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Tariff Authority for Major Ports

G.No. 75

New Delhi,

01 March 2017

NOTIFICATION

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

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/57/2016-JNPT

Jawaharlal Nehru Port Trust

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QUORUM

Applicant

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

ORDER

(Passed on this 8th day of February 2017)

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

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

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

3. In this backdrop, though the JNPT had initially filed a proposal in August 2016, it has subsequently, based on the information/ clarification sought by us and based on the consultation process, filed a revised proposal in December 2016. This proposal was also taken up on consultation. It will take some more time for this case to mature for final consideration of this Authority.

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

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

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

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

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

(T.S. Balasubramanian)
Member (Finance)

JAWAHARLAL NEHRU PORT TRUST

AD HOC UPFRONT TARIFF FOR STEVEDORING AND SHORE HANDLING SERVICES

Part I - Definitions and General conditions

(I). Definitions:

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

(II). General conditions:

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

- (ii). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

** The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.*

- (b). In case of a Foreign flag vessel converted to coastal run on the basis of a Licence for Specified Period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.
- (v). All the charges shall be denominated in Indian Rupees.
- (vi). This tariff is not applicable for BOT/ BOOT operators or any other arrangement for private sector participation who are governed by the Tariff Guidelines of 2005, 2008 and 2013.
- (vii). This tariff is applicable uniformly to the entire port where the stevedoring and shore handling operations are carried out by private agencies or firms.
- (viii).
 - (a). The tariff notified is ceiling level.
 - (b). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The authorized agent may, if he so desires, charge lower rates and/or allow higher rebates and discounts.
 - (c). The authorized agent may also, if he so desire, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the users in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.
 - (d). The authorized agent should, however, notify the public such lower rates and/ or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (ix). The authorized agent shall charge only for services provided by him. No notional booking of labour and other similar notional charges would be permitted.
- (x). If any new cargo is to be handled which is not notified/ not included in the list, then the port may categorise that cargo under any one of the cargo categories based on the nature, physical characteristics and the method of handling that cargo.
- (xi). Services for other miscellaneous activities and also the handling charges for specific cargoes when Port takes custody of cargo as per Section 42 of MPT Act shall continue to be levied by Port as per TAMP notified SOR.
- (xii). Tariff caps are indexed to inflation but only to an extent of 60% of the variation in the Wholesale Price Index (WPI) occurring between 1st January and 31st December of the relevant year. Such automatic adjustment of the tariff cap will be made every year and the adjusted tariff cap will come into effect from 1st April of the relevant year till 31st March of the following year.
- (xiii).
 - (a). From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed upfront tariff relevant to that year, which would be the ceiling. The aforesaid tariff shall be automatically revised every year based on an indexation as provided in para 2.10. of the normative tariff guidelines, 2016 which will be applicable for the entire License period.
 - (b). The operator, however, is entitled to 100% WPI indexation instead of 60% WPI indexation, from the second year of operation on achievement of performance standards as prescribed in the Berthing Policy vide letter No.PD-11033/73/2013-PT(pt) dated 16 June 2016 for dry bulk cargo as stipulated in clause 7.1. of the guidelines issued by the Ministry of Shipping for fixation of upfront tariff for stevedoring and shore handling operations. For break bulk cargo, the Performance Standards as notified along with this Scale of Rates will be applicable.

- (c). For this purpose, the Operator shall approach the concerned Major Port Trust within 30 days of completion of financial year of operation along with details of cargo wise average Performance standard achieved for each cargo for both stevedoring and shore handling operations.
 - (d). The Major Port Trust shall ascertain the achievement of performance standards claimed to have been achieved by the operator by engaging Consultant if required in one month's time.
 - (e). The operator can apply 100% indexation instead of 60% on written confirmation by the Major Port Trust to the operator that it has achieved the Performance Standards notified along with the upfront tariff.
 - (f). In the event the Major Port Trust confirms that the operator has not achieved the Performance Standards as notified by TAMP in previous 12 months, the operator will not be entitled for 100% WPI indexation. The operator will continue to levy the tariff with 60% indexation as prescribed at clause 2.9. of the normative tariff guidelines, 2016.
- (xiv). All the operators shall furnish to the Major Port Trust and TAMP annual reports on cargo traffic, ship berth day output, per shift output within a month following the end of financial year in respect of stevedoring/ shore handling operations licensed by the port. Any other information which may be required by TAMP shall also be furnished to them from time to time.
- (xv). TAMP shall publish on its website all such information received from operators and Major Port Trusts. However, TAMP shall consider a request from any operator or Major Port Trust about not publishing certain data/ information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation of upon publication. TAMP's decision in this regard would be final.
- (xvi). The performance norms prescribed for various commodities shall be the minimum that should be achieved by the operator. These performance norms shall be incorporated in the bid documents.
- (xvii). The performance actually achieved by the operator shall be monitored by both the Port and the TAMP on a quarterly basis. In the event of any shortfall in achieving the performance prescribed, the Port will initiate action on the operator as per the terms contained in the agreement entered into with the operator by the Port.
- (xviii). In the event any user has any grievance regarding non-achievement by the operator of the Performance Standards as notified by the TAMP, he may prefer a representation to TAMP which, thereafter, shall conduct an inquiry into the representation and give its finding to the concerned Major Port Trust. The Major Port Trust will be bound to take necessary action on the findings as per the provisions of the contract conditions of the Agreement.
- (xix). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.50 shall be taken as 0.50 unit and fractions of 0.50 and above shall be treated as one unit, except where otherwise specified.
- (xx). Users will not be required to pay charges for delays beyond reasonable level attributable to the operator.
- (xxi). As per coastal policy direction issued by the MOS and notified by this Authority vide Order No.TAMP/4/2004-Genl. dated 7 January 2005 and 15 March 2005 -
- (a). The cargo/container related charges for all coastal cargo/containers, other than thermal coal, POL (including crude oil), iron ore and iron ore pellets, should not exceed 60% of the corresponding charges for normal cargo/container related charges.
 - (b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.
 - (c). In case of container related charges, the concession is applicable on composite box rate. Where itemised charges are levied, the concession will be on all the relevant charges for ship shore transfer and transfer from/to quay to/from storage yard as well as wharfage on cargo and containers.

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

- (xxii). Stevedoring & Shore Handling Agencies who have been issued license by JNPT can only undertake to perform these activities at JNPT.
- (xxiii). The licensed Stevedoring & Shore Handling Agency has to make all necessary arrangements (such as manpower, bringing equipment's, gears, shackles, hooks, slings ,heavy lifting beams, chain slings ,etc.) for carrying out safe and efficient Stevedoring & Shore Handling operations.
- (xxiv). Lashing and Unlashing of cargo on board the vessel shall be the responsibility of vessel agent. The above rates do not include lashing and unlashing charges.
- (xxv). Shore handling charges are applicable only for the cargo which is off loaded and stored in JNPT premises before loading /delivery of cargo. These are not applicable to cargo directly loaded from/discharged on consignee /shipper truck.
- (xxvi). The receipt/ delivery of cargo in/ from JNPT is considered the responsibility of shipper/ consignee or their representative.

Part - II

Upfront Tariff rates for Providing On board Stevedoring and Shore Handling Services for handling of Break Bulk cargo's by the Licensed Stevedoring and Shore Handling agencies:

Sr. No	Commodity Group	Basis of Charge	Productivity Norm	Stevedoring Charges in ₹ per tonne	Shore Handling Charges in ₹ per tonne
1	Bagged cargo	Per Ton	1200	103	207
2	Jumbo bags	Per Ton	1500	64	346
3	Iron & steel-coils and slabs	Per Ton	4000	48	169
4	Iron & steel – pipes, tubes, plates	Per Ton	1200	159	409
5	Project cargo, Machinery and machinery products	Per Ton	-	295	1195
6	Motor vehicles other than through RORO	Per unit	-	689	84

Part – III

Performance Norms for handling of Break Bulk cargo

Sr. No	Commodity Group	Productivity Norm
1	Bagged cargo	1200
2	Jumbo bags	1500
3	Iron & steel-coils and slabs	4000
4	Iron & steel – pipes, tubes, plates	1200
5	Project cargo, Machinery and machinery products	-
6	Motor vehicles other than through RORO	-

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

F. No.TAMP/57/2016-JNPT	-	Proposal received from Jawaharlal Nehru Port Trust for fixation of normative tariff for stevedoring and shore handling operations.
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The JNPT Proposal dated 06 September 2016 was forwarded to the concerned users/ user organisations for their comments. None of the users/ user organization have furnished their comments till the case was taken up for finalization except the Association of Multimodal Transport Operators of India (AMTOI) vide its email dated 14 October 2016 which has stated that, they don't have any comments to furnish in this respect.

2. A joint hearing on the case in reference was held on 24 October 2016 at the Office of the Authority. At the joint hearing, the JNPT made a Power Point presentation of the proposal. At the joint hearing, the JNPT and the concerned users/ organization bodies have made the following submissions:

Jawaharlal Nehru Port Trust (JNPT)

- (i). To arrive at the proposed rates, the labour cost is considered as in Kandla port, Hire charges of Equipment is based on market rates, operational overheads and administrative overheads each has been considered at 20% as per Guidelines. Profit margin considered at 20% is also as per Guidelines.
- (ii). The productivity considered in the proposal is lower than the norm prescribed in the Guidelines, since the JNPT does not have sufficient infrastructure.

M. Dinshaw & Co. (MDC)

- (i). The rates proposed for some of the cargo items is seen to be on a lower side and in respect of some items, it is on a higher side. The JNPT may have a relook at its proposal.
- (ii). If the rates proposed for Shore handling takes into account the relevant equipment, then the proposed rates are on a lower side. However, if the rates proposed for Shore handling does not take into account the relevant equipment, then the proposed rate is on a higher side.
- (iii). It has to be ensured that traffic does not move away from the port due to these charges.
- (iv). Bagged cargo is only labour oriented and involves the use of only trucks/ dumpers. The equipment profile as suggested by JNPT is not required.
- (v). The equipment profile considered in respect of some cargo items are far less. You cannot achieve the productivity as mentioned in the proposal with the said equipment. The equipment considered is insufficient.

(JNPT: We will rework the rates in consultation with the users.)

- (vi). We need facilities which are presently not available in port.

(JNPT: Transportation cost has not been factored in the cost, as the cargo is proposed to be stored in the storage area behind the SWB.)

- (vii). The shift based rates in respect of Project cargo, Motor Vehicles and Machinery is very much on a higher side. Nobody prefers shift based rate. The JNPT may proposed per MT or per CBM rates for these cargo.
- (viii). The rate of Royalty is ok.

JNPT

Based on the inputs received from users, we want to review our proposal. We will hold talks with them and file a revised proposal.

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