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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.335

New Delhi,

29 September 2015

NOTIFICATION

In exercise of the powers conferred under Sections 48, 49 and 50 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 fixation of reference tariff for Mechanization of CQ – 1 and 2 Berths at the Paradip Port trust (PPT) on BOT basis under the revised guidelines for Determination of Tariff for Projects at Major Ports, 2013, which were notified vide Notification No.TAMP/18/2013-Misc. dated 30 September 2013 vide Gazette No. 254, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
No. TAMP/44/2015-PPT

Paradip Port Trust (PPT)

- - -

Applicant

QUORUM:

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

O R D E R

(Passed on this 4th day of September 2015)

This case deals with the proposal received from Paradip Port Trust (PPT) for fixation of Reference tariff for Mechanization of CQ-1 and 2 Berths at the Paradip Port Trust on BOT basis.

2.1. This Authority had passed an order no. TAMP/18/2008-PPT dated 14 July 2008 fixing upfront tariff for a deep draught iron ore berth and a deep draught coal berth at the Paradip Port Trust (PPT) in pursuance of the guidelines for upfront tariff setting for PPP projects at Major Ports vide Notification No. TAMP/52/2007-Misc. dated 26 February 2008. This Order was notified in the Gazette of India on 16 August 2008 vide Gazette no. 133.

2.2. The Ministry of Shipping (MOS) under cover of its letter No.PR-14019/16/2012-PG dated 31 July 2013 has issued 'Guidelines for Determination of Tariff for Projects at Major Ports, 2013' under Section 111 of the Major Port Trusts Act, 1963 on 31 July 2013. In compliance of the policy directives issued by the (MOS) under Section 111 of the MPT Act, 1963, the said Guidelines were notified vide Notification No.TAMP/18/2013-Misc. in the Gazette of India on 8 August 2013, vide Gazette no. 214. The said Guidelines came into effect from 31 July 2013.

2.3. Subsequently, the MOS issued revised Guidelines for Determination of Tariff for Projects at Major Ports, 2013 under Section 111 of the Major Port Trusts Act and made it effective from 9 September 2013. The said revised guidelines were notified in the Gazette of India on 30 September 2013 vide Gazette No.254.

3.1. In this backdrop, the Paradip Port Trust (PPT) under cover of its letter dated 9 June 2015 had submitted a proposal for notification of reference tariff for "Mechanization of CQ – 1 & 2 berths" at PPT on BOT basis, under the guidelines of Tariff for Port Projects at Major Ports, 2013.

3.2. The PPT in its proposal dated 9 June 2015 had proposed to mechanize its Berth nos. CQ-1 and 2 to enable handling of Coal, Limestone and Dolomite. In this connection, PPT had proposed to adopt the reference tariff from two different ports. In respect of coal, the PPT had proposed to adopt the Tariff for the Coal berth notified for PPT vide Order No. TAMP/18/2008-PPT dated 16 August 2008. With regard to Limestone, the PPT had proposed to adopt the tariff notified for Limestone for Vishakhapatnam Port Trust (VPT) vide Order no. TAMP/51/2012-VPT dated 26 February 2013. Further, in case of Dolomite, the PPT, on the ground that the handling rate of Dolomite is similar to Limestone had proposed to adopt the tariff of Limestone approved in the case of VPT.

3.3. On a scrutiny of the proposal, it was seen that the PPT had envisaged to handle a combination of cargo comprising of Coal, Limestone and Dolomite. It was also seen that it proposed to adopt in respect of Coal, its own upfront tariff which has been fixed for a full-fledged coal berth. Further, in case of Limestone and dolomite, the PPT proposed to adopt the rate of only Limestone from a VPT Order. Clause 2.2 of the 2013 Guidelines requires the port to adopt the upfront tariff for "that commodity" as available in its own port or in the nearest port and does not provide to pick and choose the upfront tariff for different types of commodities from different major port trusts. Further, the PPT had not furnished any justification for adoption of the rates. Thus, the proposal of PPT was not seen to fit into the stipulation contained in Clause 2.2 of the 2013 tariff guidelines. Accordingly, the PPT was requested vide our letter dated 17 June 2015 to re-look at its proposal, based on the stipulations contained in the 2013 Guidelines and was requested to adopt the upfront tariff of any

other major port trust for which upfront tariff has been fixed under 2008 Guidelines for the same combination of cargo viz., coal, limestone and dolomite. If tariff for the proposed combination of the multipurpose cargo is not available in any port, then the port was requested to come up with a proposal for fixation of Reference tariff for the proposed combination of the multipurpose cargo, based on the principles of 2008 Guidelines. It was also communicated to PPT that the revised proposal when received from PPT will be taken up for processing.

3.4. In this connection, the PPT has responded vide its letter dated 14 August 2015. The information / clarification sought by us vide our letter dated 17 June 2015 and response of PPT thereon is tabulated below:

Sl.No.	Information / Clarification sought by us	Response of PPT
1.	It is seen that the PPT in its proposal has proposed to mechanize its Berth nos. CQ-1 and 2 to enable handling of Coal, Limestone and Dolomite. In this connection, PPT has proposed to adopt the reference tariff from two different ports. In respect of coal, the PPT has proposed to adopt the Tariff for the Coal berth notified for PPT vide Order No. TAMP/18/2008-PPT dated 16 August 2008. With regard to Limestone, the PPT has proposed to adopt the tariff notified for Limestone for Vishakhapatnam Port Trust (VPT) vide Order no. TAMP/51/2012-VPT dated 26 February 2013. Further, in case of Dolomite, the PPT, on the ground that the handling rate of Dolomite is similar to Limestone has proposed to adopt the tariff of Limestone approved in the case of VPT. PPT has placed reliance on Clause 2.2 of the Reference Tariff Guidelines of 2013. Clause 2.2 <i>inter alia</i>, stipulates that in case no tariff has been fixed for “that commodity” at that Major Port Trust, then concerned Major Port Trust can propose to TAMP any other tariff fixed under 2008 Tariff guidelines in any other major Port Trust which is representative enough for “that commodity” giving detailed and sufficient justification. Though the PPT has envisaged to handle a combination of cargo comprising of Coal, Limestone and Dolomite, it proposes to adopt in respect of Coal, its own upfront tariff which has been fixed for a full-fledged coal berth. Further, in case of Limestone, the PPT proposes to adopt the rate of only Limestone from a VPT Order, wherein, upfront tariff has been fixed for a multipurpose cargo berth envisaged to handle multi various cargo like Manganese Ore, Bauxite, Gypsum, BF Slag, Ores (other than iron ore) and Ilomite sand. Clause 2.2 of the 2013 Guidelines requires the port to adopt the upfront tariff for “ that commodity” as available in its own port or in	The present proposal is basically a Coal unloading terminal in which Limestone and Dolomite would also be permitted for unloading. Approximately 90% of the Traffic throughput & Capacity utilization is linked to coal imports and the balance 10% is for both Dolomite and Limestone. It is to mention, that TAMP have earlier notified vide Order No. TAMP/18/2008-PPT dated 16 August 2008 the applicable Tariffs for a coal unloading terminal of 10 MTPA capacity at Paradip Port. Hence, it is now proposed to index and adopt the available notified tariff as stated above for same ‘Commodity’ of an ‘under implementation project’ at PPT (Development of Deep Draught Coal Berth) for the present proposal for “Mechanisation of CQ I & CQ II Berths at Paradip Port on BOT basis” Further, it is desirable that the tariffs for both the projects are kept identical as both the projects are being developed as mechanized unloading terminals with similar equipment configuration. The cargo handling charges for Limestone and Dolomite are also kept same as for coal considering that the handling rates and performance standards would be same as for coal. Accordingly, the present proposal has been recast based on the clarification give above.

	the nearest port and does not provide to pick and choose the upfront tariff for different types of commodities from different major port trusts. Further, the PPT has not furnished any justification for adoption of the rates. Therefore, the proposal of PPT does not fit into the stipulation contained in clause 2.2 of the tariff guidelines of 2013. In this connection, it may be recalled that in some other instance with reference to a proposal received from PPT in January 2014 for fixation of Reference tariff for development of multipurpose berth at PPT, this position has been brought to the notice of PPT vide our letter no. TAMP/10/2014-PPT dated 24 January 2014.	
2.	Further, from the information of the project details furnished by the PPT, it is seen that the capital cost of the Project is estimated at ₹ 1103.42 crores. In this connection, it is not clear whether PPT has satisfied itself that by adoption of the rates proposed by it, the prospective operator: (i). would be in a position to recover the operating cost and 16% return on the capital investment to the tune of ₹ 1103.42 crores. (ii). would not recover more than the operating cost and 16% return on the capital investment, resulting in windfall gains.	A Techno Economic Feasibility Report has been prepared wherein the Project IRR has been worked out. As per the TEFR the project would give satisfactory returns on the basis of the present proposed Tariff.

4.1. In this backdrop, and as brought out above, the PPT vide its letter dated 14 August 2015 has recast its proposal.

4.2. The other main points made by the PPT in its letter dated 14 August 2015 are summarized below:

- (i). In the upfront tariff proposal dated 9 June 2015, the port had proposed to adopt the reference tariff of two different ports viz PPT and VPT for different types of dry bulk cargo viz. Coal, Dolomite and Limestone.
- (ii). In response, it was communicated by TAMP vide its letter dated 17 June 2015 that the proposal needs to be recast considering tariff of one port only.
- (iii). In pursuance of the above, the proposal has been recast and it is proposed to adopt the reference tariff of Deep Draught Coal Berth notified by TAMP vide Case No. TAMP/18/2008-PPT dated 16 August 2008 for the present proposal.
- (iv). It is to mention that the volume of Limestone and Dolomite are minimal in the present project for Mechanization of CQ 1 and 2 berths compared to coal imports and as such, it would be desirable to adopt the same upfront tariff.
- (v). The PPT Board has resolved to approve to recast the proposal considering reference tariff for Deep Draught Coal Berth notified vide Case no. TAMP/18/2008-PPT dated 16 August 2008 in respect of handling of Coal, Dolomite and Limestone in the Mechanisation of CQ 1 and 2 berths at PPT on BOT basis after prevailing indexation.

4.3. The other points as seen from the PPT proposal are summarised below:

- (i). The project is for Mechanization of the existing 2 nos. of Central Quay berths (485 mtrs) at Paradip Port for handling imports of all types of Coal, Dolomite and Limestone, at an estimated cost of ₹ 1,103.42 Crores with a terminal capacity of 20 MTPA. The facility is basically a Coal unloading terminal in which Limestone and Dolomite etc. would also be permitted for unloading. Approximately, 90% of the throughput and capacity utilisation is linked to coal imports and the balance 10% is for both Dolomite and Limestone etc.
- (ii). The proposed equipment for this project consists of 4 nos. of Ship Unloaders, 2 nos. of Stackers-cum- Reclaimers, 2 Nos. of Reclaimers and 2 Nos. of Stackers. A stacking area of 25.96 Ha will be provided to concessionaire for developing this facility at Paradip Port.
- (iii). Further, the cargo handling charges for Limestone and Dolomite are kept same as that of coal, considering that the handling rates and performance standards in respect of Limestone and Dolomite would be same as for Coal. The norms for considering handling rates for multipurpose berth in "Guidelines for upfront tariff setting for PPP Projects at Major Port Trusts, 2008" classifies Coal, Limestone and minerals under one category.
- (iv). The PPT proposes to adopt the available notified tariff at PPT ("Development of deep draught coal berth on BOT basis"), notified vide Case No. TAMP/18/2008-PPT on 16 August, 2008, after applying a rate of 35.08% as per indexation norms provided by TAMP vide letter No TAMP/12/2009- Misc dated 8 April 2015, as well as adopt the Performance Standards notified for Deep Draught Coal Berth Project in toto.

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

- (i) This Authority had passed an Order no. TAMP/18/2008-PPT dated 14 July 2008, interalia, fixing upfront tariff for handling thermal coal and other coal at deep draught coal berth at the PPT, in pursuance of the 2008 guidelines for upfront tariff setting for PPP projects at Major Ports.
- (ii). Clause 2.2. of the Revised Tariff Guidelines of 2013, announced by the Government for fixation of Reference Tariff interalia, stipulates that the Reference Tariff will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines. In case no tariff has been fixed for a commodity at a major port trust or if the highest tariff fixed for a particular commodity in the concerned major port trust does not represent the project proposed to be developed, then concerned major port trust can propose to this Authority any other tariff fixed under 2008 tariff guidelines in any other major port trust, which is representative enough for that commodity giving detailed and sufficient justification.
- (iii). In the case in reference, the PPT envisages to set up a Coal unloading terminal, in which Limestone and Dolomite is also envisaged to be handled approximately at 10% of the capacity. In this connection, the PPT had initially envisaged to adopt its own upfront tariff for Coal and the rate available for Limestone at VPT in respect of Limestone and Dolomite.

Subsequently, the PPT has proposed adoption of its own upfront tariff notified vide Order No. TAMP/18/2008-PPT dated 16 August 2008, fixed in respect of thermal coal in the case of the deep draught coal berth for handling all cargo at the proposed facility. As per PPT, approximately 90% of the Capacity utilisation pertains to coal imports and only the balance 10% would comprise of both Dolomite and Limestone.

Further, as per PPT, the handling rates and performance standards in respect of Dolomite and Limestone would be same as that of Coal. It is noteworthy that the

norm for cargo handling rate for coal, limestone, minerals etc. is uniform at 10,000 tonnes per day as prescribed in the tariff guidelines of 2008. Therefore, the PPT has proposed adoption of its own upfront tariff of coal fixed in the year 2008, in respect of all cargo envisaged to be handled at the proposed facility, viz. Coal, Dolomite and Limestone. Based on the justification furnished by the port and relying upon the judgment of the port to treat Limestone and Dolomite at par with Coal, the proposal of PPT to adopt the tariff of Coal in respect of Dolomite and Limestone is approved.

- (iv). The PPT has indicated that the capital cost of the project is estimated at ₹ 1,103.42 crores. With regard to a specific clarification sought from the port as to whether it has satisfied itself to ensure that the prospective BOT operator would be in a position to recover the admissible operating cost and permissible return on capital employed at 16% by way of adoption of the rates proposed by PPT and that at the same time the operator would not recover beyond the admissible operating cost and the permissible rate of return of 16%, the PPT has stated that as per the Project IRR in the Techno Economic Feasibility Report, the project would give satisfactory returns based on the proposed tariff. This position is relied upon.
- (v). The Revised Guidelines of 2013 stipulate that while adopting the Reference tariff, the tariff set under the Tariff Guidelines of 2008 shall be escalated to the extent of 60% of WPI per annum, as provided in the said guidelines for the period between 1st January of the year as prescribed in the relevant tariff order of this Authority under 2008 guidelines and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified.

The upfront tariff for the deep draught coal berth at the PPT was notified in July 2008. The Upfront Tariff Schedule of PPT specifically states that the base year of Wholesale Price Index (WPI) for indexation in the reference tariff rates approved in the said Order will be 1 January 2008. Accordingly, the PPT has applied the indexation factor of 35.08% on the tariff caps approved for the deep draught coal berth at PPT vide Order of July 2008. This indexation factor is seen to be the indexation factor communicated by us to all the Major Port Trusts to be applicable for reference tariff fixed in the year 2015 with base WPI as on 1 January 2008.

Thus, the indexed reference tariff for handling coal, dolomite and limestone at the proposed facility as derived by the PPT based on the indexation factor as applicable for the year 2015, is found to be in order.

- (vi). In the proposed reference tariff schedule, the PPT has proposed definitions and the general terms and conditions forming part of the PPT Reference tariff Schedule. In this regard, it is relevant here to mention that the upfront tariff schedule for the deep draught coal berth at PPT approved in July 2008 did not prescribe the definitions, general terms and conditions and the various conditionalities governing the levy of cargo handling charges, storage charges and berth hire charges, which are generally prescribed in the Upfront tariff Schedule of the various major port trusts. However, subsequently while notifying reference tariff for mechanisation of EQ-1, 2 and 3 Berth for handling coal at PPT which was based on the adoption of upfront tariff for handling coal fixed for PPT in the year 2008, definitions, general terms and conditions and all other conditionalities governing the levy of all charges were prescribed in the Reference Tariff Schedule forming part of the PPT Order no. TAMP/12/2014-PPT dated 21 February 2014. The PPT is also seen to have proposed the same definitions, general terms and conditions and all other conditionalities governing the levy of cargo handling charges, storage charges and berth hire charges forming part of the Reference tariff Schedule of the PPT (Order No. TAMP/12/2014-PPT dated 21 February 2014) in the current Reference tariff Schedule. The definitions and conditionalities as proposed by the PPT in its Scale of Rates is approved.

Further, in the note prescribed in Section 3 – Cargo handling charges of the proposed Scale of Rates, the PPT has incorporated the sentence 'after the time of unloading the cargo from railway wagons', similar to the sentence prescribed in the Order No.

TAMP/12/2014-PPT dated 21 February 2014. In this regard, it is relevant to mention here that the Reference Tariff Schedule of February 2014 pertained to the export of cargo whereas the current proposal pertains to the import of cargo. The above mentioned sentence appears to have been inadvertently included by the PPT while framing the note in the current Reference Tariff Schedule. In view of this position, the said sentence in the proposed Scale of Rates is deleted.

- (vii). The Government of India in the Ministry of Shipping (MOS) under cover of its letter No. PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No. PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order no. TAMP/52/2014-Genl. dated 28 November 2014 has, inter alia, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

“Coastal vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.’

Therefore, the definition of Coastal Vessel proposed by the PPT has been modified in line with the above mentioned definition of 'Coastal Vessel'.

- (viii). Clause 2.2 of the revised tariff guidelines of 2013 requires this Authority to prescribe the Reference Tariff along with the Performance Standards. Though the revised guidelines of 2013 do not require this Authority to go into the Performance Standards proposed by the port it is not unreasonable to assume that the ports would propose reasonable and achievable Performance Standard.

With regard to the performance standards, the PPT has proposed the gross berth output per berth at 48000 tonne per day. The PPT has also stated that the Gross Berth Output shall be calculated as the total cargo handled from the ship during a month divided by the time spent by the ship at the terminal multiplied by number of working days of ships in that month at that terminal. While determining the number of working days from the ship hours, the berth allowance of 4 hours shall be subtracted from the total hours. The Gross Berth Output of 48000 tonnes per day is seen to be based on the average output of the capsized vessels (50000 tonnes) and panamax vessels (35000 tonnes) and based on the share of capsized vessels and panamax vessels at 80:20, as relied upon in the optimal capacity calculation of deep draught coal berth at PPT. The Performance Standards as proposed by PPT with regard to Gross Berth Output is relied upon.

- (ix). With regard to prescription of Performance Standard for 'Transit Storage Dwell', the PPT has indicated that the transit dwell time for all types of coal will be 10 days and that for dolomite and limestone it will be 30 days upto commencement of wagon loading operation. The transit dwell time in respect of coal, dolomite and limestone as proposed by the Port is relied upon.
- (x). The turn around time for receipt / delivery operation for a single operation at 10 hours as well as the double operation at 18 hours is also prescribed as proposed by the PPT.
- (xi). With regard to the Performance Standards as brought out above, it is relevant to mention that the PPT while retaining the core Performance Standard Parameters as prescribed in the PPT Order no. TAMP/12/2014-PPT dated 21 February 2014 relating to Gross berth output, transit storage dwell time and turnaround time, has proposed performance standards in a more descriptive and elaborate manner. Given that the core performance standard parameters are same, the description proposed by the PPT for the said parameters is also included.

- (xii). In the schedule of performance standards, the PPT has prescribed conditionalities relating to Performance Evaluation and calculation of liquidated damages which states that Performance evaluation shall be made on a quarterly review of the reports furnished by the Concessionaire and/ or the records of the Concessionaire and/or by an enquiry by the Concessioneing Authority. The Concessionaire shall be liable to pay liquidated damages determined at the rate of 1% (one per cent) of the Gross Revenue of the respective quarter for every shortfall of 10% (ten per cent) in the average performance.

The said conditionality is seen to be relevant between the parties entering into a Concession Agreement. The Performance Standard Schedule notified by this Authority need not prescribe conditionalities governing review of reports of the Concessionaire by the Concessioneing Authority and payment of liquidated damages. These conditionalities may form part of the Concession Agreement to be entered by the parties, if PPT so desires, and hence not incorporated in the Performance Standard Schedule notified by this Authority.

6.1. Subject to above, the Reference Tariff Schedule along with conditionalities governing the Reference Tariff has been modified.

6.2. The modified Reference Tariff Schedule is attached as **Annex – I** and the Performance Standards for the Mechanization of CQ – 1 and 2 Berth as proposed by the port, is attached as **Annex – II**.

6.3. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the Reference Tariff Schedule for the Mechanization of CQ – 1 and 2 Berth at PPT and notifies along with the Performance Standards.

6.4. As per clause 2.5 of the Revised Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by this Authority shall be mentioned in the bid document and subsequently in the Concession Agreement in respect of PPP Projects. Accordingly, the PPT is advised to incorporate the Reference Tariff and Performance Standards, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects.

7.1. From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire concession period.

However, the PPP operator would be free to propose a tariff along with Performance Standards (the “Performance Linked Tariff”) from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

7.2. The proposal shall be submitted to this Authority along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Concession Agreement or for the actual number of months of operation in the first year of operation as the case may be.

7.3. On receipt of the proposal, this Authority will seek the views of the PPT on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

7.4. In the event of Operator not achieving the Performance Standards as incorporated in the Concession Agreement in previous 12 months, this Authority will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Operator shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.

7.5. After considering the views of the PPT, if this Authority is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.

7.6. While considering the proposal for Performance Linked Tariff, this Authority will look into the Performance Standards and its adherence by the Operator. This Authority will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the operator. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.

7.7. From the third year of operation, the Performance Linked Tariff proposal from the PPP operator shall be automatically notified by this Authority subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The PPP operator, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and this Authority shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

7.8. In the event any user has any grievance regarding non-achievement by the PPP operator of the Performance Standards as notified by this Authority, he may prefer a representation to this Authority which, thereafter, shall conduct an inquiry into the representation and give its finding PPT. The PPT will be bound to take necessary action on the findings as per the provisions of the respective Concession Agreement.

7.9. Within 15 (fifteen) days of the signing of the Concession Agreement, the concerned operator will forward the Concession Agreement to this Authority which will host it on its website.

7.10. The PPP operator shall furnish to this Authority quarterly reports on cargo traffic, ship berth day output, average turnaround time of ships, average pre-berthing waiting time as well as the tariff realized for each berth. The quarterly reports shall be submitted by the PPP operator within a month following the end of each quarter. Any other information which is required by this Authority shall also be furnished to them from time to time.

7.11. This Authority shall publish on its website all such information received from PPP operator. However, this Authority shall consider a request from any PPP operator about not publishing certain data / information furnished which is commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/information in question and the likely adverse impact on their revenue/ operation of upon publication. This Authority's decision in this regard would be final.

(T.S. Balasubramanian)
Member (Finance)

**REFERENCE TARIFF SCHEDULE
Mechanization of CQ – 1 & 2 Berths at Paradip Port Trust**

1.1. DEFINITIONS

In this Scale of Rates unless the context otherwise requires, the following definitions shall apply:

- (i). **“Coastal vessel”** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Competent Authority / Director General of Shipping.
- (ii). **“Foreign-going vessel”** shall mean any vessel other than Coastal vessel.
- (iii). **“Day”** shall mean the period starting from 6.00 A.M. of a day and ending at 6.00 A.M. on the next day.

1.2. GENERAL TERMS & CONDITIONS

- (i). The status of the vessel as borne out by its certification by the customs or Director General of Shipping, is the relevant factor to decide whether vessel is “coastal” or “foreign-going” for the purpose of levy of vessel related charges; and the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii).
 - (a) The berth hire charges for all coastal vessels should not exceed 60% of the corresponding charges for other vessels.
 - (b) The cargo related charges for all coastal cargo other than thermal coal should not exceed 60% of the normal cargo related charges.
 - (c) In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.
 - (d) Cargo from a foreign port which reaches an Indian Port “A” for subsequent transshipment to Indian Port “B” will be levied the concession charges relevant for its coastal voyage. In other words, cargo from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.
- (iii). Interest on delayed payments / refunds.
 - (a) The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the terminal operator shall pay penal interest on delayed refunds.
 - (b) The rate of penal interest will be 2% above the prime lending rate of the State Bank of India.
 - (c) The delay on refunds will be counted only 20 days from the day of completion of services or on production of all the documents required from the users, whichever is later.

- (d) The delay in payments by the users will be counted only 10 days after the date of raising the bills by the terminal operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services where payment of charges in advance is prescribed as a condition in the scale of rates.
- (iv). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto and inclusive 0.5 shall be taken as 0.5 unit and fractions of above 0.5 shall be treated as one unit, except where otherwise specified.
- (v). All charges worked out shall be rounded off to the next higher rupee on the grand total of the bill.
- (vi). (a). The rates prescribed in the Scale of Rates are ceiling levels: likewise, rebates and discounts are floor levels. The terminal operator may, if they so desire, charge lower rates and / or allow higher rebates and discounts.
- (b). The terminal operator may also, if they so desire, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels.
- (c). The terminal operator should notify the public such lower rates and / or rationalisation of the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (vii). Users will not be required to pay charges for delays beyond reasonable level attributable to terminal operator.

2. BERTH HIRE CHARGES:

The Berth Hire charges payable by masters/owners/agents for the vessel shall be as per rates below:

Sl. No.	Vessels	Rate per GRT per hour or part thereof (₹)	
		Foreign Going Vessel	Coastal Vessel
1.	All Vessels	1.00	0.59

Notes:

- (i). The period of berth hire shall be calculated from the time vessel occupied the berth till she vacates the berth.
- (ii). Berth hire includes charges for services rendered at the berth, such as occupation of berth, rubbish removal, cleaning of berths, fire watch etc.
- (iii). No berth hire shall be levied for the period when the vessel idles at its berth for continuous one hour or more due to non-availability / break down of terminal operator's equipment or power failure or any reasons attributable to the terminal operator.
- (iv). (a). Berth hire shall stop four hours after the time of the vessel signaling its readiness to sail.
- (b). The time limit of 4 hours prescribed for the cessation of the berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather and due to lack of night navigation.

- (c). The Master/ agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.
- (v). The Penal berth hire shall be equal to one-day's (24 hours) berth hire charges for false signal.

"False Signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions."

3. CARGO HANDLING CHARGES:

The cargo handling charges at the CQ – 1 & CQ – 2 berths at Paradip Port shall be payable on the manifested cargo directly by the importer of cargo at the rates specified below:

Sl. No.	Commodity	Unit	Rate in Rupees	
			Foreign	Coastal
a.	Coal handling charges (Thermal coal)	Per Metric Tonne	175.60	175.60
b.	Coal handling charges (for other than Thermal coal)	Per Metric Tonne	175.60	105.36
c.	Limestone	Per Metric Tonne	175.60	105.36
d.	Dolomite	Per Metric Tonne	175.60	105.36

Note:

The above rate is the composite rate for unloading of all the cargo from the ship, conveying to stack yard, storage at the stack yard upto free period of 10 days, reclaiming from stack yard and loading on to the railway wagons and all other miscellaneous services provided.

4. STORAGE CHARGES:

The Storage charges for the cargo stored in the stack yard beyond the free period shall be as below:

Sl. No.	Commodity	Rate for first 5 days for the balance cargo remaining after the free period	Rate for 6th day to 10th day for the balance cargo	Rate for 11th onwards for the balance cargo
1.	Coal, Limestone and Dolomite	₹ 16.21 per MT per day	₹ 32.42 per MT per day	₹ 64.84 per MT per day

Notes:

- (i). 10 free days shall be allowed. Free period for import cargo shall commence from the actual date of the receipt of goods in the Port premises. For the purpose of

calculation of free period, Custom notified holidays and Terminal's non-working days shall be excluded.

- (ii). Storage charges shall be payable for all days including Terminal's non-working days and Customs notified holidays for stay of cargo beyond the prescribed free days.
- (iii). Storage charges on cargo shall not accrue for the period when the terminal operator is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to the Terminal operator

5. General Note to SI no. 2 to 4 above:

The Reference Tariffs will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2015 and 1 January of the relevant year. Such automatic adjustment of Reference Tariffs will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

PERFORMANCE STANDARDS

Schedule of Performance Standards “Mechanization of CQ – 1 & 2 Berths at Paradip Port on BOT Basis”

1. Gross Berth Output

The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo. In case of coal the capability of the terminal (mechanization, method of handling) and parcel size will determine the Gross Berth Output. Higher terminal capability and greater parcel size will lead to high productivity. The Gross Berth Output shall be calculated as the total cargo handled from the ship during a month divided by the time spent by the ship at the terminal multiplied by number of working days of ships in that month at that terminal. While determining the number of working days from the ship hours, the berth allowance of 4 hours shall be subtracted from the total hours.

The norm for Gross Berth Output for all cargo will be 48,000 / Day /Berth.

Weightage in case of a shortfall in meeting the prescribed performance standard - 70%.

2. Transit Storage Dwell

(i) Bulk Cargo:

The Transit Storage Dwell Time for coal cargo and other cargo shall be calculated, as half of average parcel size of above cargo vessels in a month divided by average disposal of cargo from the port per day as per the following methodology:

$$\text{Average disposal of Cargo per day (A)} = \frac{\text{OB} + \text{Received} / \text{Dispatched} - \text{CB}}{\text{No. of days}}$$

OB = Opening Balance, CB = Closing Balance.

$$\text{Average Parcel Sizes (B)} = \frac{P_1 + P_2 + \dots + P_n}{n \text{ (no. of parcels)}}$$

P1, P2Pn are parcel size of each vessel in a month.

$$\text{Transit Storage Time for Bulk Cargo} = 0.5 (B/A)$$

The transit dwell time for all type of coal will be 10 days and for dolomite and limestone will be 30 days up to commencement of wagon loading operation.

Weightage in case of a shortfall in meeting the prescribed performance standard - 20%

3. Turn around Time for receipt/delivery operation:

The Turnaround Time for receipt/delivery operation shall be the sum of time taken for loading of cargo divided by the number of rakes deployed, as the case may be, in a month. Further, in case the rake does both unloading and loading operations on a single entry into the terminal, the time allocated shall be doubled for those rakes.

The Norms will be as follows:

Rake for all cargo (Single Operation): 10 Hours

Rake for all cargo (Double Operation): 18 Hours

58 BOXN wagon per rake.

Weightage in case of a shortfall in meeting the prescribed performance standard - 10%
