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Tariff Authority for Major Ports

G No. 245

New Delhi,

20 September 2013

NOTIFICATION

In exercise of the powers conferred by Section 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 the Paradip Port Trust for notification of Reference tariff for development of Deep Draught Iron Ore berth of 10 MTPA Capacity on BOT basis, in pursuance of the Guidelines for determination of Tariff for Projects at Major Ports, 2013, which were notified vide Notification No.TAMP/18/2013-Misc. dated 8 August 2013, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/37/2013-PPT

Paradip Port Trust

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Applicant

QUORUM:

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

ORDER

(Passed on this 30th day of August 2013)

This case relates to a proposal dated 14 August 2013 received from the Paradip Port Trust for notification of reference tariff for development of Deep Draught Iron Ore berth of 10 MTPA Capacity on BOT basis, under the Guidelines for Determination of Tariff for Port Projects at Major Ports, 2013.

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 are effective from 31 July 2013.

3. Clause 2.2 of the said Tariff Guidelines of 2013, which is relevant, is reproduced below:

"The Reference Tariff ("the Reference Tariff") for each commodity/ category of commodities and each service/ category of service or combination of service or services, as the case may be, shall be determined by TAMP for each Port based on a proposal from the concerned major Port. Such proposal shall contain the proposed Reference Tariff and "Performance Standards". The Reference Tariff will be the highest tariff fixed for that commodity in the concerned major Port Trust under the 2008 Tariff Guidelines. While adopting the highest tariff, the base rate set under the Tariff Guidelines, 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 in which the said tariff was originally notified and 1st January of the subsequent relevant year when the Reference Tariff for the particular project in question is being notified. On receipt of the proposal, TAMP shall notify the Reference Tariff and Performance Standards within 15 days of receipt."

4.1. The Paradip Port Trust (PPT) under cover of its letter dated 14 August 2013 (received on 19 August 2013) has submitted a proposal for development of Deep Draught Iron Ore berth of 10 MTPA Capacity on BOT basis, under the Guidelines for Determination of Tariff for Port Projects at Major Ports, 2013.

4.2. The PPT has furnished the Reference Tariff Schedule including the conditionalities governing the levy of rates and the Performance Standards. The points made by the PPT, in its proposal are summarized below:

- (i). The notification for upfront tariff for the 'Deep draught Iron Ore berth on BOT basis at Paradip Port' was issued on 16 August 2008.
- (ii). Due to delay in obtaining statutory clearances, the project has now been retendered.
- (iii). In the meantime, new tariff guidelines-2013 have been issued and made effective from 31.07.2013.

- (iv). Pursuant to the 2013 guidelines, the PPT has forwarded a proposal for notification of reference tariff for development of Deep Draught Iron Ore berth of 10 MTPA Capacity.
- 4.3. The PPT has attached 'Reference Tariff Schedule for Iron Ore Terminal' and the 'Performance Standards' alongwith its proposal.
- 5.1. It may be recalled that this Authority has passed an Order No.TAMP/18/2008-PPT dated 14 July 2008 for fixation of upfront tariff for construction of a deep draught iron ore berth and a deep draught coal berth at PPT based on guidelines for upfront tariff setting for PPP Projects at Major Port Trust, 2008. This Order has been notified in the Gazette of India vide Notification No.133 dated 16 August 2008.
- 5.2. With regard to the stipulation contained in clause 2.2 of the tariff guidelines of 2013, the following points are relevant:
- (i). In pursuance of the Guidelines, the PPT has filed the proposal for notification of Reference tariff for development of deep draught Iron Ore berth of 10 MTPA Capacity and has furnished the proposed Reference Tariff and the Performance Standards.
 - (ii). The Guidelines also stipulate 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 this regard, it is relevant here to mention that upfront tariff has been fixed under the 2008 upfront tariff guidelines, for construction of a deep draught iron ore berth at PPT in July 2008. Therefore, the upfront tariff fixed in the year 2008 for the PPT iron ore berth, would be the highest tariff and would form the basis for determining the Reference tariff for the iron ore berth at PPT, as stipulated in the 2013 Guidelines.
 - (iii). As per para 9.1. of the PPT Order dated 14 July 2008, the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year. As recorded in the relevant paragraph of the tariff Order of July 2008 the capital cost estimates have been updated for costs in March 2008 and the annual escalation of tariff will be with reference to the base of 2008. Therefore, in the case of PPT, the upfront tariff would have to be indexed with reference to the Indexation factor occurring between the year 2008 and the year 2013.
- 5.3. On scrutiny of PPT proposal dated 14 August 2013, it is seen that the PPT has applied indexation factor in a range of 27% to 33% to arrive at the indexed Reference tariff for Cargo handling charges and Storage charges which is not in line with the indexation factor communicated by us to all the Major Port Trusts vide our letter No.TAMP/12/2009-Misc dated 2 April 2013. As per our communication dated 2 April 2013, the applicable indexation factor for tariff with base WPI as on 1 January 2008 on the tariff caps approved for the Iron Ore at PPT vide Order dated 14 July 2008 is 26.15%.
- 5.4. In view of above, the proposed Reference scale of rates is modified considering the indexation factor of 26.15% on the tariff caps approved for the iron ore berth at PPT vide Order dated 14 July 2008. While arriving at the Reference tariff, the PPT has rounded off the Reference tariff rate which is also corrected upto two decimal places and accordingly modified Reference Tariff schedule is attached.
6. As recorded in paragraph 9 (v) (c) of Order of July 2008, maximum size of the vessel considered to be handled at the iron ore berth is 185000 DWT. One of the stakeholders had pointed out during the proceedings relating to the Order of July 2008 that the draught available at PPT may not be adequate to handle such vessels. In this context, the PPT had pointed out that bids will be invited for handling upto 125000 DWT vessels and as and when the draught is increased to handle 185000 DWT vessels, the Concession Agreement will be modified. As further recorded in the said paragraph, the tariff set will not undergo change except to the extent of annual

escalation prescribed under upfront tariff scheme, throughout the concession period. If the landlord port undertakes any investment at a later stage which may benefit the concessionaire, it may be necessary for the port to make adequate provision in the Concession Agreement for the enhanced compensation it may like to claim from concessionaire.

7.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the Reference Tariff Schedule alongwith conditionalities governing the rates and the Performance Standards for the PPT iron ore berth as proposed by the port.

7.2. The Reference Tariff Schedule alongwith conditionalities governing the rates is attached as **Annex - I** and the Performance Standards for the PPT iron ore berth is attached as **Annex - II**.

7.3. As per clause 2.6 of the Tariff Guidelines 2013, the Reference Tariff and Performance Standards notified by TAMP 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 notified by this Authority, in the bid document and subsequently in the Concession Agreement in respect of PPP Projects.

(T.S. Balasubramanian)
Member (Finance)

Reference Tariff Schedule for the Iron Ore Terminal Berth at Paradip Port

1. The Cargo Handling Charges

The cargo handling charges at the deep draught Iron Ore berth at Paradip Port shall be payable on the manifested cargo directly by the importer of cargo at the rates specified below :

Sl.	Commodity	Unit	Rate in Rupees
1.	Iron Ore handling charges (all types)	MT	198.06

The above rate is the composite rate for unloading the Iron Ore from the railway wagon, conveying to stackyard, storage at the stackyard upto a free period of 18 days after the time of unloading the iron ore from railway wagon, reclaiming from the stackyard and loading on to the ship and all other miscellaneous services provided.

2. Storage charges

The storage charges for the cargo stored in the stackyard beyond the free period allowed shall be as below :

(Rate in Rs. Per ton)

Sl.No.	Commodity	Rate for five days for the balance cargo remaining after the free period	Rate for sixth day to tenth day for the balance cargo	Rate for Eleventh day onwards for the balance cargo
1.	Iron Ore (all types)	15.14	30.28	60.55

3. Berth Hire

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

Sl. No.	Vessels	Rate per GRT per hour or part thereof (Rs.)	
		Foreign Going Vessel	Coastal Vessel
1.	All vessels	1.08	0.66

Note: The tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2013 and 1 January of the relevant year. Such automatic adjustment of tariff caps 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.

APPENDIX 15**Performance Standards****Performance Standards****1. Gross Berth Output**

The parameter deals with the productivity of the terminal (Gross Berth Output) for different types of cargo. In case of iron ore, 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 to 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 Iron Ore will be 60,000 Tons/day. Weightage in case of shortfall in meeting the prescribed performance standard will be 70%.

2. Transit Storage Dwell Time :**Bulk Cargo**

The Transit Storage Dwell Time for iron ore 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 :

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

OB = Opening Balance, CB = Closing Balance.

$$\text{Average Parcel Sizes (B)} = \frac{P1 + P2 + \dots + Pn}{n \text{ (no. of parcels)}}$$

P1, P2 Pn 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 iron ore will be **18 days** up to commencement of ship loading operation. Weightage in case of a shortfall in meeting the prescribed performance standard is 20%.

3. Turn around Time for receipt / delivery operation:

The Turnaround Time for receipt/delivery operation shall be the sum of time taken for unloading 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 dry bulk cargo (single operation) : 10 hours
 - Rake for dry bulk cargo (Double operation) : 18 hours
- 58 BOXN wagons per rake

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

Performance Evaluation and calculation of liquidated damages :

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 which shall be assessed in the following manner. Each Performance Standard is calculated as an average in the manner indicated above.

The actual average performance vis-à-vis a standard will be evaluated against the prescribed standard. The shortfall will be computed as a percentage of the prescribed standard. The shortfall in respect of each performance standard will have a weightage assigned to it. The overall shortfall in average performance shall be assessed as the aggregate of the weighted shortfalls in respect of each of the performance standards. For example, if there is a shortfall in Gross Berth Output by $x\%$, Transit Storage Dwell Time by $y\%$ and Turn round time for receipt/delivery operations by $z\%$ and the weightage assigned to such shortfalls is 0.7, 0.2 and 0.1 respectively, then the overall shortfall in average performance will be $(0.7x+0.2y+0.1z)\%$.
