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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 195 **New Delhi,** **03 August 2010**

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 from the Kolkata Port Trust for prescription of rates for transhipment containers as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/28/2008 - KOPT

Kolkata Port Trust - - - **Applicant**

O R D E R
(Passed on this 9th day of July 2010)

This case deals with the proposal dated 8 May 2008 received from the Kolkata Port Trust (KOPT) for fixation of rates for transhipment of containers.

2.1. The main points made by KOPT in its proposal dated 8 May 2008 are summarized below:

(i). At the last revision of the Scale of Rates of KOPT vide notification dated 6 February 2007, KOPT did not propose any rates for transhipment containers and maintained that only feeder vessels operate at KOPT and transhipment of containers does not take place from KOPT. However, it requested that to meet any unforeseen requirement, a separate rate for transhipment containers may be considered in accordance with Clause 5.5.1 of the tariff guidelines.

(ii). Some container MLO-cum-vessel operators have requested for separate rates for transhipment containers.

(iii). 121 containers have been transhipped at KOPT in the month of January 2008. However, in the absence of any separate transhipment rate in the KOPT Scale of Rates, a rate of Rs.4457/- per TEU has been levied as applicable for normal import leg and normal export leg.

(iv). The container-cum-vessel operators have represented to KOPT stating that the above rate is higher as compared to other container handling ports and this would jeopardize the development of a transhipment route through the KOPT.

(v). There is a huge cost difference between KOPT and the two competing ports in the particular logistics i.e., Chennai Container Terminal Limited (CCTL) and Visakha Container Terminal Private Limited (VCTPL). Moreover, in case of KOPT, there is a further additional cost of handling transhipment containers on account of RMQC/MHC operation charges and On Board Handling / Calcutta Dock Labour Board (CDLB) charges.

(vi). In order to attract transhipment business to KOPT the costing should be somewhat in between the transhipment charges at CCTL and VCTPL which are 41.50 Dollars and 94.50 Dollars respectively. Considering an exchange rate of Rs.40 per US$, the transhipment cost at KOPT should be around Rs.2800/- per TEU (rounded off).

(vii). To arrive at this rate, it may be relevant to charge a consolidated rate of Rs.2000/- per TEU for loaded container and Rs.1000/- per TEU for empty container. In addition to the aforesaid charge, an amount of Rs.750/- per TEU will be leviable for handling container with MHC/RMQC.

(viii). Clause 5.5.1 of the revised tariff guidelines prescribes that the rates for transhipment containers should not exceed 1.5 times the rate of the normal container. However, to promote and explore the possibility of handling transhipment containers, lower rates have been proposed.

(ix). As traffic projection in respect of transhipment containers is not available at this stage, revenue implication of the same could not be furnished. Additional surplus, if any, may be adjusted during the next revision.

2.2. KOPT has proposed to incorporate a new section in its existing Scale of Rates, which reads as follows:

"S.11.5. In case of transhipment container, consolidated charge at the following rates shall be levied.

Transhipment charge where both legs are foreign		**Transhipment charge where one leg is coastal and other leg is foreign**		**Transhipment charge where both legs are coastal**	
(Rate in Rs. per TEU)		(Rate in Rs. per TEU)		(Rate in Rs. per TEU)	
Loaded	Empty	Loaded	Empty	Loaded	Empty
2000/-	1000/-	1600/-	800/-	1200/-	600/-

Note: The above rates include wharfage on container and containerized cargo, transportation from quay to container yard including lift-off at the yard and subsequent transportation from container yard to quay including lift-on at yard"

3.1. As can be seen from the note proposed to govern the proposed rates for handling transhipment containers the proposed rates include wharfage element. The existing Scale of Rates also prescribe handling charges for handling a normal container.

3.2. The stipulation made in Clause 5.5.1 of the tariff guidelines of March 2005 is reproduced below with reference to the prescription of handling charges for transhipment container:

"5.5.1 The handling charges for transhipment containers shall be concessional. Such charges shall not exceed 1.5 times the handling charges for the normal handling operation in loading or unloading cycle. In the case of transhipment of coastal containers, the concession in handling charges prescribed above shall be calculated with reference to the applicable handling charges (which are subject to the concessions specified in clause 4.3 above) for coastal containers for the normal handling operation in loading or unloading cycle."

3.3. Seen in the light of the above guideline, incase of transhipment container, which appears to be coastal in the Import leg and foreign in the Export leg, the applicable handling charges leviable for transhipment containers appears to be Rs.3342.75 per TEU {(75% of Rs.2279/-) + (75% of Rs.2178/-)}. It was not clear how the KOPT levied Rs.4457/- per TEU.

3.4. Further, whenever a specific tariff for a service is not available in the notified Scale of Rates, a Major Port can submit a suitable proposal. Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis till the rate is finally notified. The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services; and, it must be mutually agreed upon by the Port/ Terminal and the concerned users. This methodology has been prescribed in Clause 2.17.1, 2.17.2 and 2.17.3 of March 2005 guidelines. The KOPT does not appear to have followed the said methodology, as computation for deriving the rate of Rs.4457/- and documentary proof showing the consent of users was not made available to us earlier by KOPT while levying Rs.4457/- per TEU. The KOPT was, therefore, requested vide letter dated 18 June 2008 to clarify the position. The KOPT responded vide its letter dated 7 July 2008 and stated that:

(i). In the absence of any rate for transhipment containers in the Scale of Rates of KOPT, the normal applicable rates for import containers (after 60% discount) for import leg and normal applicable rates for export containers for export leg were levied separately and recovered from the Line. Therefore, Rs. 4457 per TEU was the total of the normal applicable charges for both legs and not a rate derived in terms of Clause 5.5.1 of March 2005 tariff guidelines. Each leg was considered separately for levy. However, while proposing separate rates for transhipment containers, KOPT has followed Clause 5.5.1. of March 2005 tariff guidelines.

(ii). Further, as there is no provision in the Scale of rates of KOPT for levy in terms of Clause 5.5.1. of March 2005 tariff guidelines, KOPT has no other alternative but to charge on the basis of actual notified tariff for comparable services, which was Rs. 4457 in this case, before fixing any ad hoc rate for transhipment containers following the provisions of the said Clause.

(iii). It may be appreciated that KOPT has not levied any charge in contrary to Clause 2.17.3 of March 2005 guidelines.

4. In accordance with the consultative procedure prescribed, the proposal filed by the KOPT was circulated to the concerned users seeking their comments. The comments received from the users were forwarded to KOPT as feedback information.

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

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

(i). This Authority had passed an Order on 29 December 2006 approving the existing Scale of rates of KOPT. The pre-revised Scale of Rates of KOPT approved in March 2001 prescribed rates for handling transhipment containers. However, the KOPT did not propose rates for handling transhipment containers in its tariff proposal which was decided in December 2006 on the ground that only feeder vessels operate at KOPT and containers transhipment does not take place. The port has felt the need for rates to govern transhipment containers subsequently and has filed the proposal in reference.

(ii). The users have unanimously endorsed the rates proposed by the KOPT, hence, no joint hearing was held in this case.

(iii). A distinct feature of the present proposal of the KOPT is that the rates proposed by the KOPT and unanimously endorsed by the users are lower than the rates that ought to be fixed following Clause 5.5.1. of the tariff guidelines of March 2005, as admitted by the port. The tariff guidelines of March 2005 has provided discretion to the port trusts to charge rates lower than the ceiling rates fixed by this Authority. Therefore, this Authority proceeds further to fix ceiling rates for handling transhipment containers following Clause 5.5.1 of the tariff guidelines of March 2005. Notwithstanding, the KOPT has flexibility to charge lower rates if it so desires, as provided for in Clause 2.16.1 of the tariff guidelines of March 2005, based on commercial considerations.

(iv). As noted in Clause 5.5.1 of the tariff guidelines of March 2005, the base for prescription of charges for handling transhipment containers is the charges prescribed for handling normal containers in loading or unloading cycle. The activities in the unloading cycle may include on-board handling of containers, use of cranes for discharge of containers from ship to shore, transportation of containers from quay to container yard including lift on / off at quay and yard. In loading cycle, the order of services are reverse to that of unloading activity. This apart, all containers including transhipment containers attract wharfage. The existing Scale of Rates of KOPT prescribe wharfage, on-board handling charge for providing on-board labour, use of cranes for discharge of containers from ship to shore or vice versa and transportation of containers from quay to yard including lift on and lift off.

(v). (a). Incidentally, at Kolkata Dock System (KDS) the wharfage in respect of loaded containers in import leg is different from that of the loaded containers in export leg as there are three categories of wharfage in case of import as against single wharfage rate for export. In view of this position, transhipment charges are prescribed for three categories at KDS. For this purpose, wharfage prescribed for import categories are considered for calculation of transhipment charges.

(b). At Haldia Dock Complex (HDC), the wharfage rate is uniform for import as well as export leg. Therefore, transhipment charge is prescribed as a single category at HDC. In computing transhipment charge for HDC, the on-board handling charges as prescribed in the Scale of Rates is taken into account.

(c). In respect of empty containers, taking into account the uniform rate of wharfage prescribed for handling empty containers at KDS and HDC and considering the on-board handing charges prescribed for handling empty containers at HDC transhipment charges for empty containers are worked out separately for KDS and HDC.

(vi). Taking into account the relevant handling rates prescribed in the existing Scale of Rates of KOPT for handling normal containers and following the stipulation made in Clause 5.5.1 of the tariff guidelines of March 2005, the charges for transhipment of loaded and empty containers when both import and export legs are foreign, where one leg is coastal and another leg is foreign and where both legs are coastal have been worked out. The calculation sheet for computation of charges is attached as **Annex**.

(vii). In comparison with the rates proposed by the KOPT, the rates that have emerged are seen to be higher than the rates proposed by KOPT. It has to be kept in view that the rates proposed by KOPT, both for loaded and empty containers, are based on approximation to best suit market conditions. It is noteworthy that the proposed rates do not appear to reckon with the prescribed on-board handling charges and cranage for discharge of containers from ship to shore. As stated earlier, the rates notified will be ceiling rates. Therefore, the KOPT has the flexibility to charge lower rates, if it so desires, based on commercial considerations.

(vii). The conditionality to govern the application of transhipment charges proposed by KOPT does not include the activity of on-board handling and use of cranes for ship-shore transfer. Therefore, the proposed conditionality is modified suitably to include the charges for the activity of on-board handling and for use of equipment for ship / shore transfer.

7. In the result, and for the reasons given above and based on a collection application of mind, the following provision in the existing Scale of rates of KOPT is inserted:

"S.11.5. In case of transhipment container, consolidated charge at the following rates shall be levied.

Sr. No.	Categories	Transhipment rates if both legs are foreign	Transhipment rates if both legs are coastal	Transhipment rates if one leg is foreign and one leg is coastal
I	**At KDS**			
(a)	Loaded			
	- Category I	4392.00	2635.00	3514.00
	- Category II	6822.00	4093.00	5458.00
	- Category III	9792.00	5875.00	7834.00
(b)	Empty	2030.00	1218.00	1624.00
II	**At HDC**			
(a)	Loaded	4763.00	2858.00	3811.00
(b)	Empty	2401.00	1440.00	1921.00

Note: The above rates are consolidated for both unloading and loading cycles and include wharfage on container and containerized cargo, on board handling charge for providing on board labour, use of RMQC/ MHC, transportation from quay to container yard including lift-off at the yard and subsequent transportation from container yard to quay including lift-on at yard"

8. The above amendment to the Scale of Rates shall come into effect after 15 days from the date of its notification in the Gazette of India.

(Rani Jadhav)
Chairperson

Annex

Calculation of rates for handling Loaded and Empty Transhipment Containers at Kolakta Port Trust

Sr. No.	Categories	Wharfage	On-board handling	RMQC / MHC	Transportation from quay to yard incl. lift on and lift off	Total Charge for normal foreign container	Transhipment rates if both legs are foreign	Transhipment rates if both legs are coastal	Transhipment rates if one leg is foreign and one leg is coastal
	1	2	3	4	5	6 = (2+3+4+5)	7 = Col 6* 1.5 times	8 = Col 7 * 60%	9 = (Col 6*75%) + (Col 6*75%* 60%)
I	At KDS								
(a)	*Loaded*								
	- Category I	1980.00	-	750.00	198.00	2928.00	4392.00	2635.20	3513.60
	- Category II	3600.00	-	750.00	198.00	4548.00	6822.00	4093.20	5457.60
	- Category III	5580.00	-	750.00	198.00	6528.00	9792.00	5875.20	7833.60
(b)	*Empty*	405.00	-	750.00	198.00	1353.00	2029.50	1217.70	1623.60
II	At HDC								
(a)	*Loaded*	1980.00	247.50	750.00	198.00	3175.00	4763.25	2857.95	3810.60
(b)	*Empty*	405.00	247.50	750.00	198.00	1600.50	2400.75	1440.45	1920.60

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS

No.TAMP/28/2008-KOPT - Proposal from the Kolkata Port Trust for fixation of rates for transhipment of containers.

A Summary of the comments received from the users / organization bodies of users are summarised below:

(i). The Oriental Chamber of Commerce (OCC):

We agree with the proposals of Kolkata Port Trust regarding rates for transhipment containers.

(ii). The Shipping Corporation of India Ltd (SCI):

We have no objection to the said proposal of KOPT.

(iii). Container Shipping Lines Association (CSLA):

CSLA does not have any comments to offer on the subject.

(iv). Bengal National Chamber of Commerce & Industry (BNCCI):

We support the proposal of KOPT.

(v). Association of Shipping Interest in Calcutta (ASIC)

ASIC agrees for the rates proposed by Kolkata Port Trust (KOPT) for transhipment containers.

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