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Tariff Authority for Major Ports

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New Delhi

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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 Kolkata Port Trust (KOPT) for fixation of scanning charge to be levied on each loaded EXIM container at Kolkata Dock System of KOPT, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/31/2019-KOPT

Kolkata Port Trust

Applicant

QUORUM

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

ORDER

(Passed on this 20th day of February 2020)

This case relates to a proposal received from Kolkata Port Trust (KOPT) for fixation of scanning charge to be levied on each loaded EXIM container at Kolkata Dock System (KDS) of KOPT.

2.1. The main submission made by KOPT vide its letter no. Fin/91/B dated 27 June 2019 are as follows:

- (i). Indian Ports Association (IPA) for and on behalf of the Major Ports had invited e-tenders from eligible and qualified tenderers to supply, install, commission and maintain 7 nos. of Mobile X-ray Container Scanner system and associated equipment at Jawaharlal Nehru Port (JNPT), KOPT, Kamarajar Port Limited (KPL), New Mangalore Port Trust (NMPT) and Visakhapatnam Port Trust (VPT). Based on the tender, the successful bidder has been entrusted for installation and maintenance of MXCS system.
- (ii). KOPT has placed a work order with the successful bidder to process, install, supply, test and commission 1 no. of MXCS system.
- (iii). As per direction of the Ministry of Shipping, all ports mentioned above were advised to prepare the proposal to recover the cost incurred towards MXCS system installation and its operation and send the same to TAMP.
- (iv). The container scanning facility is a new concept for KOPT and no specific tariff is available in the SOR for such facility.
- (v). While making the proposal, TAMP's directive provided in Clause-3 (xix) of KOPT SOR has been followed by KOPT. The said clauses are as follows:
 - “(a). Whenever a specific tariff for a service/ cargo is not available in the notified Scale of Rates, the KOPT can submit a suitable proposal to TAMP for the notification of the Tariff for the said new service adopting the tariff and performance standards fixed for comparable service in any of the Major Port Trusts. If the determination of tariff is not possible, then the KOPT after giving sufficient reason would propose rates based on cost plus 16% formula.
 - (b). Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis till the rate is finally notified.
 - (c). The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services/ cargo; and, it must be mutually agreed upon by the Port/ Terminal and the concerned user(s).
 - (d). The final rate fixed by the TAMP will ordinarily be effective only prospectively. The interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively.”
- (vi). More than 4.2 lakhs loaded EXIM containers are handled at KDS per annum and number of containers that shall undergo scanning would be far less in comparison

to number of loaded EXIM containers being handled at KDS. Thus, number of containers that shall undergo scanning is indeterminable in advance.

- (vii). Also, the scanning charge would be prohibitively high if only the containers selected for scanning are considered for calculation of scanning charge. Therefore, the cost of scanning infrastructure (Capex and Opex) has been considered to be spread uniformly across all the loaded Exim containers.
- (viii). The rate has been arrived by taking into consideration Civil Infrastructure Cost, Electrical Installation cost, MXCS System Installation Cost, MXCS Maintenance Cost, Electrical Power Consumption Cost, Manpower cost towards cleaning & housekeeping and Cost towards providing security service to the site.
- (ix). The detailed calculation for arriving at the rate is based on the TAMP Guidelines on cost plus 16% return basis. The calculation as furnished by KOPT is as follows:

1	No of loaded Exim Containers (Predicted) that will be handled at KDS	
	No of loaded Exim Containers in 2017-18	420,513
	Compound Annual Growth Rate (CAGR) taken from AECOM report	1.028%
	No of loaded Exim Containers to be handled in 2019-20 @ CAGR	429,203
	No of loaded Exim Containers to be handled in 2020-21 @ CAGR	433,615
	No of loaded Exim Containers to be handled in 2021-22 @ CAGR	438,073
	No of loaded Exim Containers to be handled in 2022-23 @ CAGR	442,576
	No of loaded Exim Containers to be handled in 2023-24 @ CAGR	447,126
	No of loaded Exim Containers to be handled in 2024-25 @ CAGR	451,722
	No of loaded Exim Containers to be handled in 2025-26 @ CAGR	456,366
	No of loaded Exim Containers to be handled in 2026-27 @ CAGR	461,057
	Total no. of loaded Exim Containers to be handled in 8 years	3,559,739
	Average no of loaded Exim Containers to be handled each year (3559739/8)	444,967
2	Capital Investment	₹.
a.	Civil Infrastructure Cost Plus GST @ 18%	36,872,361
b.	Electrical Installation Cost	5,275,393
c.	MXCS System Installation Cost	195,336,061
	Miscellaneous Cost @ 5% of (a+b+c)	11,874,190.75
	Total Capital Investment	249,358,006
3	Operational Investment (per annum)	₹.
a.	MXCS maintenance cost per annum	12,692,347

	(MXCS maintenance for 8 years - ₹. 101,538,775)	
b.	Depreciation (8 years life of Capital assets) (Total Capital Investment/8) [₹. 249358006/8 years]	31,169,750
c.	Electrical Power consumption in Scanning 444967 containers	5,295,332
d.	Manpower cost towards cleaning & housekeeping per annum	262,500
e.	Cost towards Security service per annum	4,320,000
f.	Miscellaneous expenditure@ 2.5% of total capital investment	6,233,950
	Operational Cost per annum	59,973,879
4	Per annum Return on Capital Employed @ 16%	39,897,281
5	Revenue Requirement per Annum	
a.	Operational Cost per annum	59,973,879
b.	Per annum return on Capital Employed @ 16%	39,897,281
	Per Annum Revenue Requirement	99,871,160
	Scanning Surcharge shall be imposed on each loaded Exim Containers =	
	(per annum Revenue Requirement) / (Average no of Loaded Exim Containers to be handled each year)	224.45
	Scanning Surcharge on each loaded Exim Container (Excluding GST)	225

2.2. The proposed rate has the approval of the Board of Trustees of KOPT vide Resolution No. R/31/KDS/TFC/2/05/2019 dated 30 May 2019.

2.3. Based on the above submission and since no specific rate is available in the existing SOR of KOPT for the scanning of the Loaded Exim containers at KDS, the KOPT has proposed scanning charges at ₹. 225/- per container excluding GST. This rate is proposed to be levied on each of loaded EXIM Containers irrespective of the size of the container.

3.1. Since the KOPT had not furnished the list of users / user organizations to be consulted in the case and had also not furnished the Draft SOR, the KOPT was requested vide our letter dated 3/4 July 2019 to furnish the names of the relevant users / user organizations who need to be consulted on the case in reference and was also requested to furnish the draft SOR including the conditionalities governing the proposed levy.

3.2. Vide the said letter, it was also informed to KOPT that by Order no. TAMP/77/2018-VPT dated 29 March 2019, this Authority has approved a rate of ₹.152/- per TEU towards charges for operation of Mobile X-Ray Container Scanning System at Visakhapatnam Port Trust (VPT) following normative approach and that if KOPT desire they can adopt this rate also.

3.3. In response to this, the KOPT vide its email dated 1 October 2019 has furnished the list of users / user organizations to be consulted in the case. The KOPT has also furnished the Draft SOR. The Draft SOR for operation of MXCS as proposed by KOPT is as follows:

“Schedule of Charge for Operation of Mobile X-Ray Container Scanning System at KOPT (KDS)

Description	Unit	₹ in INR
Charge for Operation of Mobile X-Ray Container Scanning System	TEU	225.00

Notes:

- (1). The tariff prescribed for X-Ray container scanning system is applicable to all import overseas containers other than transshipment containers irrespective of whether an import containers is scanned or not.
- (2). The tariff prescribed will be valid for period of 8 years from the date it comes into effect subject to automatic annual indexation.
- (3). The tariff prescribed above will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year.”

3.4. With regard to the adoption of the rate of ₹. 152/- per TEU towards charges for operation of Mobile X-Ray Container Scanning System at VPT as brought above, the KOPT has not given any specific response.

4. In accordance with consultative procedure prescribed, a copy of the KOPT proposal dated 27 June 2019 was forwarded to the concerned users or user organizations, vide our letter dated 25 October 2019, seeking their comments. Some of the user organization have furnished their comments. The said comments were forwarded to KOPT as feedback information. The KOPT vide its email dated 6 December 2019 has responded.

5. A joint hearing on the case in reference was held on 6 December 2019 at the KOPT premises. At the joint hearing, the KOPT made a brief Power Point presentation of the proposal. During the joint hearing, the KOPT and other users / user organizations have made their submissions.

6.1. During the joint hearing, the users have objected to the Container Scanner Charge proposed by the Port. FIEO in its submissions made during the joint hearing has expressed doubts on the container traffic growth considered by KOPT in its calculations. In view of this, the KOPT was requested vide letter dated 13 December 2019 to review the Container Scanner Charges, keeping in view the objections made by the various users in the joint hearing.

6.2. In response to this, the KOPT vide its email dated 20 December 2019 has revised the Scanning Charges and proposed a rate of ₹ 208/- per container from ₹. 225/- per container. The detailed calculation sheet as furnished by KOPT is as follows:

1	No of loaded Exim Containers (Predicted) that will be handled at KDS	
	No of loaded Exim Containers in 2017-18	420,513
	Compound Annual Growth Rate (CAGR) taken from AECOM report	1.028%
	No of loaded Exim Containers to be handled in 2019-20 @ CAGR (1 st year)	429,203
	No of loaded Exim Containers to be handled in 2020-21 @ CAGR (2 nd year)	433,615
	No of loaded Exim Containers to be handled in 2021-22 @ CAGR (3 rd year)	438,073
	No of loaded Exim Containers to be handled in 2022-23 @ CAGR (4 th year)	442,576
	No of loaded Exim Containers to be handled in 2023-24 @ CAGR (5 th year)	447,126
	No of loaded Exim Containers to be handled in 2024-25 @ CAGR (6 th year)	451,722
	No of loaded Exim Containers to be handled in 2025-26 @ CAGR (7 th year)	456,366
	No of loaded Exim Containers to be handled in 2026-27 @ CAGR (8 th year)	461,057
	No of loaded Exim Containers to be handled in 2027-28 @ CAGR (9 th year)	465,796
	No of loaded Exim Containers to be handled in 2028-29 @ CAGR (10 th year)	470,584
	Total no. of loaded Exim Containers to be handled in 10 years	44,96,118
	Average no of loaded Exim Containers to be handled each year (3559739/8)	4,49,612

2	Capital Cost	₹.
a.	Civil Infrastructure Cost Plus GST @ 18%	3,68,72,361
b.	Electrical Installation Cost	52,75,393
c.	MXCS System Installation Cost	19,53,36,061
	Miscellaneous Cost @ 5% of (a+b+c)	1,18,74,190.75
	Total Capital Investment	24,93,58,006
3	Operational Cost	₹.
a.	Electrical Power Consumption	52,95,332.40
b.	MXCS maintenance cost	1,26,92,347.00
c.	Depreciation (10 years life of Capital assets)	2,49,35,800.60
d.	Manpower cost towards cleaning & housekeeping per annum	2,62,500.00
f.	Cost towards Security service per annum	43,20,000.00
g.	Miscellaneous expenditure@ 2.5% of total capital investment	62,33,950
	Operational Cost per annum	5,37,39,930.15
4	Per annum Return on Capital Employed @ 16%	3,98,97,281
5	Revenue Requirement per Annum	
a.	Operational Cost per annum	5,37,39,930.15
b.	Per annum return on Capital Employed @ 16%	3,98,97,281.00
	Per Annum Revenue Requirement	9,36,37,211.15
	Charges for Mobile Scanner Per TEU	208.26

6.3. Subsequently, the KOPT vide its letter dated 05 February 2020 has forwarded the revised draft Scale of Rates along with the conditionalities governing the levy of charges for Scanner, as given below:

“Scanning Charge to recover the cost of Procurement, Installation, Maintenance and Operation of 1 no. of Mobile X-Ray Container Scanning (MXCS) System at KDS, KOPT.

Description	Rate in ₹
Scanning Charge	208/- per Container (excluding GST)

Notes:

- (1). Scanning Charge shall be applicable to all loaded EXIM containers.
- (2). The rate shall be same for Export/ Import containers irrespective of the size of the Containers.
- (3). The Scanning Charge shall be applicable to all loaded EXIM Containers irrespective of it being scanned or not.
- (4). The tariff prescribed will be valid for a period of 10 years from the date it comes into effect subject to automatic annual indexation.
- (5). The tariff prescribed above will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1st January 2019 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year.

“

7. 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>

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

- (i). Based on the direction of the Government, the Kolkata Port Trust (KOPT) envisages installation of a Mobile X-Ray Container Scanning (MXCS) System at the Kolkata Dock System (KDS), for scanning the Containers. Since no rate is available in the Scale of Rates of KOPT towards Scanner charges, the KOPT has come up with a proposal for fixation of tariff for operation of MXCS system. The proposal of KOPT has the approval of its Board of Trustees.
- (ii). The proposal was initially filed by KOPT in June 2019. However, the draft Scale of Rates was made available by KOPT only in October 2019 along with the list of users / user organizations to be consulted. Thereafter, the proposal was taken up on consultation with the relevant stakeholders. Further, based on the discussions during the joint hearing, the KOPT in December 2019 has filed a revised proposal reducing the proposed container scanner charges. The said proposal of KOPT of December 2019 alongwith the other information/ clarification collected during the processing of the case is considered in the analysis.
- (iii). As per Clause 7.6.1 of the Tariff Policy, 2018, when a tariff for a new service/ cargo/ equipment/ facility is not available in the SOR of the port, the concerned Major Port Trust can either adopt the tariff and performance standards if any fixed for comparable cargo/ equipment/ service in any Major Port Trust, or can file a proposal for notification of tariff for the said new cargo/ equipment/ service/ facility with reference to optimal capacity assessed following the principles of 2008 guidelines or based on rated capacity or technical specification of service/ facility/ equipment. The Guideline further stipulates that if determination of tariff based on the above prescribed options is not available, then the Major Port Trusts after giving sufficient reasons may propose rates based on cost plus 16% return formula.

In this regard, it is to state that the Government while conveying its decision to install the Scanner at the port premises have directed the ports (where the scanners have been directed to be deployed) to follow Normative rates for recovery of cost.

It is in this backdrop that the proposal has been filed by the KOPT for fixation of rate for use of Scanner on normative basis by broadly following the principles prescribed in the upfront tariff guidelines of 2008. There are no specific norms prescribed in the Upfront Tariff Guidelines of 2008 for fixing charges for Container Scanner.

(iv). **Optimal Capacity/ Rated Capacity:**

- (a). Taking the actual traffic of 420513 containers handled at KDS during the year 2017-18 and considering a compounded growth rate of 1.028% per annum and considering that the operating period of Scanner would be 10 years i.e. from 2019-20 to 2028-29, the KOPT has arrived at the average estimated EXIM containers to be handled per annum in the said 10 years. The figure so arrived at 449612 containers, has been considered by the KOPT as the Optimal Capacity of the container scanning facility.
- (b). In this connection, it may be recalled that in the proposal filed by Visakhapatnam Port Trust (VPT) for fixation of tariff for Operation of Mobile X-Ray container scanning system at VPT (based on Government's direction) in December 2018, the VPT had assessed the rated capacity of the Scanner facility at 2,45,280 TEUs per annum. This was based on the presumption of handling 20 sets of 2 TEUs per hour for 24 days in a year of 365 days at 70% utilisation i.e. (20 sets x 2 TEUs x 24 hours x 365 days

x 0.7 =2,45,280 TEUs). In the absence of any specific norm available for this facility and based on the rated productivity as assessed by the VPT, this Authority in its Order no. TAMP/77/2018-VPT dated 29 March 2019, had then relied upon the rated capacity as proposed by VPT.

- (c). If norm based charges are to be determined for the use of the Scanner facility, the rated capacity of the Scanner facility at 2,45,280 TEUs per annum, as relied upon in the case of VPT, may have to be considered in respect of KOPT also. However, the KOPT has stated that if charges for the use of the Scanner facility is fixed based on the normative capacity, the scanning charges would be prohibitively high.
- (d). In this regard, it is to state that the rated capacity as considered in the case of VPT is significantly lower than the annual average estimated EXIM containers, as considered by KOPT in the proposal in reference. In such a scenario, if the rate for use of the Scanner facility at KOPT is fixed based on the rated capacity as considered in the case of VPT, the scanning charges will work out to be abnormally higher as compared to the tariff as proposed by KOPT.
- (e). Any increase in the scanning charges of containers will be disadvantageous to the users. In fact, the plea of users/ user organizations is to reduce the container handling charges from the proposed level. Keeping in view the flexibility available under the Tariff Guidelines of 2018 to the Port to determine the rates based on the market forces and commercial judgment of the Port and also since the proposal has the approval of the Board of Trustees of KOPT, average traffic is considered as 449612 containers as assessed by the KOPT for the purpose of calculation of tariff.
- (f). With regard to the number of containers as considered by the KOPT at 449612 containers, one of the users organisations viz., Federation of Indian Export Organization (FIEO) has objected to the annual container growth rate of about 1% considered by the KOPT. The FIEO is of the view that the growth rate of about 1% considered by the KOPT for the next 10 years is significantly less, taking into account the various initiatives and the investments that the port is undertaking to attract the container traffic. Thus, the FIEO has requested to consider higher volume of container traffic, which will have an impact of reduction in the scanner charges proposed by the port.

In this regard, the KOPT has countered that the container traffic growth has stagnated over the past 2-3 years and the increase in traffic is on account of increase in the volume of Empty containers only, wherein the empty containers will not be subjected to scanning. It is only the loaded EXIM containers, which would be subject to scanning charges. This position of the KOPT is considered.

(v). **Capital Cost:**

The total capital cost of the MXCS System has been considered by the KOPT at ₹ 24.94 crores. The said capital cost comprises of cost of X-Ray Scanner at ₹ 19.53 crores, cost towards civil infrastructure at ₹ 3.69 crores, cost towards electric installation at ₹ 0.53 crores and miscellaneous cost @ 5% to the tune of ₹ 1.19 crores.

Each component of the capital cost i.e. cost of X-Ray Scanner, cost towards civil infrastructure and cost towards electric installation has been substantiated by the port with documentary evidence. The same is considered in the analysis.

As regards consideration of miscellaneous cost to the tune of 5% on the aggregate cost of X-Ray Scanner, civil infrastructure cost and electric installation cost, it is to state that the 2008 upfront tariff guidelines provides to consider miscellaneous

capital cost in addition to civil and equipment cost at various percentages of the capital cost for various terminals ranging from 5% to 10%, to meet the miscellaneous capital costs such as working capital margin, power supply, lighting etc. In the absence of any specific norms for container scanner system, the port is seen to have considered 5% miscellaneous cost. This position is relied upon.

(vi). **Operating costs:**

As stated earlier, there are no specific norms prescribed for the proposed facility in the upfront tariff guidelines 2008. In this backdrop, the KOPT has determined the operating costs related to the scanner facility, which is discussed in the subsequent paragraphs.

(a). Power Cost:

The port has furnished the basis for estimation of electric power consumption for estimating the power cost. The KOPT has assumed that for 99% of the total time, the scanner will operate on electrical load and for 1% of the total time, it will function on DG power. The port has furnished workings in this regard. The cost of electricity at ₹ 8.97 per unit as furnished by the port is relied upon. Thus, based on the workings furnished by the port, the power cost as assessed by the port has been relied upon.

(b). Repairs and Maintenance Cost:

(i). Mobile X-Ray Container Scanner (MXCS) Maintenance cost:

The KOPT has considered the maintenance cost at ₹ 126.92 lakhs per annum as per the maintenance contract in the calculation.

(ii). On Civil Infrastructure cost:

The KOPT has not considered any repairs and maintenance cost on civil infrastructure as per the norms prescribed in the Upfront Tariff Guidelines of 2008. The expenditure on Repairs and Maintenance is an inevitable expenditure for any facility. Therefore, 1% of the capital civil infrastructure and 5% thereon towards Miscellaneous capital cost as per the Upfront Tariff Guidelines has been considered in the workings at ₹. 3.87 lakhs per annum.

(iii). On Electrical Equipment:

Similarly, the KOPT has also not considered any repairs and maintenance cost for electrical installation separately as per the norms prescribed in the Upfront Tariff Guidelines of 2008. Since, the expenditure on Repairs and Maintenance is an inevitable expenditure for any facility, 2% of the capital electric installation cost (₹. 52.75 lakhs + 5%) as per the Upfront Tariff Guidelines has been considered and estimated at ₹. 1.11 lakhs per annum.

(iv). It is relevant here to mention that incase of fixing the scanner charges at VPT, the port had considered maintenance cost @ 1% on civil assets and 2% on electrical equipment.

(c). Depreciation:

The KOPT has estimated the depreciation cost at ₹ 249.35 lakhs, by considering the life of the container scanning system as 10 years, without distinguishing the individual life of different assets viz. civil costs, scanner cost and electric components cost separately.

The upfront tariff guidelines 2008 prescribes to arrive depreciation for civil assets and Mechanical and electric components separately as per the Companies Act, 2013.

However, in the case in reference since the facility itself will be in operation for a period of 10 years, the approach adopted by the port to consider depreciation for the entire facility at 10 years is found reasonable and hence it is accepted.

(d). Insurance:

The insurance cost is an admissible cost item to arrive at tariff. The KOPT has not considered insurance cost for the container scanning facility. The insurance cost @ 1% of the total capital cost has been estimated at ₹.0.24 crores per annum, in line with the provision prescribed in the Upfront Tariff Guidelines, 2008.

(e). Other Expenses:

The Upfront Tariff Guidelines, 2008, provides for considering 'Other expenses' in the range of 5% to 10% of gross fixed assets, towards salaries and wages of staff and management of general overheads.

The KOPT has considered an amount of ₹. 2.62 lakhs per annum towards manpower cost for cleaning & housekeeping, ₹. 43.20 lakhs per annum towards cost of security and ₹. 62.34 lakhs towards miscellaneous cost @ 2.5% of the capital cost, thereby aggregating to ₹.108.16 lakhs per annum. The KOPT has furnished internal correspondence in support of cost arrived towards manpower for cleaning and housekeeping and security.

Since the quantum of the aggregate of 'other expenses' as estimated by KOPT works out to 4.34% of the gross fixed assets, which is within the prescribed percentage of 5% for estimating other expenses for various terminals as per the 2008 guidelines, and relying on the supporting documents furnished by KOPT, the Other expenses of ₹. 108.16 lakhs per annum, is considered as estimated by the Port.

(vii). Return of Capital Employed (ROCE)

Clause 2.4. of the upfront tariff Guidelines of 2008 requires the port to compute Return on Capital Employed (ROCE) @ 16%. Accordingly, the KOPT has considered return at the rate of 16% on the capital cost, which works out to ₹. 398.97 lakhs per annum.

(viii). Based on the above analysis, the total annual cost recovery requirement including ROCE works out to ₹ 9.66 crores as against ₹. 9.36 crores as estimated by the KOPT in the revised cost statement furnished in the month of December 2019.

In this regard, it is to state that the port has indicated in its proposal that though the scanner will pick up container at random for scanning, all EXIM loaded containers shall be uniformly charged the scanning charges, irrespective of whether EXIM loaded container is scanned or not.

Thus, taking into account the total annual revenue requirement and the average number of total container traffic estimated for the next 10 years, as per the approach adopted by KOPT, the scanner charges works out to ₹ 215/- per container as against the rate of ₹ 208/- per container proposed by the port in December 2019.

The comparative cost statement showing the cost as determined by KOPT vis-à-vis the rate as assessed by us, for operation of Mobile X-Ray Container Scanning System at KOPT is attached as **Annex**.

(ix). Though the users have welcomed the installation of Scanner at the port, all the users have objected to the levy of container scanner charges by KOPT. The users want the rate to be either borne by the Customs department or by the port itself and do not want the rate to be passed on the end importer/ exporter. In this regard, it is to state that the installation of the Scanner is to comply with the directions of the

Government and also as a security measure. Given that the port has to install the Scanner and maintain it for the next 10 years, it needs to levy some charge to recover the cost of Scanner as well as the maintenance cost. The proposed charge is appropriate, as discussed in the previous paragraphs. In such a scenario, this Authority is inclined to approve the rate of ₹ 215/- per container, instead of the proposal of KOPT at ₹ 208/- per container.

Nevertheless, it is to state that the rate approved by this Authority is a ceiling tariff and the port is at a liberty to charge a lower rate.

- (x). Since the tariff has been determined by the KOPT based on the actual count of total containers handed during the years 2017-18, the unit of levy for collecting the charges pertaining to Mobile X-Ray Container Scanning System of KOPT has been proposed by the Port on "Per Container" basis, which is approved.
- (xi). The KOPT has proposed notes to the effect that the tariff shall be applicable to all loaded EXIM Containers and that the rate shall be same for Export/ Import containers irrespective of the size of the Containers and that the Scanning Charge shall be applicable to all loaded EXIM Containers irrespective of it being scanned or not.

In this regard, it is to state that the KOPT has arrived at the tariff considering the container traffic projections for the next 10 years forecasted based on the actual EXIM loaded containers (consisting of both Imports and Exports loaded containers) handled during 2017-18. Since the port envisages to levy the charges on all loaded EXIM Containers, to enable it recover the total cost. In view of the above position, the notes as proposed by the Port are approved.

- (xii). The KOPT has proposed a note stating that the tariff prescribed will be valid for period of 10 years from the date it comes into effect subject to automatic annual indexation. Since in the revised cost statement furnished by the KOPT in December 2019, the port has considered the life of the project as 10 years, the proposed note is approved.
- (xiii). The port has proposed a general note to the effect that the prescribed tariff will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2019 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 31st March of the following year.

Though the proposal filed by the KOPT is under the Tariff Policy 2018 presently applicable in respect of Major Port Trusts, it is relevant to reiterate that the tariff proposed by the port for the new service is following the normative approach and the principles of upfront tariff of 2008 guidelines which is one of the options available under the said Tariff Policy for fixing tariff for new cargo/ service. In case of upfront tariff under 2008 guidelines, the tariff is for the project period and is subject to automatic annual indexation at 60% of the WPI.

Since the proposal of the KOPT is following the principles of the upfront tariff Guidelines of 2008, the KOPT has proposed the note as brought out above, which is approved.

9.1. In the result, and for the reasons given above, and based on collective application of mind, following provision relating to operation of Mobile X-Ray Container Scanning System at KOPT, is approved:

"Scanning Charge to recover the cost of Procurement, Installation, Maintenance and Operation of 1 no. of Mobile X-Ray Container Scanning (MXCS) System at KDS, KOPT.

Description	Rate in ₹
Scanning Charge	215/- per Container (excluding GST)

Notes:

- (1). Scanning Charge shall be applicable to all loaded EXIM containers.
- (2). The rate shall be same for Export/ Import containers irrespective of the size of the Containers.
- (3). The Scanning Charge shall be applicable to all loaded EXIM Containers irrespective of it being scanned or not.
- (4). The tariff prescribed will be valid for a period of 10 years from the date it comes into effect subject to automatic annual indexation.
- (5). The tariff prescribed above will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1st January 2019 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year. “

9.2. The KOPT is directed to incorporate the above said provisions in its Scale of Rates, suitably.

9.3. The said provision shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and shall remain valid for a period of 10 years from the date it comes into effect subject to automatic annual indexation.

(T.S. Balasubramanian)
Member (Finance)

Annex

**COST STATEMENT FOR FIXATION OF TARIFF FOR OPERATION OF MOBILE X-RAY CONTAINER
SCANNING SYSTEM AT KOLKATA DOCK SYSTEM AT KOLKATA PORT TRUST**

(in ₹.)

Sr. No.	Particulars	Estimates given by KOPT in its revised proposal dated 20.12.2019	Estimates considered by TAMP
1	No of loaded Exim Containers (Predicted) that will be handled at KDS		
a.	Actual no of loaded Exim Containers in 2017-18	420513	420513
b.	Compound Annual Growth Rate (CAGR) taken from AECOM report	1.028%	1.028%
	No of loaded Exim Containers in 2018-19 @ CAGR i.e. 1.028%	424836	424836
c.	No of loaded Exim Containers to be handled in 2019-20 @ CAGR i.e. 1.028%	429203	429203
d.	No of loaded Exim Containers to be handled in 2020-21 @ CAGR i.e. 1.028%	433615	433615
e.	No of loaded Exim Containers to be handled in 2021-22 @ CAGR i.e. 1.028%	438073	438073
f.	No of loaded Exim Containers to be handled in 2022-23 @ CAGR i.e. 1.028%	442576	442576
g.	No of loaded Exim Containers to be handled in 2023-24 @ CAGR i.e. 1.028%	447126	447126
h.	No of loaded Exim Containers to be handled in 2024-25 @ CAGR i.e. 1.028%	451722	451722
i.	No of loaded Exim Containers to be handled in 2025-26 @ CAGR i.e. 1.028%	456366	456366
j.	No of loaded Exim Containers to be handled in 2026-27 @ CAGR i.e. 1.028%	461058	461058
k.	No of loaded Exim Containers to be handled in 2027-28 @ CAGR i.e. 1.028%	465797	465797
l.	No of loaded Exim Containers to be handled in 2028-29 @ CAGR i.e. 1.028%	470586	470586
m.	Total no. of loaded Exim Containers to be handled in 10 years	4496123	4496123
n.	Average no of loaded Exim Containers to be handled each year (4496123 containers /10 years)	449612	449612
2	Capital Investment	Amount in Rupees	
a.	Civil Infrastructure Cost Plus GST @ 18%	36872361.00	36872361.00
b.	Electrical Installation Cost	5275393.00	5275393.00
c.	MXCS System Installation Cost	195336061.00	195336061.00
d.	Miscellaneous Cost @ 5% of (a+b+c)	11874190.75	11874190.75
	Total Capital Investment	249358005.75	249358005.75
3	Operational Investment (per annum)		
a.	Power		
	Electrical Power consumption in Scanning containers	5295332.40	5295332.40
b.	Repairs and maintenance		
	(i). On MXCS System	12692347.00	12692346.88
	(ii). On Civil Infrastructure @ 1%	0.00	387159.79
	(ii). On Electric Installation @ 2%	0.00	110783.25
	Subtotal : Repairs and Maintenance cost	12692347.00	13190289.92
c.	Insurance @ 1%	0.00	2493580.06
d.	Depreciation	24935800.58	24935800.58
e.	Other expenses		
	(i). Manpower cost towards cleaning & housekeeping	262500.00	262500.00
	(ii). Cost towards Security services	4320000.00	4320000.00
	(iii) Miscellaneous expenditure@ 2.5% of total capital cost	6233950.14	6233950.14
	Subtotal : Other Costs	10816450.14	10816450.14
	Operational Cost per annum [Total 3 = (a) + (b) + (c) +(d)+ (e)	53739930.12	56731453.09
4	Return on Capital Employed @ 16%	39897280.92	39897280.92
5	Annual Revenue Requirement		
a.	Operational Cost per annum	53739930.12	56731453.09
b.	Per annum return on Capital Employed @ 16%	39897280.92	39897280.92
c.	Annual Revenue Requirement c.= (a) + (b)	93637211.04	96628734.01
6	Scanning Charged on each loaded Exim Containers = 5 (c) / 1 (n)	208.26	214.92
	(Revenue Requirement) / (Average no of Loaded Exim Containers)		
	Scanning charges on each loaded Exim Container (Excluding GST)	208	215

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

F. No. TAMP/31/2019-KOPT	Proposal received from Kolkata Port Trust (KOPT) for fixation of scanning charge to be imposed on each loaded EXIM container at Kolkata Dock System of KOPT to recover the cost of procurement, installation and maintenance and operation of 1 no. of Mobile X-ray Container Scanner (MXCS) System.
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A summary of comments received from users / user organizations and response of KOPT thereon are tabulated below:

Sr. no	Comments of Users or user organizations	Reply of KOPT
1.	Merchants Chamber of Commerce and Industry (MCCI)	
a.	Since Terminal Handling Charges (THC) in relation to loading and discharging of containers at KOPT is already one of the highest across all ports, KOPT should not levy any charge for scanning and add extra burden on the EXIM community. Exporters / Importers are already paying something between ₹. 10000/- to ₹.11000/- for 20 box whereas at Vizag Port, it is just ₹. 6500/-.	It may be noted that Port charges is insignificant part of Terminal Handling charges and Port has little control over the same. Recovery of infrastructure cost is inescapable for any industry which is also true for KOPT. The container scanning is a new facility to be provided at KDS, KOPT at the direction of MOS / IPA. This is a Customs requirement and will increase trade facilitation and Ease of doing Business. Therefore, for extending such facility, levy of charges for the same is inescapable. The MOS/ IPA has also advised to prepare the proposal to be sent to TAMP to recover the cost incurred for installation & operation of MXCS System.
b.	In case, it is unavoidable to waive scanning charges by KOPT, it should not be more than ₹.100/- or ₹. 125/- per container as charges at other ports are varying around ₹. 125/ ₹.145 per 20 container.	The rate has been arrived at upon taking into consideration Civil infrastructure cost, Electrical installation cost, MXCS system, installation cost. MXCS system, maintenance cost, Electrical power consumption cost, Manpower cost towards cleaning and housekeeping and cost towards providing Security service at the site.
c.	It may be noted that KOPT is a major port and handles more than 3 to 4 times of cargo compared to small ports who are still charging ₹.125/145 per container.	The above rate has been arrived at following the TAMP guidelines on cost plus 16% basis. It may be noted that being a new concept there is no specific tariff available in SOR for scanning. Accordingly, the TAMP's directive under clause-3(xix) of KOPT's SOR has been followed.
d.	In case, the scanner is not working for any reason whatsoever and container could not be scanned, the scanning charges should not be levied as service of scanning facility is not extended.	In KDS more than 4.2 lakhs loaded EXIM containers are handled per annum and no. of containers that shall undergo scanning will be far less. The number of containers to be scanned is neither known to KOPT nor is dependent of any action/input by KOPT. The number of containers selected for scanning would be totally dependent of the output from the Customs Risk Management System.

		As such, the scanning charge would be prohibitively high if only the containers selected for scanning are considered for recovery of scanning charge. Therefore, normative tariff has been proposed, i.e. the cost of scanning infrastructure (CAPEX & OPEX) will be spread uniformly across all the loaded EXIM.
e.	KOPT should also share the information / result of scanning so that the exporters /importers also know that the container has been properly scanned.	The scanned service is being provided for requirement of Customs authority. The request may be directed to the relevant office of Indian Customs.
2.	Federation of Indian Export Organization (FIEO)	
	While the installation of scanners shall facilitate faster clearances of EXIM containers, the Federation is of the view that imposing a charge for this purpose from the exporter does not appear to be reasonable. It will unnecessarily increase the transaction cost for them, which the Govt. aims to reduce, to make our exports competitive. Moreover, any initiative to facilitate clearances and enhance ease of doing business is obligatory on part of all authorities, in view of Govt.'s aim to bring India in top 50 countries in World Bank's Ease of Doing Business. Hence, the move of imposing a charge for scanning of export containers may be reviewed.	Issues raised by FIFO have been covered above.
3.	Eastern India Shippers Association (EISA)	
	Trade is now facing challenges in a scenario of falling global demand. Export subsidy is under criticism in view of rising per capita GDP. These factors are likely to affect both our export & import demanding alternate compensating methods. At this time imposition of any additional tariff will give a wrong signal to the business community engaged in export-import business. Government of India has been considering for corporatizing the Major Ports including KOPT. Corporates and the MSME sector are now adopting automation for shredding jobs that works for achieving a healthy margin. At this juncture any effort for additional tariff will have a ripple effect and adversely affect activities of port users. For the low profit segments using KDS, their interest will get a setback. Therefore, the savings that will accrue to the Government of India and KOPT by adopting technology may be considered for installation of scanning equipment instead of levying additional tariff that will have adverse implications.	The issues raised by EISA has been adequately covered by the reply above of MCCI.

	KDS is an inland port where the operational cost is high. To be competitive it has to consider automation to reduce cost. Placing scanners is a step towards this but imposition of additional tariff only negates the effects of automation by increasing logistics cost. Government of India has been extending financial help to the PSUs to turn them round. Similar step may be considered for KDS scanning. Government of India is giving financial grant to KOPT for implementing the scheme for scanning. Install scanners with help of Government of India and not imposing additional tariff will work as incentive to the port users. Container scanning facility is a new concept. But it is a fact that port has a system in place by which contents of each container is checked. It is basically done by the customs and by using man power. The new scanning system is for the customs and they will also be operating the scanners. So, basically the present system is converted to a more technology oriented system. Therefore, the practice that reasonably will be followed is the same except that the scanner would replace the manual system. Therefore, there should not be any new additional levy.	
	According to the proposal of KOPT, there would not be any man power cost for KOPT. Customs will operate the scanner. It will add to the transparency in custom's work and will add speed to the system for checking the containers. For such improvement in customs work it is desirable to know why KOPT should charge additional tariff. If it is for the benefit of custom's activities they may put it and the cost may not be included in the SOR. The scanners will help preventing pilferage, ensure quick disposal, save on manpower requirement and thus the additional earning and savings can fund the new equipment for checking.	The manpower cost for KOPT is already involved towards cleaning and housekeeping of the facility as also for providing security service.
	In view of the above, it is requested not to impose any additional tariff for such automation. Moreover, as per records the scanners will be used and operated by customs. The scanners will go to increase efficiency of customs by helping quick disposal, reduction in man power, improved revenue earning and transparency. In this scenario, TAMP may kindly consider if the business community engaged in export and	The matter cannot be pursued by the KOPT.

	import should be punished by introducing additional tariff.	
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2. A joint hearing on the case in reference was held on 6 December 2019 at the KOPT premises. At the joint hearing, the KOPT made a brief Power Point presentation of the proposal. The KOPT and other users / user organizations have made the following submissions during the joint hearing:

KOPT

- (i). Briefly explains the features of the Mobile X-ray Container Scanner (MXCS) System.
- (ii). The Ministry of Shipping has advised ports viz., JNPT, KOPT, KPL, NMPT and VPT to install MXCS and has also advised the said ports to prepare the proposal to recover the cost incurred towards MXCS system installation and its operation and send the same to TAMP. Hence, the proposal. The scanner was inaugurated by Finance Minister. Trial run is over.
- (iii). Considering the capital investment of ₹ 24.94 crores, 16% return on the capital cost, operating costs of about ₹ 6 crores, the annual revenue requirement is calculated at ₹ 9.99 crores. Thereafter, considering the no. of EXIM containers that is envisaged to be handled at KDS per annum, for the next 8 years at about 4.45 lakh containers, the scanning charge works out to ₹ 225/- per container. The rate of ₹ 225/- is leviable per container and not on per TEU basis. Tariff will be prohibitive if we go by normative cost method.
- (iv). Since we do not know beforehand as to how many containers would be scanned by the Customs authorities, the said rate is proposed to be levied across all the containers handled at KDS.
- (v). We also would have wanted the Scanner facility to be taken over by Customs. However, it is the direction of the Ministry. We have to abide by it. There is no scanners by customs in KDS.
- (vi). As regards the costing, we have considered the costs that would be required to operate the system. We have not considered the cost of land on which the scanner is placed, as part of the Scanner cost. The container traffic growth has stagnated over the past 2-3 years. There has been increase in the volume of Empties only.

FIEO

- (i). The Scanners are ideally supposed to be installed by Customs primarily to check the hazardous Import cargo. Scanners are deployed at the operational area of the Customs as it is part of the activity undertaken by the Customs. Thus, ideally, any charges towards scanners should be borne by the Customs itself. Customs collecting duties. Why is it being passed on to the Exporters and Importers? In the

name of 'Ease of doing business', more and more charges are being levied on the Exporters and Importers.

- (ii). THC collected by Shipping Lines is ₹. 10000 to 11000 per container. Port charge is in the range of ₹. 5000 to 6000. Remaining goes to liners. Since the Shipping Lines levy various charges, they can bear the scanner charges.
- (iii). As regards the rate aspect, if the port reduces the component of ROCE from its calculation, the rate would be in the range of ₹ 135/- to ₹ 145/- per container. When the life of scanners is 8 years, 16% ROCE is not justified. At VPT, the scanner charges have been fixed at ₹ 158/- per container. Also, in the calculation, the KOPT has considered an annual container growth rate of about 1%. This is significantly less, considering the various initiatives and the investments that the port is undertaking. Volume at KDS has increased. Rate should come down.

MCCI

- (i). We agree with the arguments of FIEO. The Shipping Lines can bear the scanner charges. If the importers/ exporters have to bear, the scanner charges should be about ₹ 100/- per container, so that the burden on the importer/ exporter is less.
- (ii). The installation of the scanners should not be delayed and it should be put into operation as soon as possible.

SCI

- (i). Keeping in view the security aspect, the Scanners are very essential. But the charges for the use of scanners should neither be passed on to the Shipping Lines nor to the trade. The port themselves should bear the cost. We are transparent. We are not charging extra in the name of THC. We are working with thin margin. Freight is low.
- (ii). The Scanners should be put into use at the earliest.
