(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No. 92 **New Delhi,** **19 March 2015**

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 New Mangalore Port Trust for revision of tariff for the Mobile Harbour Crane for handling General/Bulk Cargo at New Mangalore Port Trust, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/24/2013-NMPT

New Mangalore Port Trust **- - -** **Applicant**

QUORUM:

(i). Shri. T. S. Balasubramanian, Member (Finance)
(ii). Shri. C. B. Singh, Member (Economic)

O R D E R

(Passed on this 13th day of February 2015)

This case relates to the proposal received from the New Mangalore Port Trust (NMPT) for revision of tariff for the Mobile Harbour Crane (MHC) for handling General/Bulk Cargo at New Mangalore Port Trust.

2. This Authority, vide its Order No.TAMP/26/2007-NMPT dated 16 June 2010, had approved under clause 7.2. of the 2005 tariff guidelines tariff for use of the MHC provided by the authorized service operators at the NMPT for handling the general/bulk cargo. This order was notified in the Gazette of India on 23 July 2010 vide Gazette No.185. This order came into force on 7 August 2010, after expiry of 15 days from the date of its notification. The tariff so approved was fixed with reference to the standard capacity of the MHC with a validity period of three years from the date of implementation of the Order. The validity of the tariff Order has expired on 6 August 2013.

3.1. Accordingly, the NMPT, vide its letter dated 22 July 2013 had filed its proposal for revision of the rate approved vide Order dated 16 June 2010 for MHC based on the average traffic handled by the crane in the years 2010-11, 2011-12 and 2012-13.

3.2. The NMPT was informed, vide our letter dated 2 August 2013, that the hire charge for MHC operated by service provider has been fixed by this Authority for standard capacity of the MHC and not with reference to the traffic handled / to be handled by the MHC. This approach has been followed uniformly at the Paradip Port Trust, V.O. Chidambaranar Port Trust, Visakhapatnam Port Trust, Kandla Port Trust including NMPT. The proposal dated 22 July 2013 of NMPT sought revision based on the traffic to be handled. Since the proposal for fixation of the rate was found not to be in line with the approach followed by this Authority in determining tariff for MHC at other Major Port Trusts including initial fixation at NMPT, the NMPT was requested to recast its proposal based on the standard capacity of the MHC.

3.3. In response, the NMPT, vide its letter dated 2 September 2013, forwarded two set of calculations, one including license fee payable by the service provider to NMPT as a cost component and another without including license fee as a cost component. It was not clear which one of the two alternatives the port wanted this Authority to pursue. Apart from that the port had not forwarded conditionalities governing the proposed rates and the performance standards. In view of that the proposal dated 2 September 2013 was returned to the NMPT vide our letter dated 27 September 2013 with a request to file a definite proposal.

3.4. In response, the NMPT, vide its letter dated 3 December 2013 again requested to consider its proposal submitted under cover of its letter dated 22 July 2013, which was based on traffic estimates.

3.5. For reasons already brought out in our letter dated 2 August 2013 (mentioned in para 3.2 above) the NMPT was again informed, vide our letter dated 13 January 2014, that its proposal 22 July 2013 cannot be taken up as its proposal dated 22 July 2013 is based on traffic to be handled and not on normative basis. The NMPT was, however, advised to recast it proposal and file a definite proposal based on normative capacity of the crane along with conditionalities governing the proposed rates as well as performance standards as prescribed in the existing tariff notified vide Order dated 16 June 2010.

4.1. In this backdrop, the NMPT vide its letter dated 15 February 2014 submitted that it has revised and recast its proposal as per the normative capacity of the crane along with conditionalities governing the proposed rate on the basis of performance standard prescribed in the existing tariff notified vide Order dated 16 June 2010.

4.2. The NMPT alongwith its letter dated 15 February 2014 submitted cost sheet for the proposed rate based on the prevailing fuel cost and budgetary quotation, computation of capital cost of the HMC, invoice for diesel for bulk consumers and calculation sheet based on the fuel consumption and number of hours of operations of HMC as per the data submitted by the operator.

4.3. The working furnished by the NMPT for the proposed rate is tabulated below:

Sr. No.	Particulars	Basis	Calculations	
A	**For Dry Bulk Cargo**			
(i).	**Cost of the MHC**		₹3,563 lakhs	
(ii).	**Capacity:**			
	Handling rate per hours (in tons)	(a) Food grain, fertilizer = 10000 tonnes/ days (for vessels more than 30000 parcel size) (b) Coal, Limestone, minerals, etc, = 10000 tonnes/days)	744 tons	
	Working hours p.a.	A norm of 4000 hours of working in a year is prescribed for estimating power/ fuel cost	4000 hour	
	Annual Capacity		29,76,000Tonnes	
(iii).	**Operating Cost:**			
(a).	Fuel		₹193.20 lakhs (70 liters per hour x ₹69 per litre x 4000 hours	
(b).	Repairs & Maintenance (5% of capital cost)	5% on cost of equipment	₹178.15 lakhs	
(c).	Insurance (1% of capital cost)	1% on cost of Medical Equipment	₹35.63 lakhs	
(d).	Depreciation	As per norms prescribed in Companies Act	₹368.41 lakhs	
(e).	Rent	As per Scale of Rates	₹2.05 lakhs	
(f).	Other expenses (5% of capital cost)	5% on Gross fixed asset value	₹178.15 lakhs	
	Total Cost		₹955.59 lakhs	
(iv).	**ROCE (16%)**		₹452.16 lakhs (16% on Average WDV)	
(v).	**Revenue Requirement**	(iii + iv)	₹1407.75 lakhs	
(vi).	**Hire Charge per Ton (Foreign) (in ₹)**		₹47.30	
(vii).	**Hire Charge per Ton (Coastal) (in ₹)**		₹28.38 (60% of ₹ 47.30)	
B.	**For Break Bulk Cargo**		**Steel & Bagged Cargo**	**Other cargo**
(i).	Cargo Handling rate at 50% above the norms prescribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes / day)		6000	3750
(ii).	Cargo Handling rate in tonnes / hour	Sr. no I / (24 hours * 70% utilisation norm)	357	223
(iii).	Working hours (per annum)		4000	4000

(iv).	Capacity (tonnes / annum)	Sr. No. (ii) * (iii)	1428000	892000
(v).	Total cost plus return as estimated in Sr. No V in the first table (₹ in lakhs)		1407.75	1407.75
(vi).	**Hire Charge per tonne (Foreign going) in ₹ / tonne**		98.58	157.82
(vii).	**Hire Charge per tonne (Coastal) in ₹ / tonne**		59.148	94.692

4.4. Based on the above working, the rates proposed by the NMPT for approval alongwith the notes are given below:

(i). For Dry Bulk Cargo:

Description	**Rate per tonne (in ₹)**	
	Foreign	**Coastal**
For Dry Bulk cargoes such as Food Grains, Fertilisers, Coal, Lime Stone, Minerals, etc.	₹ 47.30	₹ 28.38

(ii). For Break Bulk Cargo:

Description	**Rate per tonne (in ₹)**	
	Foreign	**Coastal**
A. Steel and Bagged Cargo	₹ 98.58	₹ 59.148
B. Other Cargo	₹ 157.82	₹ 94.692

Notes:

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

$$\frac{\text{Total Quantity loaded / unloaded by the MHC}}{\text{Total Time taken from Vessel commencement to completion}} \times 24 \text{ hours}$$

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

(iii). If one MHC works with another MHC or ELL crane/s, the berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the MHC's load meter / draft survey quantity arrived at.

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

(v). In case of stoppage of operation of MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel.

Stoppages of MHC for less than two hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the MHC. All stoppages in loading / unloading operation during working of MHC are required to be certified by the Stevedore of the vessel in the Daily Vessel Performance Report.

(vi). In case shifting of a vessel becomes necessary due to breakdown / non-performance of MHC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees One Lakh). The shifting charges so recovered will be refunded to the vessel's agents while the penalty will be retained by the port.

Shifting of cranes for operational convenience of the Port during the midst of shift shall not be considered for levying penalty. Stoppage of cargo handling due to rain, labour problems and other natural causes shall not be considered for levying penalty.

(vii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.

PERFORMANCE LINKED TARIFF:

The standard productivity level assumed for arriving at the tariff is treated as base level. Accordingly, the performance linked tariff structure is prescribed providing for a reward of 5% by way of increment in the base rate if the performance achieved is 1000 tonnes higher than the bench mark level and dis-incentive by way of reduction in the base rate by 5% if performance achieved is lower than the bench mark.

5. While acknowledging the proposal vide our letter dated 18 March 2014 the NMPT was informed that clause 7.2 of the 2005 guidelines stipulates that where authorization arrangement under section 42 (3) of the Major Port Trust Act, 1963 is other than by way of a BOT concession agreement, ceiling rates will be prescribed by this Authority which will apply commonly at the concerned ports without reference to individual service provider. In view of that the data submitted by one operator on the fuel consumption and working hours of MHC is not being circulated to the concerned users/organization bodies.

6. In accordance with the consultative procedure prescribed, a copy of the proposal of the NMPT was forwarded to the concerned user organisations seeking their comments. As desired by the NMPT, the proposal was also forwarded to the stevedoring agencies to which fresh stevedoring license was issued by the port in July 2013. The comments received from users/ user organisations were forwarded to NMPT as feedback information. The NMPT, vide its letter dated 12 June 2014, has furnished its comments on the comments of the users.

7.1. On preliminary scrutiny of the subject proposal, following information/ clarification was sought from NMPT vide our letter dated 13 October 2014. The NMPT vide its letter dated 18 October 2014 has furnished its reply. The queries raised by us and response of the NMPT thereon are tabulated below:

Sl. No.	Queries raised by us	Reply of NMPT
(i).	This Authority while initially fixing the tariff for use of Harbour Mobile Crane (HMC) to be provided by the authorised service providers vide Order No. TAMP/26/2007-NMPT dated 16 June 2010, which was notified on 23 July 2010 vide G. No. 185, had considered the capital cost of the Harbour Mobile Crane to be deployed by the authorised service providers at ₹2585.28 lakhs. However, the port in the subject proposal has considered the capital cost of the HMC at ₹3563.00 lakhs. Considering that the useful life of the HMC is 10 years (based on the depreciation rate), please justify the reasons for considering the revised capital cost at a higher level for the proposed revision.	On the expiry of the validity of the earlier tender, port initiated action to call for fresh tender for deployment of HMC by private operator on license fee basis. Concurrently the validity of TAMP notification for hire charges of HMC also expired on 22.07.2013. In view of maintaining the standard of productivity, reliability and keep the down time to the minimum, the proposal is for deployment of HMC was for a brand new crane model. Hence, capital cost to be incurred for a new model was based on the present market value of the crane.
(ii).	The budgetary quotation for the HMC furnished with the proposal relates to the period of September 2013. As more than a year has passed the port may like to update the capital cost of the HMC in the cost statement.	The port would like to retain the capital cost as given in the proposal, as the same is considered based on the quotation received for new crane.

(iii).	As the Companies Act, 2013 has been notified by the Government, the port should update the depreciation rate as per the provisions of the Companies Act 2013.	Based on the life of 10 years for HMC, the depreciation rate considered @10.34% in the proposal as per Companies Act.

7.2. At our request, the NMPT vide its letter dated 16 December 2014, in its proposal for fixation of tariff for deployment of 60-64 T HMC, has informed the quantity of liquid, dry, break bulk and container cargo handled during the year 2013-14 and also furnished the break-up of foreign and coastal cargo handled during the year 2013-14 as below:

A. Cargo handled during the year 2013-14:

Type of cargo	**Million Tonnes**
Liquid cargo	25.6
Bulk cargo	12.65
Break bulk cargo	0.36
Container cargo	0.75
Total cargo handled	**39.36**

B. Break up of cargo handled in 2013-14:

	Foreign vessel / cargo	**Coastal cargo**
Bulk cargo	98%	2%
Break bulk cargo	99%	1%
Container cargo	99.5%	0.5%

8. A joint hearing in this case was held on 31 October 2014 at the NMPT premises. The NMPT made the power point presentation on the proposal. At the joint hearing, NMPT, service providers and user associations 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 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 totality of the information collected during the processing of the case, the following position emerges:

(i). The NMPT has filed its subject proposal under 2005 guidelines. The proposal was also processed following 2005 tariff guidelines. However, when the case was in advanced stage of finalisation the Government of India in the Ministry of Shipping issued Policy for Determination of Tariff for Major Port Trusts, 2015 which was notified by the Authority in the Gazette of India on 27 January 2015 vide G.No. 30. The saidTariff Policy has come into effect from 13 January 2015.Clause 9.1, 9.2 and 9.3. of the said Tariff Policy, 2015 prescribe the tariff setting method for such services where authorization arrangement under section 42(3) is other than by way of a BOT concession agreement. The case is being analysed following the provisions prescribed in clause 9.1., 9.2. and 9.3. of the said Tariff Policy, 2015.

(ii). Provision of cranage facility is one of the services listed under Section 48 of the Major Port Trusts Act, 1963 and, therefore, the tariff for providing cranage facility needs to be regulated by this Authority. Section 42(4) of the MPT Act read with Section 48 requires this Authority to notify the rates in respect of identified services provided by persons authorised under Section 42(3) of the MPT Act. In cases where the authorization arrangement under Section 42(3) is other than by way of a BOT Concession Agreement, Clause 9.2 of the tariff guidelines of 2015 corresponding to Clause 7.2 of 2005 guidelines requires this Authority to fix based, on the proposal of the Major Port Trust, ceiling rates for such services. Based on the proposal filed under (clause 7.2. of the 2005 tariff guidelines), this Authority had fixed ceiling rates for the use of Harbour Mobile Crane (MHC) at New Mangalore Port Trust (NMPT) vide Order dated 16 June 2010 which was notified in the Gazette of India on 23 July 2010. The tariff so fixed was valid for a period of three years. The validity of the NMPT said order expired on 6 August 2013.

(iii). The NMPT has not specifically stated that its present proposal should be recognized under clause 7.2. of the 2005 guidelines. However, as the proposal is filed by the NMPT for revision of the rate fixed under clause 7.2., in June 2010 the present proposal needs to be governed by clause 9.1 to 9.3 of the 2015 guidelines.

(iv). As brought out in the factual position narrating the proposal, the NMPT had initially filed its proposal in July 2013. However, since the proposal was not based on the normative principles as considered by this Authority in its initial fixation the port was advised couple of times to recast and revise its proposal. The NMPT ultimately filed the present proposal following the principles considered by this Authority in the initial fixation for assessment of the capacity, operating cost and return. That being so, the proposal dated 15 February 2014 is considered in this analysis.

(v). Clause 2.4.1 of the tariff guidelines of 2005, which were in force at the time of NMPT filing the proposal in February 2014 *inter alia*, called for making attempts to evolve normative cost of each component of port operations. No specific guidelines have been laid down to fix tariff for the use of MHCs, either under 2005 tariff guidelines nor under 2008 tariff guidelines.

Clause 7.2 of the said tariff guidelines, did not specify any particular tariff fixing methodology but only talked about the procedural aspects of filing tariff proposal and fixing tariff without reference to the service provider. Separate set of norms under Clause 2.4.1. are not evolved. Clause 9.2 of Tariff Policy, 2015 prescribes the methodology to fix ceiling rates. However, it is not found appropriate to advice the NMPT at this stage to reformulate its proposal following Clause 9.2. It is noteworthy that Clause 9.2, while prescribing the methodology for fixation of ceiling rates, also provide for formulation of proposal by the concerned Major Port Trusts following the principals of 2008 guidelines. The proposal filed by NMPT follows the principles of 2008 guidelines, as can be seen from the analysis of the proposal.

(vi). Capacity of the MHC:

(a). The NMPT envisages to handle three cargo categories viz., dry bulk cargo, break bulk cargo, other cargo. This Authority, while initially fixing the tariff for the 100 T MHC to be deployed by the service providers authorized by the NMPT vide Order dated 16 June 2010, has considered the handling rate of 12500 tonnes per day for dry bulk cargo, 6000 tonnes per day in respect of break bulk cargo and 3750 tonnes per day in respect of other cargo updating the handling rates prescribed for 3 level luffing cranes in 2008 guidelines. The same handling rate is considered by the NMPT in the current proposal for assessment of the capacity. In view of that and as the handling rate is found to be in line with the handling rate considered by this Authority for the identical type of cargo at other Major Port Trusts, the handling rate as considered by the NMPT for assessment of capacity is accepted for assessment of the capacity of the MHC in this analysis.

(b). In the initial fixation the capacity of the MHC was assessed for normative level of 4000 working hours. The capacity of the MHC at other Major Port Trust is also assessed for 4000 working hours. The NMPT in the current proposal has considered the identical working hours following the norm prescribed in 2008 guidelines. That being so, the capacity of the MHC is assessed for 4000 working hours at 2.98 million tonnes incase of exclusive handling of dry bulk cargo, 1.43 million tonnes incase of exclusive handling of break bulk cargo and 0.89 million tonnes incase of exclusive handling of other cargo.

(c). In view of the ban on export of iron ore most of the service providers namely Mineral Enterprises Ltd. (MEL) and ABG Infralogistics Ltd.(AIL) have objected to considering 4000 hours per annum based on normative level of working hours prescribed in the tariff guidelines of 2008 for assessment of the capacity. In this connection it has to be recognized that the tariff for the MHC is being fixed on normative approach by testing the reasonableness of the norms adopted by the port against the norms prescribed in the 2008 guidelines. The norm of 4000 working hours adopted by the NMPT is found to be in line with the norm prescribed in the 2008 guidelines and at other ports where the tariff for the MHC is fixed. In view of that no need is found to deviate from the norm of 4000 working hours considered by the NMPT for assessment of capacity.

(vii). Capital Cost:

(a). The NMPT has estimated total capital cost for one 120 tonne MHC at ₹3563 lakhs. This capital cost of the MHC includes customs duty @ 25.852%. The NMPT has furnished documentary evidence in support of the cost estimation which reflects the basic cost of MHC at 33,70,000 Euros with the exchange rate of ₹84 per Euro.

(b). The ANMPS has stated that the cost of the crane should be based on depreciated value. The DIWL and MSAA have stated that the cranes available at NMPT are 4 to 8 years old. Since this is revision of the MHC tariff initially fixed in June 2010 the port was asked to justify the reason for considering the revised capital cost. The NMPT has categorically stated that the proposal is for deployment of brand new crane to maintain the standard of productivity, reliability and keep the down time to the minimum and hence it is necessary to consider capital cost for a new MHC to be incurred for a new model. It is noteworthy that the MSAA has brought out that there have been regular break down of the cranes severely affecting cargo operation.

Therefore, capital cost for a brand new MHC is considered for revision of the rate for the MHC.

(c). It is, however, noteworthy that the subject revision of the MHC is for 100 tonne MHC and not 120 tonne MHC. The port has, however, not furnished supporting document for the capital cost of a 100 tonne MHC. This Authority has recently fixed the rate for 100 tonne MHC at the Paradip Port Trust (PPT) vide Order No. TAMP/30/2014-PPT dated 28 November 2014. It is seen from the documentary evidence furnished by the PPT during processing of the case that the capital cost of the 100 tonne MHC with grab of 37 cbm is 34,30,000 Euros plus customs duty. As mentioned above, the NMPT has not furnished evidence for 100 tonne MHC. In view of that the capital cost for 100 tonne MHC as per the evidence furnished by PPT and considered by this Authority in the said PPT case is relied upon subject to updation of the exchange rate of Euro which is presently prevailing at the time of analysis at ₹70.79. Accordingly, the capital cost of the 100 tonne MHC is considered at ₹3056 lakhs (rounded off).

(viii). Operating Cost.

(a). Fuel:

While initialing prescribing the hire charge for a 100 tonne MHC at the other Major Port Trusts including at the NMPT, the fuel consumption of 70 litres per hour per MHC for 4000 hours per annum, was considered. Except for updating the cost of the fuel the NMPT has estimated the fuel consumption cost at the estimated level of rate of consumption of fuel at 70 litres per hour by considering the price of the diesel at ₹69 per litre.

The service providers like MEL and AIL have stated that the price of the diesel considered at the time of initial fixation has increased. In view of that they have requested this Authority to provide for annual escalation to cover the frequent increase in diesel prices due to deregulation. On the other hand the Mangalore Steamers Agents Association (MSAA) has stated that the fuel price has decreased in the past couple of months

This Authority while fixing the tariff has been considering the price of the fuel prevailing at the time of the finalizing the proposal. The tariff for the MHC in the present proposal is being fixed on normative basis considering the norms prescribed in the 2008 tariff guidelines as done in other ports. The guidelines do not provide for a mechanism to adjust the tariff to capture the fluctuation in the price of fuel. That being so, this Authority is not in a position to accept the request of the service providers like MEL and AIL. In any case, the escalation factor provided to index the rates with linkage to Wholesale Price Index (WPI), as discussed subsequently would take care of the price fluctuation in the diesel price.

Generally, for estimating the fuel cost, the cost of normal high speed diesel is considered in the analysis. While disposing of the proposal received from the Paradip Port Trust (PPT) for fixing the tariff for the MHC, this Authority has considered the price of the premium diesel for estimating the operating cost based on the position emerged during the relevant tariff proceedings. In line with that decision the fuel cost is considered at the prevailing rate of premium diesel i.e. at ₹54.88 per litre as the rate of fuel consumption for 4000 hours considered by the NMPT is found to be in line with the norm considered by this Authority for fixing the tariff for MHC at other ports.

(b). Repairs and Maintenance cost, Insurance cost and Other Expenses are estimated at 5%, 1% and 5% of the capital cost of the MHC by NMPT. This is found to be in line with the percentages considered for estimating the above said expenses at other Major Port Trusts and while fixing the initial tariff for the MHC at the NMPT also. In view of that these cost are estimated at the level at which the NMPT has estimated.

(c). Depreciation:

The NMPT has considered depreciation at the rate of 10.34% on the average capital employed. In reference to a query in this regard the NMPT has stated that based on the life of 10 years for MHC, the depreciation rate is considered @10.34% in the proposal as per Companies Act.

It is relevant to mention in this regard that during the disposal of the proposal received from the Chennai Port Trust (CHPT) for fixation of Reference tariff for the use of MHC, the CHPT had then submitted that as per the provision of the Companies Act 2013 (Schedule II of section 123 Part C(K) (2) and notes under Serial No. 6 of the Companies Act 2013), suggest that the useful life of heavy lift equipment be considered as 20 years. This translates to a depreciation rate of 5% per annum. However, the Act also suggests that the depreciation rate be increased by 100% of existing rate in case of a three shift operation. This would mean that the depreciation rate of 5% gets doubled to 10%. Accordingly, the depreciation in the case of MHC was considered at 10% of capital cost of the MHC. In the recent proposal filed by the PPT the same rate of depreciation was considered on the capital cost of the MHC for fixing its tariff. In line with the above decision the rate of depreciation for the MHC to be deployed by the service provider at the NMPT is considered at 10%.

(d). License fee:

The basis of arriving at the license fee of ₹2.05 lakhs considered by the port in the cost statement remains unexplained. During the initial fixation in June 2010 the approved lease rent duly escalated was considered by this Authority for arriving at the licence fee for idle number of hours, which is approximately 7 months.

This Authority has vide Order No. TAMP/60/2012-NMPT dated 20 May 2014 has approved revised lease rental of NMPT land allotted on long term/ short term basis for a period of 20 February 2012 to 19 February 2017. The lease rent so approved bears an compounded annual escalation of 2%. As per the said Order dated 20 May 2014 the lease rent approved for open area at Panambur is ₹1921.22 per 100 sq.mtr per month.

This Authority in the recent proposal from the Paradip Port Trust (PPT) for fixation of the MHC has considered license fee for the entire 12 months of the year since the license fee is payable by the operator without any break as confirmed by the PPT.

Following the approach adopted by this Authority in the fixation and in the PPT case, the escalated license fee for the entire 12 moths is considered for tariff computation. Accordingly, the license fee of ₹37000/- (rounded off) is considered in the cost statement as against ₹ 2.07 lakhs estimated by the NMPT.

The service providers like MEL and AIL have stated that the NMPT charges ₹106 lakhs as license fee from the Mobile crane service providers, but there is no minimum cargo guaranteed to the Mobile crane operators. Therefore, license fee is a fixed cost to mobile harbour crane operators and it is not a revenue share as assumed by TAMP in its calculations. It is to mention that this Authority while initially fixing the tariff for the MHC at the NMPT has mentioned in its Order dated 16 June 2010 that licensees have to pay annual license fee to NMPT in consideration of the licence granted to them to operate in theport. As this is akin to royalty /revenue share it is not considered as cost as per the clause 3.5.5. of the 2008 guidelines. That being so, the payment of license fee of ₹106 lakhs is not considered as part of cost in the analysis in line with the provision in the guideline and the approach followed by this Authority while fixing the tariff for the MHC at other ports.

(ix). This Authority has decided to allow Return on Capital Employed in the cases decided during the year 2014-15 at 16%. Accordingly, the return at 16% on the capital employed as considered by the NMPT is allowed.

(x). Thus, the annual revenue requirement, which is the sum total of the annual operating cost and the return on the capital employed, works out to ₹1284.68 lakhs, as against the revenue requirement of ₹1407.78lakhs, estimated by the NMPT.

(xi). As per policy direction of the Government, concessional tariff to be prescribed for coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets) should not exceed 60% of the normal cargo/ vessel related charges. The Government policy of allowing concessional rate for coastal cargo is binding on NMPT as well as this Authority. In any case, the concession allowed on coastal cargo is to be built into the rate applicable for foreign cargo in order to ensure that the operator realizes fully the estimated ARR. From the details furnished by the NMPT vide its letter dated 16 December 2014 in its another proposal for fixation of the tariff for the MHC deployed by the NMPT itself, it is seen that of the total dry cargo handled in the year 2013-14, 98% consisted of foreign cargo and the balance coastal cargo. Similarly, of the total break bulk cargo handled in the year 2013-14, 99% consisted of break bulk cargo and balance coastal cargo. This position is not considered by the NMPT in proposing the tariff. In order to adhere to the policy direction of the Government above mentioned the tariff for hire of the 100 T MHC is arrived at considering the share of the foreign and coastal cargo as furnished by the port.

(xii). Thus, considering the normative capacity of the MHC at 2.98 million tonnes incase of exclusive handling of dry bulk cargo, 1.43 million tonnes incase of exclusive handling of break bulk cargo and 0.89 million tonnes incase of exclusive handling of other cargo and based on the Annual revenue requirement of ₹1284.68 lakhs and based on the ratio of foreign and coastal cargo, the per tonne rate works out to ₹43.52 per MT for dry bulk cargo, ₹90.33 per MT for steel and bagged cargo and ₹144.60 per MT in respect of Other break bulk cargo, as against the rate of ₹47.30 per MT for dry bulk cargo, ₹98.58 per MT for steel and bagged cargo and ₹157.82 per MT for other break bulk cargo, as proposed by the port.

(xiii). The difference in rate is mainly attributable to difference arising due to consideration of the prevailing diesel price, the rate of depreciation and the return on the capital cost considered in the analysis.

(xiv). Based on the above position, the Cost statement furnished by the NMPT has been modified. The modified Cost statement is attached as **Annex**.

(xv). Clause 5.9 of the 2005 Guidelines called for linking tariff to the benchmark levels of productivity, providing incentive for better performance and disincentive for performance below the benchmark levels. Accordingly, performance linked charges were prescribed during the initial fixation at the NMPT as well as at other Major Ports Trusts where the MHC is being deployed by the authorized service providers. These charges were prescribed for each type of cargo i.e. dry bulk cargo, break bulk cargo and other cargo, by taking into account the base performance level at 12500 tonnes per day, 6000 tonnes per day and 3750 tonnes per day respectively, based on the handling rates considered while determining the normative capacity.

In its proposed Scale of rates, the NMPT has proposed performance linked tariff structure by prescribing a reward of 5% by way of increment in the base rate if the performance achieved is 1000 tonnes higher than the bench mark level and dis-incentive by way of reduction in the base rate by 5% if performance achieved is lower than the bench mark.

As discussed earlier, the output norm of 12500 tonnes for dry bulk cargo, 6000 tonnes per day for break bulk cargo and 3750 tonnes per day for other cargo has been considered to arrive at the base rate. Therefore, the cutoff point is also linked to the normative level of handling rate for each type of cargo as stated above.

With regard to prescription of incentive for better performance, a 5% increase at the level proposed by the NMPT and that also prevailing in the existing scenario is retained. However, with regard to prescription of disincentive for under performance, when the base rate is prescribed at the reduced level, it may lead to the MHC operator not in a position to recover the annual revenue requirement, thereby putting him into a disadvantageous position. Thus, it is appropriate that irrespective of performance below the base level, the MHC operator should be in a position to atleast recover the base rate pertaining to the specific cargo category. In view of this position, no reduced level of rate is prescribed for any reduction in the performance level below the base level in line with the decision taken by this Authority while fixing the tariff for the MHC deployed at the PPT.

(xvi). The general notes proposed by the NMPT, which are found to be in consonance with the general notes approved earlier in its case as well as for similar case at other Major Port Trusts, are prescribed.

(xvii). Service providers like MEL, AIL have pointed out regarding reduction in quantum of cargo or lack of guaranteed minimum cargo resulting in the operators making a loss. The NMPT in its reply has stated that the hire charges are proposed considering the optimum capacity of the MHC and that the port has not guaranteed minimum cargo. As mentioned in the initial paragraphs of the analysis the fixation of the tariff is based following the normative principles prescribed in the 2008 guidelines. The principles do not prescribe the volume of cargo to be considered for fixation of the cargo as the fixation is based on the optimal capacity of the MHC as rightly stated by the NMPT. Further, as stated by the NMPT it has not guaranteed minimum cargo. In view of that and considering that this Authority has not considered the minimum cargo for fixation of the tariff for the MHC at other ports the point argued by the service provider cannot be acceded to.

(xviii). As stated earlier, when the case was in advanced stage of finalization the Government of India in the Ministry of Shipping issued Policy for Determination of Tariff for Major Port Trusts, 2015 which was notified by the Authority in the Gazette of India on 27 January 2015 vide G. No. 30. The said Tariff Policy has come into effect from 13 January 2015.

As per clause 9.3. of the said Tariff Policy where authorization arrangement under section 42(3) is other than by way of a BOT concession agreement the tariff approved by the Authority for those services shall be subject to automatic indexation as prescribed in clause 2.8 of these guidelines from the second year onwards subject to achievement of Performance Standards committed by the Major Port Trusts as per clause 3.2. If the Performance Standard is not fulfilled, no indexation would be allowed during the next year.

The NMPT has filed the subject proposal for fixation of tariff for the MHC to be deployed by the service providers authorized by the NMPT. Further, NMPT has adopted the norms prescribed in the tariff guidelines of 2008 for the proposed tariff for the MHC deployed by the service providers authorized by the port. As brought out in the first part of the order, the NMPT in its subject proposal has proposed tariff for bench mark level of performance and performance linked tariff by way of reward of 5% increase in the base rent if the performance achieved is 1000 tonnes higher than the bench mark level. Accordingly, a suitable note for the 100 t MHC deployed by the service providers authorized by the NMPT is prescribed in the Scale of Rates of the NMPT to enable the port to effect indexation on the approved tariff from the effective date of commencement of the second year.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves to replace the following Section 6.8 in place of the existing provision in the existing Scale of Rates of NMPT in Chapter–VI, Other Charges:

"6.8. Charges for use of Harbour Mobile Crane installed by the private operators:

(i). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	**Ceiling rate per tonne (in ₹)**	
	Foreign	**Coastal**
12500	43.52	26.12
12501-13500	45.70	27.43
13501 – 14500	47.87	28.73
14501 - 15500	50.05	30.04

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14500 tonnes.

(ii). For Break Bulk Cargo

(A). Steel and Bagged Cargo:

Average daily crane performance (in Metric Tonne)	**Ceiling rate per tonne (in ₹)**	
	Foreign	**Coastal**
6000	90.33	54.20
6001-7000	94.85	56.91

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7000 tonnes.

(B). Others:

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	**Coastal**
3750	144.60	86.76
3751-4750	151.83	91.10

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 4750 tonnes.

(iii). After completion of one year from the effective date of implementation of this Order, the rate for the benchmark level of the average daily crane performance at 12500 Metric Tonne for Dry Bulk Cargo, 6000 Tonne for Steel and Bagged cargo and 3750 Tonne for others, shall be indexed annually to meet the cost of inflation to the extent of 100% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January 2015 and 1st January of the relevant year as per clause 2.8. of the Tariff Policy, 2015 subject to achievement by the crane operator of the benchmark level of the average daily crane performance to be calculated taking into account the total tonnage (cargo wise) handled in a year divided by the total time taken for the respective cargo group as stipulated in clause 3.2. of the said Tariff Policy. Such automatic adjustment of SOR will be made every year and the adjusted SOR will come into force from 1st April of the relevant year to 31st March of the following year.

Notes:

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

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

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

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

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

(v). In case of stoppage of operation of MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of MHC for less than two hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the MHC. All stoppages in loading / unloading operation during working of MHC are required to be certified by the Stevedore of the vessel in the Daily Vessel Performance Report.

(vi). In case shifting of a vessel becomes necessary due to breakdown / non-performance of MHC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of ₹1,00,000/- (Rupees One Lakh). The shifting charges so recovered will be refunded to the vessel's agents while the penalty will be retained by the port.

(vii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.**"**

11.2. As mentioned above the tariff for deployment of MHC by the service providers was fixed in June 2010 with a validity period of three years. This approved rate for the MHC was incorporated in the then existing SOR of the NMPT approved by this Authority vide Order No. TAMP/42/2005-NMPT dated 11 May 2006. Later, the SOR of the NMPT for the port as a whole was revised by way of general revision vide Order No. TAMP/34/2010-NMPT dated 6 January 2012 wherein the performance linked ceiling rate approved in June 2010 was incorporated in revised SOR of the NMPT. It is noteworthy that the Order dated 6 January 2012 has prescribed the validity of the revised SOR of the NMPT till 31 March 2015. In view of that though the rate for the MHC approved vide June 2010 Order prescribed a three year validity i.e. till 6 August 2013 the validity of the rates for MHC is deemed to have been extended vide Order dated 6 January 2012 till 31 March 2015 or till the effective date of the revised rate for the MHC approved, whichever is earlier.

11.3. Since the pre-revised rates are already in force, the revised rates shall come into effect after expiry of 15 days from the date of notification of the Order in the Gazette of India and shall remain in force for a period of three years. The approval accorded shall automatically lapse unless specifically approved by this Authority.

11.4. The rate approved by this Authority for Mobile Harbour Crane is a ceiling rate and will apply commonly at the port for identical facility/ service offered at the port without reference to any particular service provider. The Port Trust may ensure by suitably including a necessary condition in the authorization arrangement that the authorized service providers do not charge more than the prescribed ceiling rate for the respective cargo group.

(T.S. Balasubramanian)
Member (Finance)

ANNEX

Cost calculation for fixation of rate for use of 100 tonne Mobile Harbour Crane provided by authorised service provider at the New Mangalore Port Trust

A. For Dry bulk cargo

Sr. No.	Particulars	As furnished by New Mangalore Port Trust			Norms if any prescribed in 2008 tariff guidelines (for multipurpose cargo berth)	Modified Calculation: Workings	Modified Calculation: For Dry bulk - (a) Food grains & Fertiliser (b). Coal, lime stone, minerals. etc.
I	Cost of Mobile Harbour Crane (Rs. in Lakhs) {NMPT Euro 3370000 + customs duty @25.8522) *Rs 84/-} {TAMP - Euro 3430000 * Rs. 70.79	-	-	3563	-	-	3056
II	Capacity in tonnes/ annum	-	-	-	-	-	-
	Handling rate per hour (in tonnes)	Dry bulk a) Food grain, fertiliser = 10000 tonnes / days (for vessels more than 30000 tonnes parcel size) b) Coal, Lime stone, minerals , etc. = 10000 tonnes / days	25% above the handling norms prescribed in the guidelines i.e.12500/ (24 hours * 70% utilisation factor)	744	Same as NMPT	-	744
	Working hours per annum	A norm of 4000 hours of working in a year is prescribed for estimating power / fuel cost	-	4000	Same as NMPT	-	4000
	Annual Capacity (in tonnes)			**2976000**			**2976000**
	Annual Capacity (in Million tonnes)			**2.976**			**2.976**
III	Operating Cost			**Rs. in lakhs**			**Rs. in lakhs**
	(a). Fuel cost	70 liters per hour * Rs. 69 per liter* 4000 hours		193.20	Same as NMPT	70 ltrs per hour * Rs. 54.88 per litre * 4000 hours	153.66
	(b). Repairs & Maintenance cost	5% on cost of mechanical equipment	5%*3563 lakhs	178.15	Same as NMPT	5% * Rs.3056.00 lakhs	152.79
	(c). Insurance	1% on cost of mechanical equipment	1%*3563 lakhs	35.63	1% on cost of mechanical equipment	1% * Rs.3056 lakhs	30.56
	(d). Depreciation	As per norms prescribed in Companies Act, 2013	10.34%*3563 lakhs	368.41	As per norms prescribed in Companies Act, 2013	10% * Rs.3056 lakhs	305.58
	(e). Rent	Rent as estimated as per the present SCOR of the NMPT		2.05	As per Scale of Rates of concerned port	As per the approved lease rental vide Order dated 20 May 2014 for 12 months	0.37
	(f). Other Expense	5% of Gross fixed Asset Value	As per working given below i.e. average	178.15	5% of Gross fixed Asset Value	5% * Rs.3056 lakhs	152.79
	Total (a) to (f)			**955.59**			**795.75**
IV	ROCE	16% on average capital employed	16%*2826 lakhs	**452.16**	16% on capital employed	16% * Rs.3056 lakhs	**488.93**
V	**Total Cost plus Return on investment**			**1407.75**			**1284.68**
VI	**Hire Charge per tonne (Foreign)**	Rs.1407.75 lakhs / 29,76,000 tonnes		**47.30**		Rs.1284.68 lakhs / (2.976*98%+2.976*2%*60%)	**43.52**
VII	**Hire Charge per tonne (Coastal)**	-	60%*Rs.47.30	**28.38**		60% * Rs.43.52	**26.12**

B. For break bulk cargo

Sr. No.	Particulars	Working	Steel & bagged cargo	Others	Working	Steel & bagged cargo	Others
I	Cargo Handling rate at 50% above the norms precribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes / day)		6000	3750		**6000**	**3750**
II	Cargo Handling rate in tonnes / hour	Sr. no I / (24 hours * 70% utilisation norm)	357	223	Same as NMPT	**357**	**223**
III	Working hours (per annum)		4000	4000	Same as NMPT	4000	4000
IV	Capacity (tonnes / annum)	Sr. No II * III	1428000	892000	Sr. No II * III	1428000	892000
V	Total cost plus return as estimated in Sr. No V in the first table (Rs. in lakhs)		1407.75	1407.75		1284.68	1284.68
V I	**Hire Charge per tonne (Foreign going) in Rs. / tonne**	Sr. No V / IV	**98.58**	**157.82**	For Steel & Bagged Cargo --Rs. 1284.68 lakhs / (1428000*99%+1428000*1%*60%) and For other cargo -Rs. 1284.68 lakhs / (892000*99%+892000*1%*60%)	**90.33**	**144.60**
VII	**Hire Charge per tonne (Coastal) in Rs. / tonne**	60% of Sr. No VI	**59.148**	**94.692**	60% of Sr. No VI	**54.20**	**86.76**

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

F. No.TAMP/24/2013-NMPT	**-**	**Proposal received from the New Mangalore Port Trust for revision of tariff for the Mobile Harbour Crane provided for handling General/Bulk Cargo at New Mangalore Port**

Summary of the comments received from users/ user organisations and the comments of New Mangalore Port Trust (NMPT) thereon are tabulated below:

Sl. No.	Comments of users / user organizations	Comments of NMPT
1.	**M/s. Alvares& Thomas**	[No comments furnished by the NMPT]
	A tariff of ₹69/- is still considered a bit higher, considering the competition at this juncture of business. It is proposed that rate may please be lowered to ₹50/- to ₹55/- and if not feasible present rate may be retained.	
2.	**M/s. Mineral Enterprises Limited**	
(i).	Subsequent to imposition of ban on movement of iron ore for export vide order No. CII 162 MMM 2010 dated 28 July 2010 by the Govt. of Karnataka the working hours & volume of cargo handled by Mobile Harbour crane had reduced substantially.	----
	Reduction in Hours of Handling:	
(a).	The working hours of crane had been considered at 4000 hours per annum by NMPT on normative level of working hours. But as per current scenario, this normative assumption will not hold good. There are no exportsof iron ore from NMPT at present though exports had been substantial at the time of fixing the tariff earlier. This is well evidenced from the fact that the actual average crane working hours per annum for the past four years is only 2271 hours per annum, a reduction of 43% in the standard working hours and not 4000 hours which was the basis of rate calculation. The operations are at 43% lower than the normative capacity used for rate calculation	NMPT has considered the working hours for use of the HMC based on TAMP 2008 guidelines on normative basis.

Year	Total Hours (NMPT)	Average Hours/Crane	Shortage	% Decline
2010-11	4000	1656	2344	-58.6%
2011-12	4000	2170	1830	-45.8%
2012-13	4000	2485	1515	-37.9%
2013-14	4000	2772	1228	-30.7%
Average	4000	2271	1729	-43.2%

<table>
<tr><td>(b).</td><td>The volume of cargo handled also has reduced drastically by 59%
<table>
<tr><th>Year</th><th>Total Cargo (NMPT) - MT</th><th>Average Cargo/Crane</th><th>Shortage</th><th>% Change</th></tr>
<tr><td>2010-11</td><td>29,76,000</td><td>8,82,898</td><td>20,93,102</td><td>-70.3%</td></tr>
<tr><td>2011-12</td><td>29,76,000</td><td>11,44,872</td><td>18,31,128</td><td>-61.5%</td></tr>
<tr><td>2012-13</td><td>29,76,000</td><td>12,73,387</td><td>17,02,613</td><td>-57.2%</td></tr>
<tr><td>2013-14</td><td>29,76,000</td><td>15,56,550</td><td>14,19,450</td><td>-47.7%</td></tr>
<tr><td>Average</td><td>29,76,000</td><td>12,14,427</td><td>17,61,573</td><td>-59.2%</td></tr>
</table>
The 59% reduction in cargo tonnages has also reduced the operating efficiency of the crane to 534 tonne per hour compared to the normative level of 744 tonnes per hour assumed by NMPT. MEL has no control over the volume of tonnages that flow into the port but end up bearing the inefficiencies. The market forces demand the rate be adjusted for the lower quantity to assure minimum returns to the crane operator.</td><td>NMPT has worked out the charges for use of HMC based on the optimum capacity utilization of the crane as per TAMP 2008 guidelines on normative basis.

Request of the operator does not appear to be based on the normative guidelines.</td></tr>
<tr><td>(ii).</td><td>Substantial escalation in diesel prices</td><td></td></tr>
<tr><td></td><td>Government of India had deregulated the price of diesel in January 2013, which has led to volatility in the diesel prices thereby increasing the cost of operation exorbitantly. The Diesel price at the time of fixation of the tariff for providing & operating MHC in July 2010 was considered at ₹39.87 per litre. NMPT had considered the diesel price for bulk users at ₹69/ litre at the time of their proposal based on the market price as on 30 January 2014. The diesel price as on 28 February 2014 is ₹70.35 a further increase of ₹1.35 in a period of one month.
<table>
<tr><th>Period</th><th>Price (₹/ltr)</th><th>% increase</th></tr>
<tr><td>July 2010</td><td>39.87</td><td></td></tr>
<tr><td>Jan 2014</td><td>69.00</td><td>73%</td></tr>
<tr><td>Feb 2014</td><td>70.35</td><td>76%</td></tr>
</table></td><td>NMPT has considered price of diesel at ₹ 69 per liter as per the rate notified by the oil companies in January 2014. Variation in diesel price has not been considered by the port in the calculations.</td></tr>
<tr><td>(iii).</td><td>Fixed Licence Fees imposed by NMPT</td><td></td></tr>
<tr><td></td><td>NMPT also charges ₹ 106 lakhs as licence fee from the Mobile crane service providers, but there is no minimum cargo guaranteed to the Mobile crane operators. The assumption of TAMP that licene fee paid by the mobile crane operator is only revenue sharing, and thus does not form part of cost does not hold good. The licence fee has become a part of the fixed cost to the mobile crane operators. This extra fixed element of cost increases the risk borne by mobile crane operator and skews the return to lower than 16% of ROCE as allowed by the Upfront guidelines 2008.</td><td>The license fees offered in the tender proceedings were considered by the port to arrive at the license fee. The same is not considered by PPP mode, hence the work sheet is based on TAMP guidelines.</td></tr>
<tr><td>(iv).</td><td>Lack of minimum cargo guaranteed by NMPT</td><td></td></tr>
<tr><td></td><td>The hire charges per ton (foreign) recommended by the NMPT viz. ₹47.30 will not be able to meet the costs of operations also and in fact MEL is forced to make losses</td><td>The Port has considered the optimum capacity of the crane for arriving at hire charges as per TAMP guidelines, 2008. The port has not indicated any minimum guaranteed cargo to the</td></tr>
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<tr>
<td></td>
<td>which is not in line with the guidelines where 16% ROCE is defined for the crane operator.
<table>
<tr><th></th><th></th><th>Particulars</th><th>Based on NMPT recommendations with Actual cargo handled (₹ in lakhs)</th></tr>
<tr><td>I</td><td></td><td>Cost of HMC (INR)</td><td>3563.00</td></tr>
<tr><td>II</td><td></td><td>Capacity in tonnes/ annum</td><td></td></tr>
<tr><td></td><td></td><td>Handling rate per hour (in tonnes) – Actual</td><td>535</td></tr>
<tr><td></td><td></td><td>Crane Running Hour/ Year – Actual</td><td>2271</td></tr>
<tr><td></td><td></td><td>Cargo availability per crane / year – Actual</td><td>1214427</td></tr>
<tr><td>III</td><td></td><td>Operating cost</td><td></td></tr>
<tr><td></td><td></td><td>Fuel Rate ₹ /ltr</td><td>70.00</td></tr>
<tr><td></td><td></td><td>Fuel Cons ltr / hour</td><td>70.00</td></tr>
<tr><td></td><td>IIIA</td><td>Fuel cost Total</td><td>111.25</td></tr>
<tr><td></td><td>IIIB</td><td>Repairs and maintenance5% on capital cost</td><td>178.15</td></tr>
<tr><td></td><td>IIIC</td><td>Insurance @1% on capital cost</td><td>35.63</td></tr>
<tr><td></td><td>IIID</td><td>Depreciation @ 10.34% on Capital cost</td><td>368.41</td></tr>
<tr><td></td><td>IIIE</td><td>Rent</td><td>2.05</td></tr>
<tr><td></td><td>IIIF</td><td>Other @ 5% of Capital cost</td><td>178.15</td></tr>
<tr><td></td><td>IIIG</td><td>License Fee levied by NMPT (₹)</td><td>979.64</td></tr>
<tr><td>IV</td><td></td><td>Total Revenue at current level (47.3 x 12,14,427)</td><td>574.42</td></tr>
<tr><td>V</td><td></td><td>Total (IIIA to IIIG) – IV (revenue) = LOSS</td><td>(405.22) *</td></tr>
</table>
In order to meet the cost of operation the minimum breakeven quantity required is 20,71,120tonnes per year and to make 16% ROCE on the operation minimum of 30,27,061 tons are needed. In reality the actual tonnages are much lower at 12,14,427tonns per year i.e. 59% of the minimum break even quantity and 40% of the ROCE guideline normative quantity.

Thus, it can be seen that at the current level tonnage volume puts the operation into loss and does not support of a ROCE of 16% as specified in the guideline. It would also be pertinent to note that despite a droppage in volume there in no rebate on licence fees levied by NMPT.
[*There appears to be an ever in calculation of MEL]</td>
<td>operator.</td>
</tr>
<tr>
<td>(v).</td>
<td>Expected Rate at Current level of operation:</td>
<td></td>
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<tr>
<td></td>
<td>Based on the point above, it is clear that the cost of operation is ₹979.64 lakhs and if 16% ROCE ₹ 452.16 lakhs is added actual income adds comes to ₹1431.80 lakhs per year which translates to a rate of ₹117.9 per ton at the current level of average tonnage per year. Therefore, to achieve a ROCE of 16% the expected rate is ₹117.90/ ton at current average level of operation.</td>
<td>The port is charging at present as per existing/prevailing scale of rates at ₹38.34/MT for foreign vessel and ₹23/MT for coastal vessel.
<table>
<tr><th>Average daily crane performance (in Metric Tonne)</th><th colspan="2">Ceiling rate per tonne (in ₹)</th></tr>
<tr><td></td><td>Foreign</td><td>Coastal</td></tr>
<tr><td>14501-15500</td><td>38.34</td><td>23.00</td></tr>
</table>
The existing SOR expired on 22 July 2013.</td>
</tr>
</table>

<table>
<tr><td></td><td></td><td>Fresh proposal has been submitted to TAMP for consideration and approval.
[Validity has expired on 6 August 2013]</td></tr>
<tr><td>3.</td><td>M/s.ABGInfralogistics Ltd.</td><td></td></tr>
<tr><td>(i).</td><td>Govt. of Karnataka, vide its order no. CII 162 MMM 2010 dated 28 July 2010, had banned movement and export of iron ore from Karnataka. Subsequently, there was a substantial decline in the volume of cargo handled at NMPT. The existing tariff was fixed by TAMP vide its notification dated 23 July 2010, when the export of iron ore was allowed and TAMP had assumed that the crane would handle 29,76,000 tons per annum. However, due to ban on iron ore export, the average cargo handled by Mobile Harbour cranes in the last four years is only 10,85,855 T/annum, a reduction of 63% on the volume assumed TAMP as can be seen below:
<table>
<tr><th>Year</th><th>Total Cargo (NMPT) - MT</th><th>Average Cargo/Crane</th><th>Shortage</th><th>% Change</th></tr>
<tr><td>2010-11</td><td>29,76,000</td><td>8,82,898</td><td>20,93,102</td><td>70.33%</td></tr>
<tr><td>2011-12</td><td>29,76,000</td><td>11,44,872</td><td>18,31,128</td><td>61.53%</td></tr>
<tr><td>2012-13</td><td>29,76,000</td><td>12,73,387</td><td>17,02,613</td><td>57.21%</td></tr>
<tr><td>2013-14</td><td>29,76,000</td><td>10,42,261</td><td>19,33,739</td><td>64.98%</td></tr>
<tr><td>Average</td><td>29,76,000</td><td>10,85,855</td><td>18,90,146</td><td>63.51%</td></tr>
</table></td><td>Facts given by the party are factual.
NMPT has worked out the charges for use of the HMC based on the optimum capacity utilization of the crane as per TAMP 2008 guidelines on normative basis.</td></tr>
<tr><td>(ii).</td><td>Further, TAMP had assumed crane working hours as 4000 hours per annum based on normative level of working hours prescribed in the tariff guidelines 2008 while fixing tariff in July 2010. In view of iron ore ban and subsequent reduction in cargo volume, the normative assumption does not seem to hold good. The average working hours for the last four years is only 2092 hours per annum, a reduction of 48% on the running hours assumed by TAMP as can be seen below:
<table>
<tr><th>Year</th><th>Total Hours (NMPT)</th><th>Average running Hours per Crane</th><th>Shortfall</th><th>% Shortfall</th></tr>
<tr><td>2010-11</td><td>4000</td><td>1656</td><td>2344</td><td>58.60%</td></tr>
<tr><td>2011-12</td><td>4000</td><td>2170</td><td>1830</td><td>45.75%</td></tr>
<tr><td>2012-13</td><td>4000</td><td>2485</td><td>1515</td><td>37.88%</td></tr>
<tr><td>2013-14</td><td>4000</td><td>2056</td><td>1944</td><td>48.60%</td></tr>
<tr><td>Average</td><td>4000</td><td>2092</td><td>1908</td><td>47.71%</td></tr>
</table></td><td>NMPT has considered the working hours for use of HMC based on TAMP 2008 guidelines 3.1 on normative basis.</td></tr>
</table>

<table>
<tr>
<td>(iii).</td>
<td>Government of India had also deregulated the price of diesel in January 2013, which has led to volatility in the diesel prices increasing the cost of operation exorbitantly. The diesel price at the time of fixation of the tariff for providing & operating Mobile Harbour Crane in July 2010 was considered at ₹39.87 per litre. NMPT had considered the diesel price for Bulk users at ₹69/- litre at the time of their proposal based on the market price as on 30.01.2014. Diesel price has increased further to ₹ 70.35 as on 28.02.2014.
<table>
<tr><th>Period</th><th>Price (₹/ltr)</th><th>% increase since July 10</th></tr>
<tr><td>July 2010</td><td>39.87</td><td>--</td></tr>
<tr><td>Jan 2014</td><td>69.00</td><td>73%</td></tr>
<tr><td>Feb 2014</td><td>70.35</td><td>76%</td></tr>
</table>
It is further requested to TAMP to provide for annual escalation to cover for the frequent increase in diesel prices due to deregulation.</td>
<td>NMPT has considered price of diesel at ₹ 69 per liter as per the rate notified by the oil companies in January 2014. Variation in diesel price is not been considered by the port in the calculations.</td>
</tr>
<tr>
<td>(iv).</td>
<td>NMPT charges ₹ 106 lakhs as license fee from the Mobile crane service providers, but there is no minimum cargo guaranteed to the Mobile crane operators. Therefore, license fees is fixed cost to mobile harbor crane operators and it is not a revenue share as assumed by TAMP in its calculations.</td>
<td>The license fees offered in the tender proceedings were considered by the port to arrive at the license fee. The same is not considered in PPP mode, hence the work sheet is based on TAMP guidelines.</td>
</tr>
<tr>
<td>(v).</td>
<td>The hire charges per ton (Foreign) recommended by NMPT viz. ₹47.30 will not be able to cover the fixed costs of operating the crane.The fixed cost considered by NMPT is as follows:
<table>
<tr><th>S. No</th><th>Particulars</th><th>Description as per TAMP guidelines</th><th>Working</th><th>₹ in lakhs</th></tr>
<tr><td>(i).</td><td>Repairs & maintenance</td><td>5% of cost of equipment</td><td>5% of ₹3563 lakhs</td><td>178.15</td></tr>
<tr><td>(ii).</td><td>Insurance</td><td>1% of Cost of Equipment</td><td>1% of ₹3563 lakhs</td><td>35.63</td></tr>
<tr><td>(iii).</td><td>Depreciation</td><td>As per norms prescribed in Companies Act</td><td>10.34% of ₹353 lakhs</td><td>368.41</td></tr>
<tr><td>(iv).</td><td>Rent</td><td></td><td>Scale of Rates of port</td><td>2.05</td></tr>
<tr><td>(v).</td><td>Other expense</td><td>5% of Gross Fixed Asset Value</td><td>5% of ₹3563 lakhs</td><td>178.15</td></tr>
<tr><td>(vi).</td><td colspan="2">Total Fixed Cost as per NMPT without license fee</td><td>i+ii+iii+iv+v</td><td>762.39</td></tr>
<tr><td>(vii).</td><td colspan="2">License fee</td><td></td><td>106.00</td></tr>
<tr><td>(viii).</td><td colspan="2">Total Fixed cost with License fee</td><td>vi+vii</td><td>868.39</td></tr>
<tr><td>(ix).</td><td colspan="3">Hire charges recommended by NMPT</td><td>₹ 47.30</td></tr>
</table>
Break even quantity to cover fixed cost
<table>
<tr><th>Description</th><th>Volume in MT</th></tr>
<tr><td>Considering License fee as part of Fixed Cost</td><td>868,39,000/47.3= 18,35,920</td></tr>
<tr><td>Average Cargo Handled from 2010-14</td><td>10,85,855</td></tr>
</table>
Thus it can be seen that at the current level of operation, ABGIL will not be able to cover the fixed cost also. Hence, if NMPT recommends ₹47.31 as hire charges per ton, it should</td>
<td>The port has considered the optimum capacity of the crane for arriving at hire charges as per TAMP guidelines 2008. The port has not indicated any minimum guaranteed cargo to the operator.
The port is charging at present as per existing/prevailing scale of rates at Point 6.8 notified the SOR ₹38.34/MT for foreign vessel and ₹23/MT for coastal vessel.
<table>
<tr><th>Average daily crane performance (in Metric Tonne)</th><th colspan="2">Ceiling rate per tonne (in ₹)</th></tr>
<tr><td></td><td>Foreign</td><td>Coastal</td></tr>
<tr><td>14501-15500</td><td>38.34</td><td>23.00</td></tr>
</table>
The existing SOR expired on 22 July 2013. Fresh proposal has been submitted to TAMP for consideration and approval.
[Validity has expired on 6 August 2013]</td>
</tr>
</table>

	guarantee a minimum cargo of 29,76,000tonnes. It would be pertinent to note that despite a steep decline in volumes handled by Mobile Harbour Canes, there is no rebate on license fees levied by NMPT.	

2. A joint hearing in this case was held on 31 October 2014 at the NMPT premises. The NMPT has made the power point presentation on the proposal. At the joint hearing, NMPT, service providers and user Associations have made the following submissions:

NMPT

(i) Chairman NMPT welcomes the participants and FA & CAO gave a power point presentation of the proposal. Chairman briefly explained the background of the proposal.

ABG Infra Logistics Ltd.

(i). Based on our experience of the operation of the HMC, the traffic handled and number of hours of working of the HMC, the capacity of the 100T HMC should be i.e. 1.214 MT as against 2.97 MT assumed by the Authority. Average volume of traffic of last three years is 1.21 Million Tonnes. Ban on iron ore exports has impacted the traffic. Tariff should be based on traffic. The port should assure the cargo to achieve the assessed capacity.

(NMPT: The capacity of the crane is assessed on the basis of the norms prescribed. The Port acts as facilitator but cannot assure the cargo).

(ii) The license fee of ₹1.06 lakhs payable to the NMPT is fixed cost to us, as we have to pay it to NMPT irrespective of the cargo handled. Hence, the license fee paid to the port should be considered as cost. The assumption that it is revenue shares is not correct.

(NMPT: The Port has the facility to pay license fee in instalment basis).

(iii) Enhanced wages, other expenses, etc. should be considered by the Authority for arriving at the revised rate for the HMC. At the rate approved by the Authority we are not even able to achieve break-even point.

(iv) Please devise a mechanism to adjust the rate to align with cost of diesel since pricing of diesel has been deregulated.

(v). We will give our calculation.

Mineral Enterprises Ltd.

(i). We endorse the submissions of the ABG. We will also give our calculations.

Association of New Mangalore Ports Stevedores

(i). Cost of crane should be based on deprecated value. The rate for 100T HMC should be around ₹30/- ton as per our calculations. We will give our calculations.

(NMPT: We have filed proposal as per the guidelines).

(ii). Theauthorised operators are charging ₹60/ ton instead of the approved rate.

(Chairman (TAMP): This is brought to my notice only now. Please furnish your written submission alongwith the evidence to indicate the charges levied by the authorized service provider. We will look into it).

(iii). We reluctantly agree with the Port's proposal.

(iv). The charges for hire of the HMC at other ports is cheaper.

Bothra Shipping

(i). Escalation clause for enhancing the rate to be included. We will give our calculations.

3. The written submission submitted by the MEL at the joint hearing, vide its letter dated 31 October 2014, was forwarded to the NMPT for its comments within a weeks' time vide our letter dated 14 November 2014. The NMPT furnished its response vide its letter dated 26 November 2014. The main points made by MEL and response of NMPT thereon are tabulated below:

Sl. No.	Points made by Mineral Enterprises Limited (MEL)	Reply of NMPT
(i).	MEL had made several representations (copy attached) to the Port Authorities requesting them to consider its request for tariff revision for providing and operating HMC at NMPT, in view of the changes in the key parameters on which the tariff was fixed earlier by TAMP vide notification no. 185 dated 23 July 2010. (*the attachment includes 4 letters of the MEL of which two letters dated 8 April 2014 and 21 June 2013 are addressed to the Authority while the remaining two are addressed to the NMPT. With regard to the two letters of the MEL addressed to the Authority it is to mention that the points made in letter dated 8 April 2014 are brought out in the para 6 above. The MEL in its second letter dated 21 June 2013 submitted for revision of the rate for the MHC approved vide Order dated 16 June 2010 based on the actual cargo handled, actual number of working hours and diesel price. In response the MEL has been informed vide our letter no. TAMP/26/2007-NMPT dated 4 July 2013 that as per clause 7.2. of the 2005 guidelines where authorization arrangement under section 42 (3) of the Major Port Trusts Act, 1963 is other than by way of BOT concession agreement then ceiling rate is to be prescribed for the services which will be applied commonly at the concerned ports without reference to individual service provider based on a proposal from the*	In this context, it is to submit that the calculation sheet which was prepared is as per the guidelines and format prescribed by the TAMP. All the factors has been duly considered while preparing the calculation sheet and submitted to TAMP for revision of tariff which had expired on 22-7-2013. Hence, port has no further comments to offer on this subject.

	concerned Major Port Trust. In view of that the reference of the MEL dated 21 June 2013 was disposed of with a advice to take up the matter with the NMPT.)	
(ii).	MEL reiterated its submissions as follows:	
(a).	After the expiry of TAMP price validity in 2013, no revision of tariff has been done so far. The price revision is requested considering the increase in operational cost and change in key parameters.	
(b).	Govt. of India had also deregulated the price of diesel in January 2013, which has led to volatility in the diesel prices increasing the cost of operation, exorbitantly. The Diesel price at the time of fixation of the tariff for providing and operating Mobile Harbour crane in July 2010 was ₹39.87 per liter. The diesel price at present is around ₹60/- per liter.	
(c).	The working hours and volume of cargo handled by the HMC has also reduced substantially a reduction 43% in the standard working hours and 59% reduction in cargo respectively subsequent to imposition of ban on movement of iron ore for export vide order no. CII 162 MMM 2010 dated 28 July 2010 by Govt. of Karnataka. Also no minimum cargo is guaranteed at present.	
(d).	All spare parts are generally imported wherein the cost has gone up as the Euro has appreciated substantially.	
(iii).	As an operator it has very little or no control over the volume of tonnages that flow into the port but end up bearing the inefficiencies. The market forces demand the rate be adjusted for the lower quantity to assure minimum returns to the crane operator.	
(iv).	The Tariff Guidelines, 2005 is based on Cost plus return on capital employed approach, recommending 15% return on ROCE vide para 2.9.2 which MEL is not able to achieve, in view of the reduction in throughput and escalation in diesel cost.	

4. The Association of New Mangalore Port Stevedores (ANMPS), vide its letter dated 31 October 2014 (received in the office on 18 November 2014), forwarded its submissions and calculation for the rate for deployment costing of MHC. A copy of ANMPS letter dated 31 October 2014 was forwarded to the NMPT vide our letter dated 20 November 2014. The NMPT, vide its letter dated 25 November 2014, has furnished its reply. The submissions of ANMPS and reply of the NMPT are tabulated below:

Sl. No.	Points made by Association of New Mangalore Port Stevedores	Reply of NMPT
(i).	The said two cranes are more than 5 years	In this context, it is to submit that the

	of age and have been working at NMPT all this time.	calculation sheet which was prepared is as per the guidelines and format prescribed by the TAMP. All the factors has been duly considered while preparing the calculation sheet and submitted to TAMP for revision of tariff which had expired on 22-7-2013. Hence, port has no further comments to offer on this subject.
(ii).	The last rate fixed by TAMP for the said cranes was ₹38.22/- PMT.	
(iii).	The cost analysis made by the M/s. Kanara Chamber of Commerce & Industry, Mangalore shows the rate of ₹28.30/- PMT and actual breakeven rate for 2013-14.	
(iv).	Taking into consideration the lean periods, if any the ANMPS has recommended a rate of ₹32/- PMT for the private HMC at NMPT.	

5. When the case was in advance stage of finalization, the Delta Infralogistics (worldwide) Limited vide its letter dated 9 January 2015, Mangalore Steamers Agents Association vide its email dated 16 January 2015 and Association of New Mangalore Port Stevedores vide its letter dated and 12 January 2015 furnished there comments. The gist of the relevant comments of the above organizations is brought out below:

(i). Delta Infralogistics (worldwide) Limited (DIWL)

(a). The revised tariff for the HMC be comparable with the neighbor ports like Mormugao and Tuticorin where the per tonne rates are as below:

Port	**Average daily productivity 9500 to 15500**	**Average daily productivity 12500**	
Mormugao	₹32.20 to ₹43.54	₹37.87	Foreign
	₹19.30 to ₹26.14	₹22.72	Coastal
Tuticorin	₹26.69 to ₹40.15	₹34.92	Foreign
	₹17.81 to ₹24.09	₹20.95	Coastal

(b). In both the above ports where the available cargo tonnage is similar new cranes are deployed whereas the cranes available at the New Mangalore Port is 4 to 8 year old. So there is scope to reduce the rates.

(c). They are requesting this in the interest of the port and port users so that the handling cost at the New Mangalore Port is kept competitive in order to atleast retain the present throughput since private ports like Krishnapattnam are charging much less. Major users like JSW are likely to use only Krishnapattnam and Mormugao and may leave NMPT entirely if usage charges are not kept low.

(ii). Mangalore Steamers Agents Association (MSAA):

(a). Referring to the joint hearing held on 31 October 2014 in the subject proposal it has stated that as the said proposal did not have any cost statement for the revision, it could not furnish comments. However, as the matter is still under perusal by the Authority, it has requested to consider its below comments before finalising the tariff for the service.

(b). The existing 100 MT MHC's, for which tariff finalisation is sought, are 4 to 8 years old and are over aged. There have been regular break down of these cranes and as a result the cargo operation is severely affected. It appears that these cranes have exceeded their projected life expectancy.

(c). The prevailing tariff for similar service at neighbouring ports is much less than the proposed rate. It may be noted that new cranes are put into operations at these ports.

(d). The fuel cost has been reduced considerably during past couple of months. Hence, current fuel price to be considered while fixing the tariff.

(e). Since expiry of agreement between MHC operators and NMPT in January 2012, MHC operators have been charging ₹48/- per m.t. from January 2012 to July 2013 and ₹60/- per m.t. from August 2013 to December 2014. This practice is in complete violation of TAMP guidelines.
(*since this point is not found related to the subject proposal, hence is being dealt with separately)*

(f). Since NMPT has not furnished any detailed cost working in support of the proposed rate, TAMP may consider finalising prevailing tariff at NMPT.

(iii). Association of New Mangalore Port Stevedores (ANPS):

(a). It has referred to the letter dated 9 January 2015 of the DIWL (one of its Members) it has stated that it is self-explanatory.

(b). It has referred to its letters dated 31 October 2014 requesting TAMP to fix the rates for NMPT's two Mobile Harbour cranes (64MT capacity) at reasonable levels of ₹25/- PMT and for Private Harbour Mobile Cranes (104MT capacity) at ₹32/- PMT.

(c). It has referred to the letter of the Kanara Chamber of Commerce & Industry wherein they have requested to fix for private Mobile Harbour Cranes 104/MT at ₹32.84 PMT.

(d). If the crane charges for 104MT private & Port's 64MT not fixed at reasonable levels then it apprehends that NMPT's cargo traiff may be badly affected and EXIM-Trade may divert their cargoes to other ports.

(e). It has therefore, requested to consider the above requests and fix the rates for Port Mobile Harbour cranes (64MT capacity) at reasonable levels of ₹25/- PMT and for Private Harbour Mobile Cranes (104MT capacity) at ₹32/- PMT.

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