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Tariff Authority for Major Ports

G.No.248

New Delhi

11 July 2019

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 Paradip Port Trust for revision of tariff for 100 Ton capacity Harbour Mobile Crane, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/75/2018-PPT

Paradip Port Trust

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Applicant

QUORUM:

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

ORDER

(Passed on this 14th day of June 2019)

This case relates to the proposal received from Paradip Port Trust (PPT) for revision of tariff for 100 Ton capacity Harbour Mobile Crane (HMC).

2.1. Based on a proposal filed by the PPT, this Authority vide its Order no. TAMP/30/2014-PPT dated 28 November 2014 had fixed normative ceiling tariff for the use of HMC at the PPT, for common application, without reference to any particular service provider. This Order was notified in the Gazette of India on 5 January 2015 and had come into effect after expiry of 30 days from the date of notification of the Order i.e. 4 February 2015 and was valid for a period of three years i.e. upto 3 February 2018.

2.2. Thereafter, based on the request made by PPT and to avoid a vacuum in the scale of rates, this Authority has extended the validity of the tariff for 100 Ton capacity HMC on two occasions i.e. vide Order dated 19 March 2018 and Order dated 3 October 2018. Vide Order dated 19 March 2018, the validity was extended upto 3 August 2018 and vide Order dated 3 October 2018, the validity was extended upto 3 February 2019. While extending the validity, the PPT was also advised to file a revised proposal for revision of tariff for 100 Ton capacity HMC.

3.1. In this backdrop, the PPT has filed its proposal for revision of tariff for 100 Ton capacity HMC operated by private operators at PPT vide its letter No. EM/WS/TECH/04/(PT-I)/2018/2645 dated 13 November 2018. The submissions made by the PPT in its proposal dated 13 November 2018 are as follows:

- (i). While preparing the cost statement, the following issues have been considered:
 - (a). The Capital cost of the HMC is considered taking into account the depreciation value @ 10% for 01 year on the cost of 01 no. of HMC (with 02 no of grabs) which is in accordance to Sl. No 11 (vi), (e) of the TAMP Order dated. 28.11.2014.
 - (b). The handling rate for dry bulk cargo, break bulk cargo and other cargo has been taken as per the handling norms uniformly adopted in fixation of tariff for a 100 Ton HMC in other Major Port Trusts. The same has been indicated by TAMP in the Order no. TAMP/30/2014-PPT dated 28.11.2014 while approving the tariff for 100 Ton capacity HMC operating at PPT.
 - (c). Since the fuel cost has increased, the current rate of fuel cost has been considered vis-à-vis the consumption of fuel per hour by HMC.
 - (d). The license fee is calculated taking into account the rate as per the Scale of Rate of PPT approved by TAMP vide letter no. TAMP/12/2009- Misc, dated 01.08.2018.
- (ii). Since the handling rate/ operation of Containers and other bulk cargos are not identical, the HMC operators have made a demand to fix separate tariff for handling Containers.

3.2. The Cost calculation furnished by PPT for fixation of rate for use of 100 Ton HMC installed and operated by Private operator for handling dry bulk, break bulk, other bulk cargo and Containers, is as follows:

₹. in lakhs

Sl. No.	Particulars	Calculation and Proposed tariff			
	Capital Cost				
1	Cost of 100 Ton Harbour mobile crane with 02 no. of grabs	3,953.68	Cost of HMC has been taken considering the cost of HMC taken during Commissioning of the Crane which has got the approval of TAMP		
2	Depreciation value of HMC @ 10% per year (Economic life norm of HMC fixed by MOS is 10 years)	3,558.31	At present 07 nos. 100 Ton capacity of HMC's working at this port. All the said 07 nos. of HMC's are Commissioning during 2015-2017. Hence, in this case for calculation purpose of depreciation value of HMC 01 year has been reconsidered as age of the HMC.		
3	TOTAL	3,558.31			
	Norms	Dry Bulk	Break Bulk	Others	Containers
4	Handling rate per day (in Tons)	12500	6000	3750	202
5	Cargo Handling rate per hrs. (in Tons)	744 (12500/24*70%)	357 (6000/24*70%)	223 (3750/24*70%)	12 (202/24*70%)
6	Total working hrs. in a year as per TAMP	4000	4000	4000	4000
7	No. of HMC considered	1	1	1	1
8	Annual Capacity (in Tons) (i.e. Sl No. 5x 6)	2976192	1428572	892856	48000
9	Annual Capacity (in Lakhs)	29.76	14.29	8.93	0.48
10	Annual Capacity (in million Tons)	2.98	1.43	0.89	0.048
11	Fuel Cost (i.e. 70 litres/hrs. *73.31*4000)	205.27			
12	Maintenance & Repair cost @ 5% on equipment cost (5% on Sl. No. 3)	177.92			
13	Insurance @ 1% on equipment cost (i.e. 1% on Sl. No. 3)	35.58			
14	Depreciation (10% of equipment cost (i.e. 1% on Sl. No.3)	355.83			
15	License fee (₹. 20/sqmtr. / month *500 Sq.mtr. + 10% surcharge + 18% GST * 12 months)	1.55			
16	Other expenses @ 5% of equipment cost	177.92			
	Total Operating Cost	954.06			
17	Return on Capital employed @ 16% of Sl. No.3	569.33			
18	Estimated Annual Revenue Requirement				
(a)	Total Operating Cost	954.06			
(b)	Return on Capital Employed	569.33			
(c)	Total Revenue Requirement	1,523.39			
19	Cost per MT	Dry Bulk Cargo	Break Bulk Cargo	Other cargo	Cost per Container

(a)	Total Annual Requirement (in lakhs)	1,523.39	1,523.39	1,523.39	1,523.39
(b)	Capacity (in Million Ton)	2.98	1.43	0.89	0.048
20	Cost / Ton				
(i)	Foreign	51.19	106.64	170.62	3,173.74
(ii)	Coastal	30.71	63.98	102.37	1,904.24

3.3. The PPT has further stated that while calculating the total operational / non-operational time period of the HMC as per TAMP guidelines, certain ambiguities were observed by PPT towards consideration of the stoppages attributable to the HMC user or the HMC operator for calculation of average berth day output of the HMC. Considering all the factors during the operation of the HMC, the PPT has proposed certain notes to the SOR.

3.4. Based on the above submission made by PPT, the PPT sought approval for the following:

Charges for use of 100 Ton Harbour Mobile Crane installed by Private Operators

(i). For dry bulk cargo:

Average daily crane performance (MT)	Ceiling rate per tone	
	Foreign	Coastal
12500	51.18	30.71
12501-13500	53.73	32.24
13501-14500	56.41	33.85

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

(ii). For break bulk cargo:

Average daily crane performance (MT)	Ceiling rate per tone	
	Foreign	Coastal
6000	106.63	63.98
6001-7000	111.55	67.17

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

(iii). For other cargo:

Average daily crane performance (MT)	Ceiling rate per tone	
	Foreign	Coastal
3750	170.62	102.37
3751-4750	179.15	107.48

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

(iv). For container:

	Ceiling rate per tone
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Average daily crane performance (TUEs)	Foreign	Coastal
202	3173.73	1904.24
202-222	3332.42	1999.45

Note: To calculate the increment ceiling rates as shown above, the base rate was enhanced to 105% for first thousands tons. The same methodology shall also be adopted to calculate the beyond 270 TEUs.

Notes:

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

$$\frac{\text{Total Quantity loaded / unloaded by HMC}}{\text{Total time taken by HMC}} \times 24 \text{ hrs.}$$
- (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 HMC works with another HMC or vessel gear/(s), the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter/ draft survey report. If any discrepancy arises in terms of quantity loaded/ unloaded by a HMC, then vessel draft survey report will be binding on the HMC operator.
- (iv). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.
- (v). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading/ unloading operations during working of HMC 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 HMC, the shifting charges of the vessel from berth to anchorage or any other berth will be recovered from the crane operator in addition to a penalty of ₹.1,00,000/- (Rupees one lakh) only . The shifting charges so recovered will be refunded to the vessel's agent 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.
- (viii). Appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel if the following duration is not maintained –
 - (a). Hatch change (Assigned/ allotted holds x 2) + 1 @ 5 minutes per hatch change or actual time consumed, whichever is less.
 - (b). Equipment in and out upto 20 minutes per hatch for one Pay loader/ excavator and upto 30 minutes for 2 nos. of pay loader/ excavator.
 - (c). Draft check and survey @ 15 minutes per parcel per each grade of cargo.

- (ix). Stoppages attributable to HMC user –
 - (a). Stoppages due to non-availability of cargo at hook point.
 - (b). Stoppages due to insufficient evacuation of cargo from hook point.
 - (c). Stoppages due to cargo collection, accumulation inside hold
 - (d). Time consumed due to replacement or repair of breakdown pay-loader/ excavator inside the hold.
 - (e). Stoppages due to deballasting problem of the vessel.
- (x). Stoppages which are not beyond the control of HMC user or HMC operator, then said stoppages will be deducted from the HMC engagement period (requisition period) for calculation of berth day output.

3.6. The PPT vide its letter no. EM/WS/TECH/04/(PT-I)/2018/2962 dated 31 December 2018 has conveyed that the Board of Trustees of PPT in the meeting dated 17 December 2018 has approved the proposal for fixation of tariff for handling bulk cargo and containers by 100 ton capacity HMCs operating at PPT.

4. In accordance with the consultative procedure prescribed, a copy of the PPT proposal dated 13 November 2018 was forwarded to the concerned users or organizations as per the list forwarded by PPT and some additional users / user organisation and service providers, as per our standard list, vide our letter dated 17 December 2018, seeking their comments. Some of the users / user organizations/ service providers have furnished their comments on the proposal of PPT. The said comments were forwarded to the PPT as feedback information. Incidentally, since the PPT has revised its proposal, based on the discussions that took place during the joint hearing, as brought out subsequently, the said comments made by the users/ user organisations/ service providers on the initial proposal of PPT are not found relevant to be brought out for disposal of the PPT proposal.

5. Based on a preliminary scrutiny of the proposal, the PPT was requested vide our letter dated 24 December 2018 to furnish additional information/ clarifications on the initial proposal. Incidentally, since the PPT has revised its proposal, based on the discussions that took place during the joint hearing, as brought out subsequently, the information/ clarification sought by us are not found relevant to be brought out for disposal of the PPT proposal.

6. A joint hearing in the case in reference was held on 23 January 2019 at the PPT premises. At the joint hearing, the PPT has made a brief power point presentation of its proposal. During the joint hearing, the PPT and the users have made their submissions.

7.1. During the joint hearing, the PPT, the service providers and the users of HMC have unanimously agreed to the tariff arrangement of extending the normative tariff of HMC already fixed in the year 2015 by applying an annual escalation factor during the remaining life period of the HMC. With regard to the containers, it was discussed that since no rates have been fixed for the containers in the year 2015, the PPT will propose a rate by following the methodology, as indicated in its proposal to this Authority and that after approval of this Authority, the said rate for container can be indexed annually.

7.2. Accordingly, the PPT was requested vide our letter dated 31 January 2019 to confirm the above position and file its revised proposal.

8.1. In the meanwhile, PPT vide its dated 06 February 2019 made a request to extend the validity of the existing tariff of 100 tonne capacity HMC for another period of 6 months i.e. upto 03 August 2019 or till the finalization of the new tariff, whichever is earlier on the grounds that preparation of revised proposal for revision of tariff of 100 tonne capacity HMC is under process.

8.2. Since the validity of the existing tariff for 100 HMC has already expired on 3 February 2019 and considering the time required for processing the revised proposal (to be) filed by the PPT and in order to avoid a vacuum in the tariff, this Authority vide its Order no. TAMP/30/2014-PPT dated 25 February 2019 has extended the validity of the existing tariff for 100 HMC beyond 3 February 2019 and upto 03 August 2019 or till the effective date of implementation of new tariff to

be fixed for 100 tonne capacity HMC based on the revised proposal to be filed by PPT, whichever is earlier.

8.3. After a reminder dated 8 April 2019, the PPT vide its email dated 30 April 2019 has made the following submissions:

- (i). With regard to tariff arrangement of extending the normative tariff of HMC already fixed in the year 2015 by applying any annual escalation factor during the remaining life period of the HMC, it is proposed to continue with the existing Tariff for use of 100 ton capacity Harbour Mobile Crane installed and operated by private operators at PPT for handling dry bulk, break bulk and other cargo by applying the annual escalation factor as notified by TAMP from time to time. This has been unanimously accepted by the service providers, HMC users and PPT in the joint hearing held on 23 January 2019.
- (ii). With regard to the fixation of rate for container, it is proposed to “drop” the said proposal since PPT will not handle containers in its berth for a period of 5 years w.e.f. June 2018 due to the exclusivity period as per the Concession agreement entered with the BOT operator i.e. PICTPL and PPT.
- (iii). It is requested to consider the revised terms and conditions under the heading “Notes” of the PPT proposal. The changes made to note at Sl. No. (v), (viii) and (ix) are not substantial in nature and only part of the existing clause is modified to avoid any ambiguity in calculation of average berth day output of the HMC.

9. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>

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

- (i). The prevailing common ceiling tariff for the use of 100 tonne Harbour Mobile Crane (HMC) at Paradip Port Trust (PPT) without reference to any individual service provider, was last fixed by this Authority in November 2014 by following normative approach. The initial validity of the tariff has expired in February 2018. Thereafter, the validity of the existing rate of HMC has been extended from time to time. In this backdrop, the PPT has come up with a proposal for fixing common ceiling tariff for the use of HMC at PPT. The initial proposal of PPT has the approval of the Board of Trustees of PPT.
- (ii). The initial proposal was filed by PPT in November 2018. Thereafter, in view of the objections made by the HMC service providers on the depreciated cost of the HMC considered by PPT for fixing the tariff for the HMC in its initial proposal, and as per the discussions that took place during the joint hearing, where the service providers and the users of HMC have unanimously agreed to the tariff arrangement of continuing the normative tariff of HMC already fixed in the year 2015 by applying an annual escalation factor during the remaining life period of the HMC, the PPT has reviewed its proposal in April 2019. This revised proposal of PPT is considered in the analysis.
- (iii). (a). The initial proposal filed by the port was based on the normative cost approach, which has been followed while fixing the tariff for the HMC at PPT in November 2014. The only difference in the initial proposal filed by PPT was that the capital cost of HMC as considered in November 2014 Order was considered as base and thereafter depreciation for a period of one year was considered by PPT, keeping in view the average age of the existing HMCs at PPT as one year. Considering a depreciated capital base resulted in lower operating costs (different operating costs are derived as a function of the capital cost) and lower return on capital employed (return on capital

employed is estimated at 16% of the capital cost). The lower operating cost and lower return on capital employed, in turn has led to a lower tariff being derived and proposed by the port for handling of various cargo by HMC, which were even less than the prevailing HMC rates at PPT. Further, considering that the rate for the HMC, which is being fixed is a common ceiling tariff for the use of HMC at PPT, without reference to any individual service provider, it could also led to an anomalous situation, where the supplier with new crane is being deprived of a higher tariff and a supplier with an old crane is getting a higher tariff.

- (b). In view of this position, the service providers of HMC at PPT viz., Bothra Shipping Services Pvt. Ltd (BSSPL), Orissa Stevedores Limited (OSL), Chennai Radha Engineering Works (CREW), ABC Transcarriers Pvt Ltd (ABCTPL) etc., have vehemently opposed the methodology adopted by the PPT in its initial proposal. Even during the joint hearing, the users as well as the HMC service providers have expressed their disagreement to the methodology adopted by the PPT in its initial proposal, given that the rate for the use of HMC for the various cargo groups, as proposed by PPT in its initial proposal, are lower than the existing rates.
- (c). To overcome this situation, a point emerged during the joint hearing, whether tariff already fixed in the year 2014/ 2015 can be continued with annual escalation for the remaining life period of the HMC. The users as well as the service providers, during the joint hearing have instantly and unanimously agreed to the approach of applying an annual indexation tariff on the prevailing rate for the use of HMC. Accordingly, keeping in view the discussions that took place during the joint hearing, the PPT in its revised proposal of April 2019 has proposed to continue with the existing tariff for use of 100 tonne capacity HMC installed and operated by private operators at PPT for handling dry bulk, break bulk and other cargo by applying the annual escalation factor as notified by this Authority from time to time.
- (iv). An unanimous decision has emerged during the joint hearing to continue with the existing tariff for use of the HMC at PPT for handling dry bulk, break bulk and other cargo by applying the annual escalation factor. The service providers as well as the users will have a continuity in the rates. The port is also in agreement to the said arrangement. Further, as pointed out by the PPT, the said approach is a win-win situation for the port as well as the service providers/ users. In view of the above position, this Authority is inclined to approve the proposal of the port in this regard. The Port is also advised to place the said matter before its Board of Trustees for its information.
- (v). The PPT has indicated that the existing tariff of HMC will be indexed by applying the annual escalation factor as notified by this Authority from time to time. The existing tariff of HMC, which has come into effect from February 2015, was initially valid for a period of 3 years i.e. till February 2018. Thereafter, at the request of the PPT, this Authority has extended the validity of the existing rates from time to time. Thus, as of 3 August 2019, the HMC rate as approved in the year 2015 is in force. As per Clause 2.8. of the Tariff Policy, 2018, as applicable for the Major Port Trusts, the SOR will be indexed annually to inflation to the extent of 100% of the variation in Wholesale Price Index (WPI) announced by the Government of India. Accordingly, the rate for the use of HMC at PPT as approved by this Authority in the year 2015 and which is in force now, is indexed by 4.26%, being the indexation factor as applicable for the Major Port Trusts during the year 2019-20. Since only the prevailing rates are being indexed, there is no need for any lead time. Therefore, the indexed rates shall come into effect from the date of notification of the Order passed in the Gazette of India and shall remain valid for a period of one year. Thereafter, on completion of each anniversary thereafter, the rate of the HMC as prevailing during the immediate previous year shall be automatically indexed by the PPT by the indexation factor as applicable for the Major Port Trusts during the year of indexation.

- (vi). The PPT in its initial proposal had, in addition to the rates for handling of dry bulk, break bulk and other cargo by HMC, also introduced rates to handle containers by HMC. However, subsequently, the port has dropped its proposal with regard to prescription of rates for containers, since it does not envisage handling containers in its berth for few years, due to the exclusivity clause prescribed in the Concession agreement entered by PPT with the BOT operator at PPT i.e. Paradip International Cargo Terminal Private Limited (PCTPL).
- (vii). The PPT has proposed to continue with the existing notes governing levy of the rate of HMC. However, it has introduced the following notes to govern the levy of HMC rates, to avoid any ambiguity in calculation of average berth day output of the HMC:
 - (a). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading/ unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.
 - (b). Appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel if the following duration is not maintained –
 - (i). Hatch change (Assigned/ allotted holds x 2) + 1 @ 5 minutes per hatch change or actual time consumed, whichever is less.
 - (ii). Equipment in and out upto 20 minutes per hatch for one Pay loader/ excavator and upto 30 minutes for 2 nos. of pay loader/ excavator.
 - (iii). Draft check and survey @ 15 minutes per parcel per each grade of cargo.
 - (c). Stoppages attributable to HMC user –
 - (i). Stoppages due to non-availability of cargo at hook point.
 - (ii). Stoppages due to insufficient evacuation of cargo from hook point.
 - (iii). Stoppages due to cargo collection, accumulation inside hold
 - (iv). Time consumed due to replacement or repair of breakdown pay-loader/ excavator inside the hold.
 - (v). Stoppages due to deballasting problem of the vessel.

Though the users/ service providers have made pointed objection to the notes introduced by the port, the PPT has not addressed the concerns raised by the users/ service providers. Further, even though the PPT was requested to furnish detailed note in support of the notes proposed by it, the PPT has not furnished the details. In view of this position, the above notes as proposed by the port are not prescribed. The PPT is advised to come up with a separate proposal to prescribe new notes governing levy of rates of HMC, giving detailed justification for the introduction of new notes. Till then, the existing notes would continue.

11.1. In the result, and for the reasons given above, and based on collective application of mind, the following Section 2.15 replace existing provision in the existing Scale of Rates of PPT in Chapter – II, Cargo related charges:

2.15. Charges for use of 100 Tonne Harbour Mobile Crane installed by the private operators:

- (i). For Dry Bulk Cargo

	Ceiling rate per tonne
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Average daily crane performance (in Metric Tonne)	(in ₹)	
	Foreign	Coastal
12500	57.53	34.52
12501-13500	60.41	36.25
13501 – 14500	63.29	37.97

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

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
6000	119.87	71.92
6001-7000	125.86	75.52

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.

(iii). For Other cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
3750	191.79	115.07
3751-4750	201.37	120.83

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.

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 HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC'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 HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.

- (v). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC 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 HMC, 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) only. The shifting charges so recovered will be refunded to the vessel's agent 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.
- (viii). The rate shall come into effect from the date of notification of the Order and shall remain valid for a period of one year, Thereafter, on completion of each anniversary thereafter, the rate of HMC as prevailing during the immediate previous year shall be automatically indexed by the PPT by the indexation factor as applicable for Major Port Trusts during the year of indexation till expiry of the remaining life of HMC, for which normative tariff was fixed in the Order dated 28 November 2014.

11.2. The rate approved shall come into effect from the date of notification of the Order passed in the Gazette of India and shall remain valid for a period of one year. Thereafter, on completion of each anniversary thereafter, the rate of the HMC as prevailing during the immediate previous year shall be indexed by the indexation factor as applicable for the Major Port Trusts during the year of indexation till the expiry of the remaining life of the HMC for which initial normative tariff was fixed vide Tariff Order dated 28 November 2014.

(T.S. Balasubramanian)
Member (Finance)

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

F. No. TAMP/75/2018-PPT	Proposal received from Paradip Port Trust for revision of tariff for 100 Ton Capacity Harbour Mobile Crane.
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A joint hearing in the case in reference was held on 23 January 2019 at the PPT premises. At the joint hearing, the PPT has made a brief power point presentation of its proposal. At the joint hearing, the PPT and the users have made the following submissions:

Paradip Port Trust

- (i). At present 8 nos. of HMCs are operating at PPT i.e. 1 no. of CREW, 2 nos. of Bothra, 2 nos. of OSL, 2 nos. of ABC Transcarriers and 1 no. of ACE Commercial.
- (ii). At PPT, the HMCs have handled 12.47 MMT, 12.43 MMT, 15.80 MMT and 21.41 MMT of cargo during the years 2014-15 to 2017-18. In the current year 15.66 MMT have been handled by HMC upto 1st week of January 2019.
- (iii). As against the existing rate of ₹ 55.18 per MT for dry bulk cargo, we have proposed ₹ 51.19 per MT. In respect of break bulk cargo, as against the existing rate of ₹ 114.97 per MT, we have proposed a rate of ₹ 106.64 per MT. With regard to other cargo, we have proposed a rate of ₹ 170.62 per MT as against the prevailing rate of ₹ 183.95 per MT. In a nutshell, the rates proposed now are lower than the prevailing rates in respect of all cargo categories.
- (iv). What, if the existing HMC rates are indexed every year based on the annual indexation factor announced by TAMP? Is it agreeable to all?
- (v). The rates of HMC can be fixed either by the annual escalation method or it can be reviewed afresh by taking the current parameters, as per the PPT proposal. You cannot mix and match and adopt the best of both the methods.
- (vi). By the annual indexation method, PPT also need not go to TAMP for review of the HMC rate every three years. At the same time, the service providers as well as the users will have continuity in the rates. It is a win-win situation for the port as well as the service providers/ users.
- (vii). For dry bulk, break bulk and other cargo, for which rates are available at present, they can be indexed annually. For containers, since no rates are prescribed, the PPT will fix a rate by following the methodology, as indicated in our proposal to TAMP. Thereafter, the said rate for container can be indexed annually.
- (viii). We will suitably respond to TAMP on the matter.

Orissa Stevedores Limited (OSL)

- (i). We have forwarded our letter to TAMP office earlier, in which we have given our detailed submissions. Since the PPT has considered a depreciated capital cost of

HMC as base, it has resulted in lower rates being proposed by port now for the use of HMC. The capital cost of HMC has already been incurred by us. How can the port consider a depreciated capital cost of HMC?

- (ii). We don't want the rates to reduce. Atleast the existing rates should continue.
- (iii). We agree.
- (iv). We have given our comments on the modifications proposed by PPT in the notes and conditions governing levy of HMC rates.

Bothra

- (i). Please consider the fuel expenses as indicated in our written submissions to TAMP.
- (ii). We are also not in agreement with the methodology adopted by the PPT to consider the depreciated cost of HMC as base.

[TAMP/PPT: During the joint hearing, it comes out for a focused discussion that the rates proposed by the port in its proposal now are less than the prevailing HMC rates at PPT. This has arisen due to the fact that the port has considered depreciated capital cost of HMC as base. If depreciated HMC cost is considered, the supplier with new crane will get lower tariff and in the event of the original cost is considered, the supplier with old equipment will get higher tariff. To overcome this anomalous situation, it emerged during the joint hearing, whether tariff already fixed in the year 2015 can be extended with annual escalation for the remaining life period of the HMC.]

- (iii). We are also agreeable. But the current diesel rate should be considered.

TATA Steel

- (i). The formula is good.

Ace Commercial

- (i). We agree to the arrangement of annual indexation of rates.

CREW

- (i). We also agree to the arrangement of annual indexation.
- (ii). However, no rates are available now for handling of containers. How will the rate be fixed for containers?
