing. Therefore, the expenditure of deploying one additional FLT per port labour gang at ₹ 686 per TEU has to be borne by the Port. The private stevedores are also employing one Foreman and one Gear man for the operations. This is important since the UB is highly sensitive, and requires delicate handling. The Port Trust when it takes over the stevedoring of UB containers will need to deploy at least two supervisory/ operational staff exclusively for taking care of the operations. The additional expenditure for such deployment would be about ₹ 3600 per shift which translates into ₹ 600 per TEU at the average output of 6 TEUs per gang shift. Hence, the additional cost incidence of taking over the stevedoring of UB containers exclusively by the Port Trust would be ₹ 1286 (686+600) per TEU. The additional de-stuffing charges at ₹ 1380 for 20' containers and ₹ 2250 for 40' and above containers are, therefore, proposed considering the TEU ratio of 1.3 to cover the additional cost incurred without adding any return. The net savings to the owners of UB would be ₹ 6120 for 20' and ₹ 9000 for 40' and above containers at the current stevedoring rates as stated above.

- (ix). The Port CFS is under modification for consolidation of UB container operations and the entire UB operations will shift to the CFS in a month's time.
- (x). (a). The Guidelines for Regulation of Tariff at Major Ports, 2004, notified by the Tariff Authority for Major Ports vide G. No.39 dated 31.03.2005 in exercise of the policy directions issued by the Government of India under Section 111 of the Major Port Trusts Act, 1963, provides for levy of tariff on ad-hoc basis till the rate is finally notified by the Authority. The ad-hoc rates proposed to be operated in the interim period are derived from the existing notified tariffs in conformity with the Guidelines.
- (b). The Cochin Custom House Agents Association (CCHAA), the sole representative of the user community of owners of UB has agreed to the proposal of increasing the de-stuffing charges of UB containers to ₹ 4140 for 20' and ₹ 6750 for 40' and above containers, post taking over of stevedoring by COPT. The Memorandum of Understanding (MoU) between COPT and the CCHAA on the de-stuffing charges applicable for UB containers post taking over of stevedoring by Cochin Port Trust is furnished.
- (xi). The revised de-stuffing charges proposed for UB containers is shown below. The charges for half a container load are also proposed in line with the prevailing notified tariff. The 'Notes' to the prevailing 'Stuffing and De-stuffing Charges at CFS and other Port Facilities' at 5.2.1 of Chapter - V, Container Related Charges of the Scale of Rates of Cochin Port are also retained as such.

De-stuffing Charges for UB Containers

Sl. No.	Description	Rate per Container (₹)	
		20'	40' and above
1	For half a container load	2070	3375
2	For full container load	4140	6750

Notes:

1. A container, which is stuffed or de-stuffed, 50% or less of its normal capacity, is treated as half a container.
2. In the event of stuffing/de-stuffing of cargo necessitated for topping up of the container, examination, accounting or proper stacking, and such stuffing/de-stuffing results in 50% or less than 50% of the cargo being stuffed/de-stuffed, only 50% of the stuffing/de-stuffing charges will be collected in such cases.

3.2. Since the Port is intending to commence this service by the last week of January 2014, the COPT has requested this Authority to approve levy of revised de-stuffing charges for containerized unaccompanied baggage as proposed above on ad-hoc basis with immediate effect, considering the consent given by potential users of the service.

4. While acknowledging the proposal, the COPT was informed vide our letter dated 18 February 2014 that the proposal for levy of the proposed Stuffing and De-stuffing charges on unaccompanied baggage on adhoc basis will be subject to final approval of this Authority.

5.1. On a preliminary scrutiny of the proposal, the COPT was requested to furnish the requisite information / clarifications on a few points vide our letter dated 3 February 2014. The COPT has responded vide its e-mail dated 6 February 2014. A summary of the queries raised by us and the corresponding replies furnished by the COPT is tabulated below:

Sr. No.	Queries raised by us	Reply furnished by COPT
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(i).	The charges for stuffing/ destuffing prescribed in the existing SOR of COPT approved vide Order No.TAMP/49/2011-COPT dated 1 April 2013 is for stuffing and destuffing containers at CFS and other Port Facilities. It is relevant to mention here that the charges for stuffing/ destuffing was originally approved by the Authority vide its Order No.TAMP/40/2007-COPT dated 16 June 2010 and is applicable for Stuffing and De-stuffing services offered at CFS and Other Port Facilities based on the proposal of the COPT. In the last general revision Order of the COPT, in view of the proposal of COPT to maintain status quo in the then applicable rates, the charges for stuffing and destuffing approved in the Order dated 16 June 2010 have been reinstated in the existing SOR approved in the general revision Order dated 1 April 2013 as proposed by the COPT. On perusal of the cost statement attached as Annex - I to the Order dated 16 June 2010, it can be seen that all the relevant cost elements of providing stuffing/ de-stuffing service as estimated by the COPT viz. cost of gangs engaged, cost of services of light duty Forklift Truck, cost of office staff and supervisory staff and overhead allocation were considered for arriving at the existing tariff. Since the existing SOR already prescribes the rate for stuffing and destuffing covering the above mentioned cost elements as estimated by the COPT and also recognising that the existing rate as per Schedule 5.2.1 is applicable for stuffing and destuffing services provided at CFS and other port facilities which means it will apply to stuffing and destuffing services provided at CFS, baggage shed or any other port facilities, the COPT to explain reasons for filing the current proposing seeking revised rates for UB container.	It is submitted that the charges for stuffing/ de-stuffing prescribed in the existing Scale of Rates of COPT approved vide Order No.TAMP/49/2011-COPT dated 1 April 2013 are for stuffing and de-stuffing containers at CFS and other port facilities as noted by the Authority. Also, the tariff for stuffing and de-stuffing of containers under the Schedule 5.2.1 and the charges prescribed are applicable for stuffing and de-stuffing services provided to all categories of containers [including Unaccompanied Baggage (UB) containers] whether they are handled at the CFS or any other port facility. In this regard, it is clarified that, as explained in the proposal, the UB containers are de-stuffed at the Baggage Shed, a facility separate from the CFS, through private stevedores engaging port labour. The COPT Board has approved taking over the stevedoring of UB containers exclusively by the port trust from the private stevedores, which would significantly reduce the cost of handling for the owners of UB. The port is already stevedoring cargo containers at the CFS. Since the taking over of stevedoring of UB containers by the port trust exclusively on its own involved certain additional expenditure, revised rates for UB containers were approved by the Board. The proposal to the Authority for revised de-stuffing charges for UB containers at 150% of that of cargo containers was filed in this light.
(ii).	The current proposal of the COPT seeking approval of the proposed rate for stuffing and destuffing of UB containers at 150% of the existing rate for stuffing and destuffing charges is not supported with any cost details to support the proposed rate. If the COPT proposes to provide any additional services for stuffing and destuffing of UB containers which are not covered in arriving at the existing tariff for stuffing and destuffing then if necessary, COPT to consider filing a proposal listing down the additional services to be provided to this category of containers with their cost details and support it with cost statement	The port supplies one Fork Lift Truck (FLT) free of charge per port labour gang for UB containers when they are stevedored by the private stevedores engaging port labour at the Baggage Shed, which results in hiring of one additional FLT per port labour gang by the stevedores. It may be noted that the port supplies two FLTs free of charge per port labour gang for cargo containers at the CFS, which are stevedored by the port directly. At the average output of 6 TEUs per gang shift and considering that the UB is 100% foreign, the average cost incidence of such hiring at ₹ 588 per hour per FLT is ₹ 686

	to justify the proposed rate.	per TEU (588x7/6). However, when the port takes over the stevedoring of UB containers, two FLT's are to be deployed with the port labour gangs engaged for de-stuffing. Therefore, the expenditure of deploying one additional FLT per port labour gang at ₹ 686 per TEU has to be borne by the port. The private stevedores also employ one Foreman and one Gear man for the UB considering the requirement of delicate handling. When COPT takes over the stevedoring of UB containers it will need to deploy atleast two supervisory/ operational staff exclusively for taking care of the operations. The additional expenditure for such deployment would be about ₹ 3,600 per shift which translates into ₹ 600 per TEU at the average output of 6 TEUs per gang shift. Hence, the additional cost incidence of taking over the stevedoring of UB containers exclusively by the COPT would be ₹ 1286 (686+600) per TEU. The additional de-stuffing charges at ₹ 1380 for 20' containers and ₹ 2,250 for 40' and above containers are therefore proposed considering the TEU ratio of 1.3 to cover the additional cost incurred without adding any return. As submitted in the proposal to the Authority, the net savings to the owners of UB would be ₹ 6120 for 20' and ₹ 9000 for 40' and above containers at the current stevedoring rates, for which Bills have been submitted at Annexure 1 of the Tariff proposal.
(iii).	Clause 2.17.1. to 2.17.2. of 2005 guidelines stipulate that whenever a tariff for a service/ cargo is not available in the notified Scale of Rates, the port can submit a suitable proposal and simultaneously propose to levy the proposed rate on ad hoc basis till the final rate is notified subject to certain conditions prescribed in clause 2.17.3 of the guidelines. As stated earlier, the existing Scale of Rates of COPT already prescribes a tariff for stuffing and destuffing of containers under the Schedule 5.2.1. and the charges prescribed is applicable for stuffing and destuffing services provided to all categories of container (including Unaccompanied Baggage containers) whether it be handled at the CFS or any other port facilities. That being so, the COPT to explain as to how can its proposal for seeking approval of the proposed rate on ad hoc basis complies with provision of clauses 2.17.1 to 2.17.2 of the 2005 tariff guidelines which is	The provisions for levy of tariff on ad hoc basis of the 'Guidelines for Regulation of Tariff at Major Ports, 2004' were referred to since the proposal involved taking over exclusively the stevedoring of UB containers by the port trust from the private stevedores, which is a new service to be provided by the port for UB containers. Since the new service of providing stevedoring involved additional expenditure, the de-stuffing charges of UB containers were proposed at 150% of that of cargo containers towards covering the additional expenditure incurred as explained above. Also, as required under the Guidelines, agreement to the ad hoc rate proposed to be operated in the interim period was obtained from the sole representative of the owners of UB, the Cochin Custom House Agents Association (CCHAA) through a Memorandum of Understanding (MOU) on the de-stuffing charges applicable for UB containers post taking over of stevedoring by COPT, which was attached at Annexure II of the Tariff

	applicable only when a tariff for a service/ cargo is not available in the notified Scale of Rates.	proposal. The MOU recognizes that COPT intends to consolidate the de-stuffing operations of containerized UB at the port CFS and to take over the stevedoring of UB containers exclusively from the private stevedores with significant reduction in the cost of handling for the owners of UB.
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5.2. Based on the above submission, the COPT has requested to take up its proposal.

6. In accordance with the consultative procedure prescribed, a copy each of the COPT proposal dated 10 January 2014, our letter dated 3 February 2014 and COPT's response dated 5 February 2014 were forwarded to the India Gateway Terminal Private Limited (IGTPL) and concerned users/ user organisations including the Stevedores Association seeking their comments. The IGTPL vide its e-mail dated 7 April 2014 has stated that they have no objection to the proposal. No comments are received from any of the users/ user organisations and the Stevedores Association.

7. On a further scrutiny of the proposal, the COPT was requested vide our letter dated 12 August 2014 to furnish additional information/ clarifications. The COPT vide its letter dated 14 August 2014 has furnished its reply. A summary of the queries raised by us and reply furnished by COPT thereon is tabulated here below:

Sl. No.	Queries raised by us	Reply furnished by COPT
(i).	As pointed out in our query dated 3 February 2014, all the relevant cost elements of providing stuffing/ de-stuffing service as estimated by the COPT viz. cost of gangs engaged, cost of services of light duty Forklift Truck, cost of office staff and supervisory staff and overhead allocation were considered for arriving at the existing tariff in the Order No.TAMP/49/2011-COPT dated 1 April 2013. In this context, the COPT to establish that the increase in tariff by the COPT for UB containers will not result in double recovery of the same costs.	Even though, the relevant cost items have been considered for arriving at the existing tariff for stuffing and destuffing of containers as pointed out by the Authority, the present proposal for increasing the tariff for UB Containers will not result in double recovery of the same costs. This is primarily because the CFS activity at the time of the General Revision Order in April, 2013 and as of now is in deficit. The Port Trust has not been able to recover the costs involved at the CFS through a tariff hike due to the requirement of being competitive especially when the Container Terminal operations shifted to Vallarpadam, across the channel, from Willingdon Island, where the CFS is situated.
(ii).	The port has clarified that it supplies two Fork Lift Trucks (FLT) per labour gang for cargo containers at the CFS which are stevedored by port directly. This means that the charges for stuffing/ destuffing at CFS or at any other port facilities include service of providing two FLT. If that be so, the proposal to recover the cost of second FLT for UB containers needs justification.	The Hon Authority's observation is noted. In this regard, it is submitted that due to Customs requirements and due to the compulsions of certain labour practices involving the private Stevedores, the UB Containers used to be de-stuffed at a separate facility (Baggage Shed) away from the CFS, where the operations were carried out by private Stevedores. Even though the de-stuffing charges for all Containers including UB were recovered at the same rate as per the SoR ordered by the Authority, the arrangement was that the Port would supply one FLT for the operations, and the Stevedores will hire other equipments as per requirements. Often, the Stevedores had tie ups with the UB Agents, and the de-stuffing was carried out as per such arrangements. The Port Trust took initiative in suppressing certain restrictive labour practices, and the

		taking over of Stevedoring of UB Containers had the objective of reducing the cost of operations for the owners of UB by bringing the operations under an approved and notified tariff. As already elaborated in the proposal, the taking over of Stevedoring by the Port has resulted in savings of ₹ 6,120 and ₹ 9,000 for 20' and 40' UB Containers respectively. The integration of UB with the CFS was done with the specific approval of the Customs who required segregation of the CFS with separate procedures for UB Containers distinct from the cargo Containers handled at the CFS. The integration of UB with the CFS operations also enabled the Port to exercise greater control over the cost to the user and suppression of unhealthy trade practices. The Port Trust proposed for additional charges for UB containers for covering the incremental cost at the CFS in terms of providing exclusive facility at the CFS, equipment supply and special supervision.														
(iii).	It is understood from the proposal that stevedoring services for UB containers were being provided at baggage shed by private stevedore by deploying the port labour. COPT to clarify the tariff arrangement followed by the Private Stevedores and whether it is as per the rates approved by the Authority in the SOR of the COPT.	The tariff arrangement followed by the private Stevedores has been already enclosed in the proposal to the Authority. For ease of reference, it is again stated that the private Stevedores were recovering ₹ 7,500 for 20' and ₹ 11,250 for 40' UB Containers as de-stuffing charges apart from the Port charges notified by the Authority. The tariff arrangements of the private Stevedores were not governed by the SOR of COPT approved by the Authority, and were only derived out of mutual agreements.														
(iv).	The tariff collected by COPT for stuffing / destuffing of UB containers handled previously by Stevedore to be indicated. COPT to confirm it is as per the rates prescribed in the SOR.	The de-stuffing charges for UB Containers were recovered by the Port Trust at ₹ 2760 for 20' and ₹ 4500 for 40' UB Containers, which is as per the SoR ordered by the Authority. With effect from 28.01.2014 the Port started collecting the following revised de-stuffing charges on adhoc basis subject to the approval of the Authority:- <table><tr><th rowspan="2">Sl. No.</th><th rowspan="2">Description</th><th colspan="2">Rate per container (₹)</th></tr><tr><th>20'</th><th>40' and above</th></tr><tr><td>1.</td><td>For half a container load</td><td>2070</td><td>3375</td></tr><tr><td>2.</td><td>For full container load</td><td>4140</td><td>6750</td></tr></table>	Sl. No.	Description	Rate per container (₹)		20'	40' and above	1.	For half a container load	2070	3375	2.	For full container load	4140	6750
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1.	For half a container load	2070	3375													
2.	For full container load	4140	6750													
(v).	The COPT proposes to consolidate the services of stuffing/ destuffing of UB containers (provided at baggage shed) now at the CFS. Para 4 of the copy of the agenda items considered by COPT Board states that there will be no separate allotment of gangs for containerised cargo and UB containers. The same gang is expected to handle	As already clarified above, the integration of UB Containers with the CFS was an initiative taken by the Port to suppress restrictive labour practices and monopolistic trade practices which were prevalent in the handling of UB Containers by the private Stevedores at the separate facility for UB Containers. The integration of the UB containers at the CFS required the Port to														

	both according to availability. In the above circumstance of proposed rationalisation/ consolidation, the cost of providing the service should reduce. That being so, the COPT to justify the proposed increase of 50% in the existing charge prescribed for stuffing/ destuffing of containers for destuffing of UB containers.	segregate a portion of the CFS with separate access controls as per the Customs requirements. The facility also demanded exclusivity in providing an examination area for Personal Baggage. Unlike in the case of the separate UB facility away from the CFS, where the same set of labourers could not attend to both the CFS and UB work, now the operations being consolidated at the CFS, one set of labourers can attend to both the work. However, this does not mean that the cost of labour has reduced since the productivity of the labourers remains similar to the earlier case of separate facilities for cargo and UB at around 6 TEUs per gang shift in the pre and post integration phases. The proposed increase of 50% in the existing tariff for de-stuffing UB Containers is towards covering the additional cost incurred in taking over the Stevedoring of UB Containers, which included providing exclusive operational facility at the CFS, providing additional FLT free of cost and providing additional staff for supervision considering the sensitivity of UB.
(vi).	Additional revenue likely to accrue from the proposed tariff item to be furnished for the year 2014-15, 2015-16 and 2016-17.	Cochin Port handled 1525 TEUs of UB in 2013-14. The volume of UB is not expected to increase in any significant manner over the years. Therefore, the volume of UB for the years 2014-15, 2015-16 and 2016-17 is considered static at 1500 TEUs per annum. The additional revenue likely to accrue from the proposed additional tariff of ₹ 1380 for 20' and ₹ 2250 for 40' UB Containers is ₹18.93 lakhs per year for all the three years at the present level of tariff and the current TEU ratio of 1.3. It is also submitted before the Hon Authority that even with such additional revenues, the CFS activity is in deficit.

8. A joint hearing in this case was held on 14 August 2014 at the COPT premises. At the joint hearing, the COPT and the concerned users/organisation bodies have made their submissions.

9. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the 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 the information obtained during the proceedings of this case, the following position emerges:

- (i). The proposal filed by the Cochin Port Trust (COPT) for revision of de-stuffing charges for Unaccompanied Baggage (UB) containers arises in view of the port taking over the stevedoring operations of UB containers from January 2014 which was till then carried out by private stevedores as reported by the COPT.

- (ii). (a). The existing Scale of Rates (SOR) of the COPT prescribes charges for stuffing and de-stuffing containers at CFS and other Port Facilities. Cargo containers at the CFS are stevedored by the port itself whereas the UB containers which related to personal effects of the Non Resident Indians were being stevedored by private stevedores at baggage shed.

Under the arrangement prior to the port taking over the stevedoring operations of UB containers, port supplied one Fork Lift Truck (FLT) free of cost with one gang to private stevedores for de-stuffing operations of UB containers. The private stevedores separately hired one additional FLT and also engaged additional operational staff. But, with the COPT taking over exclusively the stevedoring operations of UB containers from the private stevedores from January 2014, the port is required to deploy one additional FLT which otherwise would have been made available to the private stevedores and also engage at least two additional supervisory/ operational staff exclusively for taking care of the de-stuffing operations. It is in this context that the port has filed the current proposal for prescription of separate rates for de-stuffing of UB containers at 50% more than the existing stuffing / destuffing charges prescribed in its Scale of Rates.

- (b). The port has emphatically confirmed that there is no double recovery of cost on account of revision sought in the rate for UB containers. As rightly stated by the COPT, the cost statement for CFS activity reflected an aggregate deficit position to the tune of ₹ 23.37 crores for the years 2012-13 to 2014-15 during the last general revision Order of the port in April 2013. The cost statement for port as a whole also reflected a deficit position. But, the port had not sought any increase in the tariff which was approved by this Authority for reasons stated in the April 2013 tariff Order.
- (c). It is also relevant here to state that the Cochin Custom House Agents Association (CCHAA), the sole representative of the user community of owners of UB has consented the proposed revision in the rate of the UB containers. The copy of Memorandum of Understanding (MOU) dated 8 January 2014 between COPT and CCHAA substantiates the proposed tariff arrangement.
- (iii). (a). The Stuffing and De-stuffing Charges at CFS and other Port Facilities prescribed in the existing Scale of Rates (SOR) of COPT are ₹ 1380/- and ₹ 2250/- for 20' and 40' respectively for a half container load and ₹ 2760/- and ₹ 4500/- for 20' and 40' respectively for a Full Container Load (FCL). The COPT has now proposed a separate schedule of rate for de-stuffing of UB containers at 1.5 times the existing rate i.e. ₹ 2070/- and ₹ 3375/- for 20' and 40' respectively for a half container load and ₹ 4140/- and ₹ 6750/- for 20' and 40' respectively for a FCL. Thus, the increase proposed by the port in the existing charges for de-stuffing of UB containers on account of the port taking over the stevedoring operations of UB containers is ₹ 690 for 20' a half container load, ₹ 1380 for 20' FCL.
- (b). The port has justified the basis adopted for considering 50% increase over the existing de-stuffing charges of UB containers. The increase proposed is mainly to compensate the port towards cost for supply of one additional Fork Lift Truck (FLT) and at least two supervisory/ operational staff exclusively for taking care of the de-stuffing operations of UB container considering delicate handling of this category of containers. The cost for services of fork lift is adopted at the level of ₹ 588 per hour as prescribed in its existing SOR of the port. Considering average output of 6 TEUs per gang shift which is supported with the gang output at CFS achieved in the past three years of 2011-12 to 2013-14, seven hours working at CFS and reckoning UB containers are 100% foreign, the average incremental cost

of deployment of one FLT is computed by the COPT at ₹ 686 per TEU (i.e. $588 \times 7/6$).

The additional expenditure for deployment of at least two supervisory/operational staff exclusively for taking care of the operations in lieu of one Foreman and one Gear man being deployed by private stevedores is considered by the COPT at ₹ 3600 per shift translating into ₹ 600 per TEU at the average output of 6 TEUs per gang shift. Thus, the aggregate additional cost of taking over the stevedoring of UB containers exclusively by the COPT is arrived at ₹ 1286 (686+600) per TEU. Based on the above additional cost, the port has proposed an increase of ₹ 1380 increase in the de-stuffing of 20' FCL container applying 50% increase over the existing rate (i.e. $₹ 2760 \times 50\% = ₹ 1380$).

It is seen that the cost justification furnished by the port is for ₹ 1286 per TEU as against increase of ₹ 1380 per TEU sought by the port.

Notwithstanding the minor difference of ₹ 94 per TEU which remains unexplained by the port, recognising the fact that the cost statement for CFS activity reflected a substantial deficit of ₹ 23.37 crores for the years 2012-13 to 2014-15 during the last general revision Order in April 2013 and also keeping in view the fact that the concerned user association CCHAA has given consent to the proposed rate which is also supported with an MOU dated 8 January 2014 entered between the sole user availing the facility of de-stuffing of the UB and the COPT and also recognising that other users like Cochin Steamer Agents Association (CSAA) and India Gateway Terminal Private Ltd. (IGTPL) have also agreed to the proposed rate and that there has not been any objection from any other association or users, this Authority is inclined to approve the proposed rates.

- (c). The two conditionalities proposed by the port to govern the application of the proposed rates are similar to the conditionalities prescribed in the existing SOR under Schedule 5.2.1. for stuffing and de-stuffing charges at CFS and other port premises and hence are incorporated in the separate schedule of rate for de-stuffing of UB containers as well. The existing title of the schedule 5.2.1. – Stuffing and De-stuffing charges at CFS and other Port Facilities” is slightly modified by adding the words “other than UB containers” to avoid any ambiguity as a separate schedule for de-stuffing charges for UB containers is inserted in existing SOR of COPT.
- (iv). As per Clause 2.17.1. to 2.17.3. of 2005 guidelines whenever a tariff for a service/ cargo is not available in the notified Scale of Rates, the port can submit a suitable proposal and simultaneously propose to levy the proposed rate on ad hoc basis till the final rate is notified subject to the condition that the adhoc rates are consented by concerned users.

The COPT has stated that the proposed rates were implemented from 28 January 2014 simultaneously along with filing proposal to this Authority. As stated earlier, it has furnished documents substantiating consent of the reportedly sole representative of the user community of UB containers viz., Cochin Custom House Agents Association (CCHAA), to the proposed rate. Even the BOT operator India Gateway Terminal Private Limited (IGTPL), and Cochin Steamer Agents Association have agreed to the proposed rate.

There has been no objection from any users/ user associations about the proposed rate reportedly levied by the port on adhoc basis since 28 January 2014. Clause 2.17.4. of the tariff guidelines of 2005 enables this Authority to recognize the interim rate adopted in an ad-hoc manner retrospectively unless it is found to be excessive requiring some moderation retrospectively. Since the proposed rate

levied by the COPT is not found to be excessive of the final rate approved by this Authority, and recognizing that user community has agreed on the subject proposal, the action of COPT of implementing the proposed rate on adhoc basis from 28 January 2014 is recognized as such.

- (v). The tariff guidelines stipulate a tariff validity cycle of 3 years. Since the rate approved will be inserted under the existing SOR of COPT, it is appropriate to prescribe the validity of it co-terminus with the validity of the existing SOR.

10.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves

- (i) insertion of the following Schedule 5.2.2. - De-stuffing Charges of UB containers under Schedule 5.2. under Chapter - V, Container Related Charges of the existing Scale of Rates of Cochin Port:

“5.2.2. De-stuffing Charges of UB Containers

Sl. No.	Description	Rate per Container (₹)	
		20'	40' and above
1.	For half a container load	2070	3375
2.	For full container load	4140	6750

Notes:

1. A container, which is stuffed or de-stuffed, 50% or less of its normal capacity, is treated as half a container.
2. In the event of stuffing/de-stuffing of cargo necessitated for topping up of the container, examination, accounting or proper stacking, and such stuffing/de-stuffing results in 50% or less than 50% of the cargo being stuffed/de-stuffed, only 50% of the stuffing/de-stuffing charges will be collected in such cases.”
and

- (ii) **replacement of the title of existing schedule 5.2.1. under Schedule 5.2. under Chapter - V, Container Related Charges of the existing Scale of Rates of Cochin Port with the following title:**

“5.2.1. Stuffing and De-stuffing charges (other than UB containers) at CFS and other Port Facilities.”

10.2. Since the COPT is already levying the proposed rates upon rendering of the service, the approved rate comes into effect immediately from the date of notification of the Order in the Gazette of India and shall remain in force till validity of the existing SOR of the COPT.

10.3. The proposed rates levied by the COPT on adhoc basis from 28 January 2014 till the rate approved in this case comes into effect, is recognized by this Authority.

10.4. The COPT is advised to suitably amend its Scale of Rates.

(T.S. Balasubramanian)
Member (Finance)

**SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT
HEARING BEFORE THE AUTHORITY.**

F. No. TAMP/9/2014-COPT	Proposal from the Cochin Port Trust for levy of revised de-stuffing charges for Unaccompanied Baggage Containers at the port CFS.
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A joint hearing in this case was held on 14 August 2014 at the COPT premises. At the joint hearing, the COPT and the concerned users/ organisation bodies have made the following submissions:

Cochin Port Trust (COPT)

- (i). Makes a brief power point presentation of its proposal. Hard copy is given.
- (ii). Earlier, prior to we taking over the stuffing/de-stuffing of Unaccompanied Baggage (UB) Containers, they were handled at Q6 shed and yard at Ernakulum wharf in highly restrictive conditions by private stevedores. Unfair and monopolistic trade practices were carried out. With the help of trade and Customs and after lot of efforts, we have been able to take over handling of UB Containers from private stevedores.
- (iii). The port has consolidated handling of UB Containers at the port CFS. The integration of UB Containers with CFS was done with specific approval of Customs. This has resulted in greater control over cost. It has also suppressed unhealthy and monopolistic trade practices followed by private stevedores in handling of UB Containers.
- (iv). In the earlier arrangement, we provided one Fork Lift Truck (FLT)/ per gang to private stevedores. Private stevedores hired additional FLT.
- (v). After we taking over the operations of handling of UB containers at CFS, one additional Fork Lift Truck is provided. Further, additional supervisory staff are also deployed to stuff/ de-stuff UB Containers. Hence, increase in tariff is proposed for stuffing/ de-stuffing of UB Containers.
- (vi). We have also incurred expenditure to create separate enclosures at CFS for verification of UB Containers by Customs.
- (vii). We have forwarded copy of bills collected by private stevedores at ₹ 7,500 for 20 feet container and ₹11,250 for 40 feet container. These rates are not regulated by TAMP or by port. They were the rates mutually agreed between the concerned parties.
- (viii). Though the proposal seeks for 150% increase in stuffing/ de-stuffing charges of UB Containers, the users are overall benefitted by the

proposal. Taking over of handling of UB Containers by the port at its CFS has resulted in overall reduction in cost to the port users by ₹ 6,120 for 20 feet container and ₹ 9,000 for the 40 feet container in comparison to the charges levied by the private stevedores in the earlier system.

- (ix). Considering the financial benefits user community viz. Cochin Custom House Agents Association has consented the proposed rate.
- (x). At the time of general revision Order in April 2013, the CFS activity reflected a deficit position. The port did not seek increase in the tariff and proposed to maintain status quo in the then prevailing SOR. Even now the CFS activity is in deficit to the tune of ₹ 7.5 crores. In view of overall deficit in CFS activity, the proposed rate will not result in double recovery of costs.
- (xi). Our Board resolved that after consolidation of UB Containers with CFS, gangs should be deployed in an integrated manner to handle normal containers and UB Containers. The operating cost can reduce if container traffic at CFS is not adequate. But, we have adequate number of normal containers and UB Containers at CFS. Hence, the operating cost will not reduce.
- (xii). We expect to handle 1500 TEUs of UB Containers in each of the next three years. Additional revenue of around ₹19 lakhs per annum is anticipated at the proposed rate.
- (xiii). We are collecting the proposed stuffing/ de-stuffing charges on UB Containers on adhoc basis from 28 January 2014 subject to approval of final rates by TAMP.

Cochin Steamer Agents Association

- (i). We welcome and agree with the proposal of COPT.

Cochin Custom House Agents Association

- (i). We wholeheartedly support the proposal of port.